



OFFICE OF THE OFFICIAL SECRETARY  
TO THE GOVERNOR-GENERAL

7 June 2023

Via email: [REDACTED]

Dear [REDACTED]

**Re: Application under the *Freedom of Information Act 1982* – Internal Review of *Decision* - Ref: FOI2023048**

I refer to your email of 7 May 2023 in which you make the following request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for an internal review of decision:

*“19 April 2023, on the direction of the Senate Clerk and Parliament Record Keeper (see attached) that the Governor General Secretary holds Oaths (Affirmation)*

*19 April 2023, a request for the Oaths (or Affirmations) was made to the Governor General Secretary for the following members of the Australian Government and Judiciary:*

- 1. Governor General His Excellency the Honourable David Hurley*
- 2. Prime Minister The Hon Anthony Albanese MP*
- 3. Deputy Prime Minister The Hon Richard Marles MP*
- 4. Minister for Foreign Affairs Senator the Hon Penny Wong*
- 5. Treasurer The Hon Dr Jim Chalmers MP*
- 6. Minister for Finance Senator the Hon Katy Gallagher*
- 7. Minister for Trade Senator the Hon Don Farrell*
- 8. Minister for Employment The Hon Tony Burke MP*
- 9. Minister for Health The Hon Mark Butler MP*
- 10. Minister for Climate Change The Hon Chris Bowen MP*
- 11. Minister for the Environment The Hon Tanya Plibersek MP*
- 12. Minister for Infrastructure The Hon Catherine King MP*
- 13. Minister for Indigenous Australians The Hon Linda Burney MP*
- 14. Minister for Social Services The Hon Amanda Rishworth MP*
- 15. Minister for the National Disability Insurance Scheme The Hon Bill Shorten MP*
- 16. Attorney-General The Hon Mark Dreyfus KC MP*
- 17. Minister for Skills and Training The Hon Brendan O’Connor MP*
- 18. Minister for Education The Hon Jason Clare MP*
- 19. Minister for Housing The Hon Julie Collins MP*

20. Minister for Communications The Hon Michelle Rowland MP
21. Minister for Resources The Hon Madeleine King MP
22. Minister for Agriculture Senator The Hon Murray Watt
23. Minister for Industry and Science The Hon Ed Husic MP
24. Minister for Home Affairs The Hon Clare O'Neil MP
25. Minister for Veterans' Affairs The Hon Matt Keogh MP
26. Minister for Defence Industry The Hon Pat Conroy MP
27. Assistant Treasurer The Hon Stephen Jones MP
28. Minister for Immigration The Hon Andrew Giles MP
29. Minister for Early Childhood Education The Hon Dr Anne Aly MP
30. Minister for Aged Care The Hon Anika Wells MP
31. Minister for Regional Development The Hon Kristy McBain MP
32. Chief Justice of the High Court Susan Mary Kiefel AC
33. Chief Justice of the Federal Court Debra Mortimer
34. Chief Justice of the Federal Circuit & Family Court William Alstergren"

**04 May 2023**, the reply to the request for Oaths (Affirmations) was denied (see attached)

**24A - 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:**
  - (i) is in the agency's or Minister's possession but cannot be found; or**
  - (ii) does not exist.**

*Scope of expanded request/internal review of the original decision*

1. 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 the named personnel 1-34, 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.

a. If the first requested document cannot be found, I request such a document showing any undertaking that the Australian named personnel 1-34, made prior to taking his position in the Parliament of the Commonwealth.

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

2. I request the instrument of waiver the named personnel 1-34, relies on to be exempt from the performance of clause 5 of the Constitution Act, specifically the oath requirements found within the constitution binding on

*all Ministers by command of section 42, consistent with the Schedule and note to the Schedule prior to the taking their positions as Senators or Minister within the Parliament of the Commonwealth*

*End of Request.”*

## **Outcome of Internal Review**

For reasons I will explain I have decided to affirm the original decision communicated to you on 4 May 2023. However, to assist with your request, I provide some additional information below which may be helpful.

## **Material taken into account**

In making my decision, I have had regard to the following:

- the terms of your request;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth’s guidelines on FOI.

## **Information provided outside the Office’s obligations under the FOI Act**

Oaths or Affirmations of Office for Members of Parliament are returned to, and retained by, the Department of the Prime Minister and Cabinet (the ‘Department’) ([www.pmc.gov.au](http://www.pmc.gov.au)), following the ceremony.

I am aware some have previously been released by the Department under the *Freedom of Information Act 1982*. They are available through their FOI Disclosure Logs (<https://www.pmc.gov.au/about-us/accountability-and-reporting/information-and-privacy/foi-disclosure-logs>).

## **FOI Act**

Under Section 24A, 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:
    - (i) is in the agency’s or Minister’s possession but cannot be found; or
    - (ii) does not exist.

The FOI Act has a limited application to the Official Secretary to the Governor-General. Section 6A provided that the Act does not apply to any request for access to a document of the Official Secretary unless the document relates to matters of an administrative nature.

## **Decision**

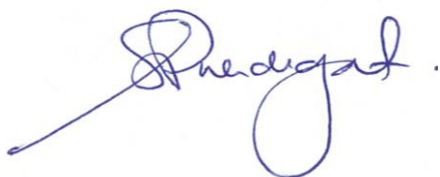
The Office has been unable to identify any documents within the scope of your request.

Accordingly, I advise that I must reject your request under section 24A of the FOI Act on the basis that the documents sought cannot be found, do not exist or have not been received, as they were returned to the Department following the ceremony.

## **Review rights**

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sharon Prendergast', with a long horizontal stroke extending to the left.

**Sharon Prendergast LVO**

Director of the Australian Honours and Awards Branch

## **ATTACHMENT A — INFORMATION ON RIGHTS OF REVIEW**

### **1. APPLICATION FOR INTERNAL REVIEW OF DECISION**

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision-maker.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Applications for internal review can be made:

- via email to [FOIcontactofficer@gg.gov.au](mailto:FOIcontactofficer@gg.gov.au)
- by mail to The Official Secretary to the Governor-General, Government House, CANBERRA ACT 2600

If you choose to seek an internal review, you will afterward have a right to apply for Information Commissioner review (IC review) of the internal review decision.

**OR**

### **2. INFORMATION COMMISSIONER REVIEW OR COMPLAINT**

You also have the right to seek IC review of this decision. For FOI applicants, an application for IC review must be made in writing within 60 days of the decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify this office as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>
- via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available at its website: [www.oaic.gov.au/freedom-of-information/foi-review-process](http://www.oaic.gov.au/freedom-of-information/foi-review-process).