



**Australian Government**  
**Attorney-General's Department**

Our ref: FOI23/126

24 March 2023

MBV

By email: [foi+request-9974-54aea069@righttoknow.org.au](mailto:foi+request-9974-54aea069@righttoknow.org.au)

Dear applicant

**Freedom of Information Request FOI23/126 – Decision letter**

I am writing to give you a decision about your request the Attorney-General's Department (the department) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

**Your request**

On 22 February 2023, you requested access to:

*The Ministerial Submission seeking agreement to the release of the draft regulations referenced in the 02 September 2022 media release 'Unfair hurdles to class action funding unwound'.*

On 3 March 2023, the department acknowledged your request. On

On 22 March 2023, I wrote to you and explained that the Ministerial Submission which related to the 2 September 2022 media release 'Unfair hurdles to class action funding unwound' was prepared by The Treasury and was available on its website's FOI disclosure log.

You responded to that email and noted:

*The package of documents released by Treasury does not include any submission to the AG/AGO.*

*I would like to continue with my request, though am happy to exclude duplicates covered by the prior Treasury release.*

I have therefore interpreted the scope of your request as:

*The Ministerial Submission prepared for the Attorney-General or Attorney-General's Office seeking agreement to the release of the draft regulations referenced in the 02 September 2022 media release 'Unfair hurdles to class action funding unwound'.*

*Duplicates/versions of the Ministerial Submission provided by The Treasury to Assistant Minister Stephen Jones (as signed by him on 25 August 2022) are out of scope.*

A decision in relation to your request is due on 24 March 2023.

## My decision

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the department.

In making my decision, I have considered:

- the terms of your request,
- advice provided to me by officers with responsibility for matters to which your request relates,
- the provisions of the FOI Act, and
- the FOI Guidelines issued by the Australian Information Commissioner (the Guidelines).

Section 24A of the FOI Act relevantly provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document does not exist.

When considering a decision to refuse access under s 24A of the FOI Act, the Guidelines state that an agency should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents,
- the current and past file and record management systems and the practice of destruction or removal of documents,
- the individuals within an agency who may be able to assist with the location of documents, and
- the age of the documents.

To identify the document for your request, departmental staff members with from the Courts and Litigation Reform Section interrogated the department's records management systems using search terms which were developed with reference to the scope of your request. Despite these efforts, no relevant documents were identified.

Having regard to the above, I am satisfied that reasonable steps to locate the document to which you have sought access were undertaken. I am also satisfied that the document does not exist within the department's records holdings. I have therefore decided to refuse access pursuant to s 24A of the FOI Act.

Your review rights under the FOI Act are set out at **Attachment A** to this letter.

If you wish to discuss this decision, you can contact me on (02) 6141 6666 or by email to [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



Dana Nipperess  
Assistant Director  
Freedom of Information and Privacy Section

## Attachments

Attachment A: Review rights



**Australian Government**  
**Attorney-General's Department**

**Attachment A - FOI Review rights**

If you are dissatisfied with the decision of the department, you may apply for internal review or Information Commissioner review of the decision.

The department encourages applicants to consider seeking internal review as a first step as it may provide a more rapid resolution of your concerns.

***Internal review***

Under s 54 of the *Freedom of Information Act 1982* (FOI Act), applications for internal review must be made in writing within 30 days of the date of the decision letter, and be lodged in one of the following ways:

Email: [foi@ag.gov.au](mailto:foi@ag.gov.au)

Post: Freedom of Information and Privacy Section  
Strategy and Governance Branch  
Attorney-General's Department  
3-5 National Circuit BARTON ACT 2600

An officer of the department other than the officer who made the original decision will complete the internal review within 30 days of receipt of your request.

Providing reasons you believe internal review of the decision is necessary will facilitate the completion of the internal review.

***Information Commissioner review***

Under s 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 writing within 60 days of the date of the decision letter, and be lodged in one of the following ways:

Online: [https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR\\_10](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

Email: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

Post: GPO Box 5218 Sydney NSW 2001

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