



Office of the Attorney-General

31 March 2015

Mr Ben Fairless
Right to Know

By email only: foi+request-988-e51cbde3@righttoknow.org.au

Dear Mr Fairless

Freedom of information request no. AGO-FOI 2015/03

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

Summary

I, Paul O'Sullivan, Chief of Staff, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests. Your request stated:

In Senate Estimates on the 24th of February 2014, you stated that a number of people had expressed to you a view regarding the Australian Human Rights Commissioner.

I would like a copy of the "Texts and emails" you refer to in Estimates.

I have identified that this office holds no documents that fall within the scope of your request. I have accordingly decided to refuse your request for access to the documents. My reasons for my decision are set out below.

Interpretation of the scope of your request

I have interpreted your request to mean those documents that the Attorney-General referred to in Senate Estimates on 24 February 2015, not on 24 February 2014. In making my decision, I have reviewed the official transcript from the Senate Estimates hearing on 24 February 2015. The transcript attributes the following statement to the Attorney-General, which I have interpreted to be the statement to which you are referring to above. It states:

Nevertheless, after the November estimates it is beyond doubt that the confidence in Professor Triggs's political impartiality and nonpartisanship on my side of politics had collapsed and numerous members of the government—I do not mean three or four; I mean dozens of members of the government—in the weeks after those estimates by phone calls, by text messages, by visits to my office had expressed that view to me. I am a supporter of the Human Rights Commission.

You have asked for a copy of the 'texts and emails' that the Attorney-General referred to in Senate Estimates. It is clear that the Attorney-General did not refer to 'emails' in Senate

Estimates in the context that you have referred to in your request. I therefore consider that 'emails' fall outside the scope of your request.

Decision and reasons for decision

Regarding a copy of the 'texts' that you have requested, I have taken the following material into account in making my decision:

- The terms of your FOI request
- The FOI Act (specifically, section 24A), and
- The Guidelines issued by the Office of the Australian Information Commissioner.

My findings on material questions of fact are that the documents you have requested do not exist or cannot be found, within the meaning of s. 24A of the Act, within this office.

Under section 24A(1) of the FOI Act, a request for access to documents may be refused if:

(a) All reasonable steps have been taken to find the document; and

(b) The agency or Minister is satisfied that the document:

...

(ii) does not exist.

Following all reasonable steps to find the documents, I am satisfied that the documents you have requested do not exist within this office, so I have decided to refuse your request for access under section 24A(1)(b)(ii) of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for Information Commissioner review of the decision. You cannot ask for internal review of an original decision made by a Minister or an authorised member of their staff. Also, the Commissioner cannot investigate a complaint about how the Minister handled your FOI request.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>

email: enquiries@oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601

in person: Level 3, 175 Pitt Street, Sydney NSW

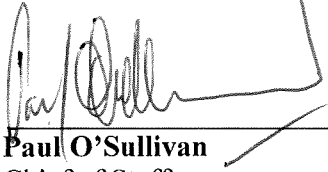
More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

Questions about this decision

If you wish to discuss this decision, please contact the Office of the Attorney-General on

(02) 6277 7300.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul O'Sullivan', with a long horizontal flourish extending to the right.

Paul O'Sullivan
Chief of Staff