



Our ref: FOI19/074; CM19/1958

3 April 2019

[REDACTED]

[REDACTED]

Dear Mr Dickson

Freedom of Information Request FOI19/074 – Decision Letter

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* (the FOI Act).

Your Request

On 19 February 2019, the Department of Home Affairs received your request for access to:

the head of power within the Commonwealth of Australia Constitution Act to validly empower the Parliament of the Commonwealth to make laws with respect to Nationality and Citizenship.

On 7 March 2019, the Attorney-General's Department (the department) accepted transfer of your request. On 13 March the department requested an extension of 18 days to enable the department to complete your request. On 15 March you agreed to an extension.

A decision in relation to your request is due on 8 April 2019.

My Decision

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the Attorney-General's Department (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 (the Guidelines).

The documents to which you have requested access do not exist and 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 at **Attachment A** to this letter.

If you wish to discuss this decision, the FOI case officer for this matter is Joanna, 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