



Australian Government
Department of Finance

Reference: FOI 24-25/003
Contact: FOI Team
E-mail: foi@finance.gov.au

Gary Moorcroft

By email only: foi+request-11602-5fb48d61@righttoknow.org.au

Dear Mr Moorcroft,

Freedom of Information Request – FOI 24-25/003

On 2 July 2024, 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:

I seek the briefing pack prepared for the Minister for Finance for the Senate Finance and Public Administration Committee Estimates hearings of 5 and 6 June 2024.

On 16 July 2024, Finance wrote to inform you that the Parliamentary, Governance and Strategy Branch at Finance advised that Finance does not hold any documents relevant to the scope of your request, as the Minister did not appear on behalf of Finance on the dates listed in your request. Finance then invited you to withdraw your request or request a formal no documents decision letter.

On 24 July 2024, Finance again wrote to you to request that you withdraw your FOI request.

On 26 July 2024, you replied and stated:

Based on the information provided, I would like to amend the scope of my request. I would like to request the briefing pack prepared for the Minister for Finance for the Senate Finance and Public Administration Committee Estimates for the 2024-25 Budget estimates hearings.

On 29 July 2024, Finance wrote to you to advise that the amended scope of your request is identical to that of your other request with the Department of Finance (Finance), FOI 24-25/004. Finance is already processing this request for you. As such, if you do not withdraw your request based on the original scope, Finance will proceed with a no documents decision letter.

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 original request of 2 July 2024.

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

- the terms of your FOI request;
- searches for documents held by Finance;
- the relevant provisions of the FOI Act;
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (FOI Guidelines).

In coming to my decision, I have:

- consulted with the relevant business areas within Finance, I have been advised that there are no areas within Finance that have any knowledge or records of documents within the scope of your request; and
- ensured that thorough searches were undertaken of relevant Finance systems where any such documents may have been stored.

As a result of these consultations and searches, I am satisfied that all reasonable steps have been taken to find any 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 about this request, please contact the FOI Team on the above contact details.

Yours sincerely,



Carolyn Driessen
Assistant Secretary
Parliamentary, Governance and Strategy | Enterprise Strategy
Department of Finance
31 July 2024



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.