



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI-2023-137



I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 9 May 2023.

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 set out your request in the following terms:

I am writing to request, in accordance with the FOI Act 1982, access to documents that the Office for Women (formerly known as the Office for the Status of Women) within the Department of Prime Minister and Cabinet holds relating to the 2013 Amendments to the Sex Discrimination Act 1984.

Specifically, I am seeking material relating to advice that the Office for Women provided to the following parties regarding the Sex Discrimination Amendment (Sexual Orientation Gender Identity and Intersex Status) Bill 2013:

- 1. The Prime Minister*
- 2. The Attorney General and the Attorney General's Department*
- 3. Parliamentary committees as well as individual MPs and senators*

I am also seeking details of consultations the Office undertook with charities, NGOs, including women's groups, in preparing that advice.

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 undertaken by the Office for Women (OFW) within the Department
- the FOI Act
- the FOI Guidelines issued by the Information Commissioner¹ (the Guidelines)

Decision

I have decided to refuse your request under s 24A(1) of the FOI Act, on the grounds that OFW within 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 s 24A(1)(a). It is not designed to go beyond

¹ Section 93A of the FOI Act

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 circumstances².

OFW conducted a search, for any relevant records that would meet the terms of your request. Having regard to the timeframe of relevant documents these searches included legacy systems and repositories.

In particular we conducted a search of the legacy system Slipstream, which was the system used to record official correspondence to the Prime Minister. I am satisfied that should relevant records exist and be held by OFW within the Department they would be stored in this system.

In addition we undertook a review of the current record holdings for the OFW. There were no documents found to be in the possession of OFW within the Department.

I am satisfied that the measures taken by the Department to locate documents in response to your request under the FOI Act, as outline above, are appropriate and suitable given the circumstances. After taking all reasonable steps to find the documents, no documents relevant to your request have been identified.

Accordingly, I am refusing your request for access as documents cannot be found.

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.

² Paragraph 3.88 of the FOI Guidelines

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.

More information about Information Commissioner review is available [here](#).³

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. More information about complaints is available [here](#).⁴

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

Yours sincerely



Rochelle White
Assistant Secretary
The Office for Women
Department of the Prime Minister and Cabinet

31 May 2023

³ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>

⁴ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>