



FOI19/033; CM19/972

5 March 2019

Mr Rodney Culleton
By Email: culleton00099@gmail.com

Dear Mr Culleton

Freedom of Information Request FOI19/033

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).

Your Request

On 6 February 2019, you requested access to:

I seek confirmation of the findings of the Attorney General's Office and as a result request the following:

The head of power within the Commonwealth of Australia Constitution Act to validly create the trading corporation known as the COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS & the corporation OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS.

The head of power within the Commonwealth of Australia Constitution Act to validly create the trading corporation known as the INSOLVENCY TRUSTEE SERVICE AUSTRALIA & the corporation known as AUSTRALIAN FINANCIAL SECURITY AUTHORITY.

On 20 February 2019, Attorney-General's Department (the department) acknowledged your request.

My Decision

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

Before making my decision in relation to your FOI request, I took all reasonable steps to locate the documents to which you seek access. This included making inquiries of staff likely to be able to identify relevant documents and arranging for comprehensive searches of relevant departmental electronic and hard copy holdings. I have identified that the department does not hold any documents within the scope of your request.

In making my decision, I have taken the following material into account:

- the terms of your request
- the provisions of the FOI Act, and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

On the basis that the documents to which you have requested access do not exist, I have decided to refuse access pursuant to section 24A of the FOI Act. Relevantly, section 24A of the FOI Act provides as follows:

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

(1) 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:

...

- (ii) does not exist.

Additional Information

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

If you wish to discuss this decision, the FOI case officer for this matter is Julia, who can be reached on (02) 6141 6666 or at foi@ag.gov.au.

Yours sincerely



David Lewis
Acting General Counsel (Constitutional)

Attachments

Attachment A: Review Rights



FOI Review Rights

If you are dissatisfied with the decision of the Attorney-General's Department (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 section 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. Applications for internal review must be lodged by email or post.

email: foi@ag.gov.au

post: Freedom of Information and Parliamentary 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 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 of the date of the decision letter, and can 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 5218, SYDNEY NSW 2001

in person: Level 3, 175 Pitt Street, SYDNEY NSW 2000

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>.

