



**Australian Government**  
**Attorney-General's Department**

Our ref: FOI23/154; CM 23/6473  
Your ref: YESHUA956

3 April 2023

### **Freedom of information request FOI23/154 - Decision letter**

The purpose of this letter is to give you a decision about your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) which you submitted to the Department of the Prime Minister and Cabinet (PMC) and which was transferred under s 16 to the Attorney-General's Department (the department).

#### **Your request**

You made an FOI request to PMC on 7 March 2023 in the following terms

*I seek the law made by the Parliament of the Commonwealth under the Constitution, binding on all the courts, judges and people of every State and every part of the Commonwealth for the valid creation of a title for the King to adopt in relation to Australia and its Territories.*

*I seek the document or instrument containing the enumerated head of power to create the Act known as the Royal Styles and Titles, made under the constitution, binding on all the courts, judges and people of every State and every part of the Commonwealth.*

On 8 March 2023 the department accepted transfer of your request from PMC.

On 20 March 2023 the department acknowledged your request.

A decision for your request is due by 6 April 2023.

#### **My decision**

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

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

- the terms of your request
- advice provided to me by officers with responsibility for matters to which your request relates
- the provisions of the FOI Act, and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Section 24A of the FOI Act relevantly provides that an agency or Minister may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document:

- is in the agency's possession but cannot be found, or
- does not exist.

When considering a decision to refuse access under section 24A of the FOI Act, the Guidelines relevantly provide at paragraph 3.89 that an agency or minister should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents
- the current and past file management systems and the practice of destruction or removal of documents
- the record management systems in place
- the individuals within an agency or minister's office who may be able to assist with the location of documents, and
- the age of the documents.

To identify the documents for your request, I arranged for staff likely to be able to identify documents to undertake comprehensive searches of relevant departmental information holdings. In particular, a departmental staff member with responsibility for processing FOI requests interrogated the department's records management system using search terms which were developed with reference to the information provided in the scope of your request. Despite these efforts, no relevant documents were identified.

Having regard to the above, I am satisfied that reasonable steps to locate the documents to which you have sought access were undertaken. I am also satisfied that the documents do not exist within the department's records holdings. I have therefore decided to refuse access pursuant to section 24A of the FOI Act.

#### **Additional information**

In processing your request the department has identified the following publicly available resources. The Constitution is a public document available from <https://www.legislation.gov.au/Details/C2013Q00005>. This shows the text of the law as amended and in force on 29 July 1977 (the *compilation date*).

The department has also identified a range of information resources available about the operation of Parliament and the Constitution on the Parliamentary Education Office (PEO) website. These resources are available from <https://peo.gov.au/understand-our-parliament/how-parliament-works/the-australian-constitution/>.

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

#### **Questions about this decision**

If you wish to discuss this decision, please contact Joanna by telephone on (02) 6141 6666 or by email to [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



Director  
Freedom of Information and Privacy Section  
Strategy and Governance Branch



**Australian Government**  
**Attorney-General's Department**

**Attachment A - 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, and be lodged in one of the following ways:

email: [foi@ag.gov.au](mailto:foi@ag.gov.au)

post: Freedom of Information and Privacy 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 be lodged in one of the following ways:

online: [https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR\\_10](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

email: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.