



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI/2024/346

Oliver Smith

By email: foi+request-12207-a8148b7c@righttoknow.org.au

Dear Mr Smith,

I refer to your request dated 23 October 2024 to the Department of the Prime Minister and Cabinet under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

Scope of request

You requested the following:

I seek all briefs from the department provided to the PM or Minister for Indigenous Australians on the topic of Australia Day 2025 sent since 27 January 2024.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Material taken into account

In reaching my decision I have had regard to the following:

- the terms of your request
- searches and inquires undertaken by the Department
- the FOI Act
- the FOI Guidelines issued by the Information Commissioner under section 93A of the FOI Act (the Guidelines)

Decision

I have decided to refuse your request under section 24A(1) of the FOI Act, on the grounds that the Department has taken all reasonable steps to locate the documents you have requested, and those documents do not exist.

Reason for decision

My findings of fact and reasons for deciding to refuse your request for access are set out below.

1. Documents cannot be found or do not exist

Section 24A(1) of the FOI Act provides that:

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and*
- (b) the agency or Minister is satisfied that the document:*
 - (i) is in the agency's or Minister's possession but cannot be found; or*
 - (ii) does not exist.*

In determining what the FOI Act means with respect to 'all reasonable steps', I have had regard to the Guidelines which discuss the meaning of 'reasonable' in section 24A(1)(a). It is not designed to go beyond the limit assigned by reason, not to be extravagant or excessive, rather to be moderate and of such an effort to be appropriate or suitable to the circumstances¹.

The Department has conducted a search, for any relevant records that would meet the terms of your request, in the document repositories of the Parliamentary and Government Branch, which is the Branch most likely to hold documents relating to your request. No documents were found to be responsive to your request.

As your request relate to documents prepared for the Prime Minister, the Department also conducted a search for any relevant records meeting the terms of your request within the Parliamentary Document Management System. This system is used to receive, create and store correspondence to the Prime Minister. There were no documents found to be in the possession of the Department.

Further, as your request includes a reference to the Minister for Indigenous Australians, the Department has undertaken inquiries with the First Nations Policy Branch regarding any relevant records that would meet the terms of your request. They advised, based on their knowledge of the subject matter connected to the requested documents that there were no documents found to be in

¹ Paragraph 3.88 of the Guidelines

the possession of the Department. You may wish to consider re-directing this part of your request to the National Indigenous Australians Agency.

I am satisfied that the measures taken by the Department to locate documents in response to your request under the FOI Act, as outlined above, are appropriate and suitable given the circumstances.

I am refusing your request for access under section 24A(1) of the FOI Act as the documents you have requested do not exist.

Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after the date of this letter, please attach the reasons why you disagree with the decision.

Applications for review should be sent to foi@pmc.gov.au.

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 writing within 60 days after the date of this letter. You can apply using the [OAIC Web Form](#).²

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. You can make a complaint using the [OAIC Web Form](#).³

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

² <https://webform.oaic.gov.au/prod?entitytype=ICReview&layoutcode=ICReviewWF>

³ <https://webform.oaic.gov.au/prod?entitytype=Complaint&layoutcode=FOIComplaintWF>

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Belgrove', with a horizontal line extending from the end of the signature.

David Belgrove
Assistant Secretary
Parliamentary and Government Branch
Department of the Prime Minister and Cabinet

5 December 2024