



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/087

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Darren

**DECISION BY: Mr Peter Rush
Assistant Secretary
Parliamentary & Government Branch**

By email: [REDACTED]

Dear Darren

On 21 April 2020, you made a request (the **FOI request**) under the *Freedom of Information Act 1982* (the **FOI Act**) to the Department of the Prime Minister and Cabinet (the **Department**) in the following terms:

I request a copy of the oath or affirmation of allegiance as required by section forty two of the Commonwealth of Australia Constitution Act made and subscribed to by Prime Minister Scott Morrison, as provided in the Schedule consistent with the note found within the Schedule prior to the Minister taking his position within the Parliament of the Commonwealth as prescribed by section one.

If the first requested document cannot be found I request such document showing any undertaking that the Australian Prime Minister Scott Morrison made prior to taking his position in the Parliament of the Commonwealth.

If the first requested document cannot be found I request such information that provides the reason the oath or affirmation was not in accordance to the terms in the first request.

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.

Decision

I have decided to refuse the request under section 24A(1)(b)(ii) of the FOI Act, on the basis that the Department has taken all reasonable steps to find the document, and I am satisfied that no documents relevant to the FOI request exist in the Department.

Reasons

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.

Having regard to the terms of the request (including the background information you provided) and my knowledge of the Department's portfolio responsibilities and document holdings, I advise that I am satisfied that all reasonable steps have been taken to find documents relevant to the FOI request, and that no documents relevant to the FOI request exist in the Department.

I have therefore decided to refuse the FOI request under section 24A(1)(b)(ii) of the FOI Act.

By way of explanation, I note that the Department of the Prime Minister and Cabinet is not responsible for oaths or affirmations of allegiance of Senators and Members before they take their seat in the Parliament. I understand that, for Members of the House of Representatives such as Mr Morrison, the administrative responsibility for such matters is within the purview of the Department of the House of Representatives.

The following information on the Australian Parliament House website may also be useful:

- https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7/HTML/Chapter5/Swearing-in
- https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/OathsAffirmations

You may wish to contact the Department of the House of Representatives directly regarding the information you are seeking. Contact details are available at:

https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Department_of_the_House_of_Representatives/Contact_Directory.

I am advised that under section 68A of the *Parliamentary Service Act 1999*, the Department of the House of Representatives is not subject to the operation of the FOI Act.

Processing and access charges

I have decided not to impose processing charges in respect of the FOI request.

Review rights

Information about your rights of review under the FOI Act is available at

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to a request. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Rush', written in a cursive style.

Peter Rush
Assistant Secretary
Parliamentary and Government Branch

21 May 2020