



Australian Government
Department of Finance

Reference: FOI 22-23/051
Contact: FOI Team
E-mail: foi@finance.gov.au

Watson Norwood
via Right to Know website

By email only: request-10261-7841dd6b@righttoknow.org.au

Dear Mr Norwood,

Freedom of Information Request – FOI 22-23/051

On 6 May 2023, the Department of Finance (Finance) received your email, in which you sought access under the Commonwealth *Freedom of Information Act 1982* (FOI Act) to the following:

For a complete copy of the departments' Freedom of Information (FOI) logs for the period 2013-2023, including any secondary departments controlled by the agency.

Conditions: I request that this is provided as a document and not a simple redirect to the agency website as I am of the view that your online disclosure logs do not actively reflect your FOI requests that you have received in this period.

On 17 May 2023, Finance wrote to you with the following information and sought your assistance in responding to your request:

Background information

The FOI Act requires that agencies and ministers must publish details of information that has been released in response to each FOI access request, subject to certain exceptions (subsection 11C(6) of the FOI Act). This publication is known as a 'disclosure log'. The purpose of the disclosure log is to make available to the world at large information that has been released under the FOI Act.

If publication in a disclosure log would be unreasonable, an agency or minister is not required to publish. Subsection 11C(1) of the FOI Act sets out that publication is not required in the following circumstances, where the information in the documents released are exempt:

- (a) personal information about any person, if it would be unreasonable to publish the information;
- (b) information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information;
- (c) other information of a kind determined by the Information Commissioner under subsection (2), if it would be unreasonable to publish the information;
- (d) any information, if it is not reasonably practicable to publish the information under this section because of the extent of any modifications to a document (or documents) necessary to delete information mentioned in paragraphs (a) to (c).

If Finance has determined that an exemption to publication does not apply, and the document/s released to the applicant are required to be published on Finance's disclosure log, then they will be published.

Documents to which one or more of the above exemptions apply do not form part of the disclosure log.

While we note you are not seeking to be redirected to the agency website, Finance's disclosure log on the website is the only log Finance produces, as required by the FOI Act.

As set out above, the purpose of the disclosure log is to make available the documents that have been released under the FOI Act, and not simply the requests that have been received. For example, where a request has been made, and the decision maker has made a decision to refuse access to a document, the request would not be available on the disclosure log.

Request for assistance

As Finance does not hold any additional FOI 'log' document, we kindly invite you to withdraw your FOI request. Alternatively, you can:

- revise your request, which can include explaining in more detail the documents you seek to access; or
- advise us that you seek to proceed with your original request.

Finance did not receive a response from you and therefore were unable to undertake any further efforts to find documents as set out in your request.

The purpose of this letter is to provide you with notice of my decision under the FOI Act.

Authorised decision-maker

I am authorised by the Secretary of Finance to grant or refuse access to documents.

Decision

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if after taking reasonable steps to find the document, the agency is satisfied that the document does not exist. In line with this provision, I have decided to refuse your request.

In making my decision, I have had regard to the following:

- the terms of your FOI request;
- the FOI Act;
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (FOI Guidelines).

I am satisfied that all reasonable steps have been taken to find any a document that may fall within the scope of your request. As no such document exists, I have decided to refuse your request.

Review and appeal rights

You are entitled to request an internal review or an external review by the Office of the Australian Information Commissioner (OAIC) of my decision. The process for review and appeal rights is set out at **Attachment A**.

If you have any questions in regard to this request, please contact the FOI Team on the above contact details.

Yours sincerely,

Kelly Hoffmeister

Kelly Hoffmeister
Assistant Secretary
Business Enabling Services
Department of Finance
1 June 2023



Australian Government

Department of Finance

Freedom of Information – Your Review Rights

If you disagree with a decision made by the Department of Finance (Finance) or the Minister for Finance (Minister) under the *Freedom of Information Act 1982* (the FOI Act) you can have the decision reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of the documents that has not been agreed to by Finance or the Minister, or if your application to have your personal information amended was not accepted. There are two ways you can seek a review of our decision: an internal review (IR) by Finance or the Minister, or an external review (ER) by the Australian Information Commissioner (IC).

Internal Review (IR)

If Finance or the Minister (we/our), makes a Freedom of Information (FOI) decision that you disagree with, you can seek a review of the original decision. The review will be carried out by a different decision maker, usually someone at a more senior level.

You must apply for an IR within 30 calendar days of being notified of the decision or charge, unless we agree to extend your time. You should contact us if you wish to seek an extension.

We are required to make an IR decision within 30 calendar days of receiving your application. If we do not make an IR decision within this timeframe, then the original decision stands.

Review by the Australian Information Commissioner (IC)

The Office of the Australian Information Commissioner (OAIC) is an independent office who can undertake an ER of our decision under the FOI Act. The IC can review access refusal decisions, access grant decisions, refusals to extend the period for applying for an IR, and IR decisions.

If you are objecting to a decision to refuse access to a document, impose a charge, or a refusal to amend personal information, you

must apply in writing to the IC within 60 calendar days of receiving our decision.

Third parties

If you are a third party objecting to a decision to grant someone else access to your information, you must apply to the IC within 30 calendar days of being notified of our decision to release your information.

Further assistance is located [here](#).

Do I have to go through the internal review process?

No. You may apply directly to the OAIC for an ER by the IC.

If I apply for an internal review, do I lose the opportunity to apply for an external review?

No. You have the same ER rights of our IR decision as you do with our original decision. This means you can apply for an ER of the original decision or of the IR decision.

Do I have to pay for an internal review or external review?

No. Both the IR and ER are free.

How do I apply?

Internal review

To apply for an IR of the decision of either Finance or the Minister, you must send your review in writing. We both use the same contact details, and you must send your review request in writing.

In your written correspondence, please include the following:

- a statement that you are seeking a review of our decision;
- attach a copy of the decision you are seeking a review of; and
- state the reasons why you consider the original decision maker made the wrong decision.

Email: foi@finance.gov.au

Post: The FOI Coordinator
Legal and Assurance Branch
Department of Finance
One Canberra Avenue
FORREST ACT 2603

External review (Information Commissioner Review)

For an ER, you must apply to the OAIC in writing. The OAIC ask that you commence a review by completing their online form [here](#).

Your application must include a copy of the notice of our decision that you are objecting to, and your contact details. You should also set out why you are objecting to the decision.

Email: FOIDR@oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

The IC's enquiries phone line is 1300 363 992.

Can I appeal the Information Commissioner's external review decision?

Yes. You can appeal the Information Commissioner's ER decision to the Administrative Appeals Tribunal (AAT).

There is a fee for lodging an AAT application (as at 17 February 2023 it is \$1,011).

Further information is accessible [here](#).

The AAT's number is 1800 228 333.

Complaints

Making a complaint to the Office of the Australian Information Commissioner

You may make a written complaint to the OAIC about actions taken by us in relation to your application.

Further information on lodging a complaint is accessible [here](#).

Investigation by the Commonwealth Ombudsman

The Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be, or has been, investigated by the IC, the Ombudsman will consult with the IC to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. You will be notified in writing if your complaint is transferred.

Complaints to the Ombudsman should be made online [here](#).

The Ombudsman's number is 1300 362 072.