Mr Scott Laycock  
Partner  
Gadens Lawyers  
77 Castlereagh Street  
SYDNEY NSW 2000  
slaycock@nsw.gadens.com.au

Dear Mr Laycock  

Thank you for your letter dated 31 January 2012 in which you made a request on behalf of The Climate Institute to the Department of the Prime Minister and Cabinet (the department) under the Freedom of Information Act 1982 (the FOI Act) in the following terms:

1. All correspondence between the Leader of the Opposition (and/or his staff) and the Prime Minister (and/or his/her staff) that refers or relates to Australia’s 2020 Greenhouse Gas Emission Targets; and

2. All correspondence between the Prime Minister and his/her staff that refers or relates to the Opposition’s policy on Australia’s 2020 Greenhouse Gas Emission Targets.

The authorised decision-maker for your request is Mr Tim Pyne, Assistant Secretary, Climate Change, Energy and Industry Branch.

I enclose Mr Pyne’s decision on your request, copies of documents for release in accordance with Mr Pyne’s decision, and information setting out your rights of review and complaint.

In accordance with the government’s pro-disclosure policy embodied in section 11C of the FOI Act, agencies are now required to publish information which has been released under FOI. Section 11C(6) of the FOI Act requires agencies to publish information released within 10 working days of granting the applicant access to the documents.
Should you have any queries, please contact me by telephone on (02) 6271 5574 or email to foi@pmc.gov.au.

Yours sincerely

[Signature]

Angelo Anagnostis
Acting Senior Adviser
Access and Administrative Review Section
Legal Policy Branch

31 May 2012
FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Gadens Lawyers on behalf of
The Climate Institute

DECISION BY: Mr Tim Pyne
Assistant Secretary
Climate Change, Energy and Industry Branch

The FOI request

In a letter dated 31 January 2012 the applicant made a request under the Freedom of Information Act 1982 (the FOI Act) in the following terms:

1. All correspondence between the Leader of the Opposition (and/or his staff) and the Prime Minister (and/or his/her staff) that refers or relates to Australia’s 2020 Greenhouse Gas Emission Targets; and

2. All correspondence between the Prime Minister and his/her staff that refers or relates to the Opposition’s policy on Australia’s 2020 Greenhouse Gas Emission Targets.

The request was received by the Department of the Prime Minister and Cabinet (the department) on 2 February 2012.

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.

Searches for documents

The following searches were undertaken to locate documents potentially relevant to the request:

- the department’s ministerial correspondence management system was searched; and

- the Climate Change, Energy and Industry Branch as the area in the department responsible for the subject-matter of your request, searched its records.

The documents identified as a result of these searches are described in the schedule at Attachment A.
Third party consultation

In a letter dated 2 March 2012, the department notified the applicant that the department had formed the view that it was appropriate to consult third parties about the possible release of their information contained in the documents. The department has undertaken that consultation and the third parties did not object to disclosure of the documents.

Decision on access

I have decided to grant access in full to the documents described in the schedule at Attachment A.

Processing and access charges

In a letter dated 29 March 2012, the department notified the applicant that the estimated charge for processing the request was $48.50. In a letter dated 5 April 2012 from Mr John Connor, CEO, The Climate Institute, a cheque for $48.50 was enclosed being payment of the estimated charge for this request. The payment of the charge was received by the department on 10 April 2012.

Access to documents

Copies of the documents described in the schedule at Attachment A are enclosed with this decision.

Publication of documents

In accordance with the government's pro-disclosure policy embodied in section 11C of the FOI Act, agencies are now required to publish information which has been released under FOI. Section 11C(6) of the FOI Act requires agencies to publish information released within 10 working days of granting the applicant access to the documents.

Review and complaint rights

I enclose a statement setting out your rights of complaint and review.

Tim Pyne
Assistant Secretary
Climate Change, Energy and Industry Branch

3 May 2012
<table>
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<tr>
<th>Document</th>
<th>Date</th>
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<td>1</td>
<td>22/12/2009</td>
<td>Letter from the Leader of the Opposition, the Hon Tony Abbott MP, to the then Prime Minister, the Hon Kevin Rudd MP.</td>
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<td>2</td>
<td>28/09/2010</td>
<td>Letter from the Prime Minister, the Hon Julia Gillard MP, to the Leader of the Opposition, the Hon Tony Abbott MP.</td>
<td>4</td>
<td>Release</td>
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Dear Prime Minister,

In light of the disappointing outcome at the Copenhagen Conference on Climate Change, I write to request that further information be made available to the public concerning the likely impact of your Emissions Trading Scheme. As the ETS Bill will be reintroduced into Parliament in the first week of February, this request is urgent.

First, I request that you undertake and then release Treasury modelling of the impact of your proposed ETS on the basis that Australia would be "going alone". As you would be aware, all the Treasury modelling on the ETS to date has been conducted on the assumption that the rest of the world will introduce a similar scheme. The Copenhagen Conference outcome suggests that this assumption is very optimistic. In the short term, it is now highly unlikely that a global scheme will be in place. It would therefore be quite unfair not to inform the public about the likely impact on Australian jobs and the Australian economy of a 'go it alone' Emissions Trading Scheme which actively taxes exports and manufacturing industries for the entire body of their economic activity. It would be important to let the public know how many Australian jobs are likely to be exported to other countries under such a scheme. Failure to conduct such analysis would be quite inconsistent with the Government’s stated objective of implementing "evidence based policy".

Second, I request that you disclose the taxpayer-funded Morgan Stanley report on the impact of the ETS on the power industry. Australians have a right to know how often blackouts are likely to occur as a result of your policy. In particular the effects on energy supply and security, as well as jobs and power prices in Victoria are a matter of national priority. This report should be made public immediately.
Third, I request that you inform the public what impact your ETS would have on
Australians' cost of living in the absence of a global system and what impact it would
have on their retirement savings. This is vital information for the parliament and the
people to understand before you re-introduce your Bill into Parliament.

Thank you for considering this request. Your proposed ETS will be one of the biggest
structural economic changes in Australia’s history, if not the biggest. It is therefore
essential that all the relevant information be on the table for the public’s
consideration.

The Coalition's position of bi-partisan support for emission reduction targets - subject
to the conditions which were earlier outlined - remains unchanged. The Copenhagen
outcome, however, reinforces our view that the right way to deal with climate change
does not involve a new tax on exports, jobs, small businesses, pensioners and battling
families. Instead, it would be better for Australia to take direct action to reduce
emissions by promoting clean energy and cleaning up power stations as well as
energy efficiency and improving our landscape to help capture carbon.

Finally, I think that the public understanding of these issues would be helped by the
widest possible public debate. I hope that you will agree to debate these issues with
me before Australia Day. In the interest of transparency I intend to make public the
contents of this letter.

Yours sincerely,

Tony Abbott
The Hon Tony Abbott MP
Leader of the Opposition
Member for Warringah
Parliament House
CANBERRA ACT 2600

Dear Tony,

On 1 September 2010, I committed to establishing a Multi-Party Climate Change Committee ("the Committee") to consult, negotiate, and report to the Cabinet on agreed options for the implementation of a carbon price in Australia; and to provide advice on, and participate in, building a deep and lasting community consensus for action on climate change. I also further committed that the structure, membership and work plan of the Committee would be finalised by the end of September 2010.

Parliamentary representatives of the Australian Labor Party, the Australian Greens, the Coalition, and independent parliamentarians, who are committed to tackling climate change and who acknowledge that reducing carbon pollution by 2020 will require a carbon price, will be invited to join the Committee. They will be supported by a range of experts.

I have established the Committee on the basis that a carbon price is an economic reform that is required to reduce carbon pollution, to encourage investment in low emissions technologies and complement other measures including renewable energy and energy efficiency.

As noted in the Treasury incoming Government brief, a broad based market mechanism which prices carbon is the only realistic way of achieving Australia’s bipartisan 2020 emissions reduction targets. Pricing carbon will ensure that the transition to a low-carbon economy is as smooth as possible, by creating an incentive to cut carbon pollution and encourage investment in low-emissions technologies.

It will also provide businesses with much-needed investment certainty and make sure that Australia does not fall behind the rest of the world, and therefore relinquish our competitiveness in a global economy – aims I would hope all Members of Parliament agree on.

The Committee will be most effective if it can serve as a genuine multi-party negotiating forum and therefore I invite you to nominate two representatives from...
the Coalition to participate on the Committee. Given the task of this Committee, it will be important for representatives to commit to working within the terms of reference (Attachment A) and for deliberations and papers to remain confidential to the Committee until a final position is agreed or all parties to the Committee agree otherwise. Members will be asked to sign confidentiality agreements to give effect to this commitment.

As part of the important task of building community consensus around the need for action on climate change and a carbon price, I understand the Committee, at its initial meeting, will determine the best mechanism for keeping the public updated on its work.

I propose to chair the Committee, with the Government further represented on the Committee by the Deputy Prime Minister, the Hon Wayne Swan MP and the Minister for Climate Change and Energy Efficiency, the Hon Greg Combet MP.

The Committee will be supported by four independent permanent expert advisers: Professor Ross Garnaut; Professor Will Steffen; Mr Rod Sims; and Ms Patricia Faulkner AO, as well as a departmental Secretaries’ Group, and by the Department of Climate Change and Energy Efficiency and the Treasury.

The formation of this Committee should be seized as an opportunity to build for Australians the low-pollution economy of the future.

As you would appreciate, many in the business community are supportive of the introduction of a carbon price, including pre-eminent leaders of industry and finance. I invite you to join with mainstream business leaders and to contribute constructively to the development of this important economic reform.

Action on climate change through the establishment of a carbon price is clearly in Australia’s national interest and I would expect that all major parties would seek to be part of this significant economic reform.

Given the timelines outlined above, I would be grateful for your response by 30 September 2010.

Yours sincerely,

[Signature]

Julia Gillard
Exe.

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MULTI-PARTY CLIMATE CHANGE COMMITTEE
Terms of Reference

1. The Multi-Party Climate Change Committee ("the Committee") is established to:
   1.1. consult, negotiate, and report to the Cabinet, through the Minister for Climate Change and Energy Efficiency, on agreed options for the implementation of a carbon price in Australia; and
   1.2. provide advice on, and participate in, building community consensus for action on climate change.

2. The Committee decisions will be reached by consensus or, if there are differences that remain after good faith discussions, these will be presented to the Cabinet, but with every effort made to produce workable options.

3. The Committee is established on the basis that a carbon price is an economic reform that is required to reduce carbon pollution, to encourage investment in low emissions technologies and complement other measures including renewable energy and energy efficiency.

4. The Committee will consider mechanisms for introducing a carbon price (including a broad-based emissions trading scheme, a broad-based carbon levy, a hybrid of both, and economy-wide and sector-based approaches) and will consider issues such as coverage, international linking, implementation issues, assistance measures for households and businesses (including emissions-intensive trade-exposed businesses) and review provisions.

5. From time to time the Committee, by agreement, may discuss other aspects of climate change policy that would benefit from multi-party consideration and discussion. However, the Committee’s deliberations will be broadly limited to the issue of a carbon price.

6. The Committee will be informed by, and responsible for, measures including but not limited to:
   6.1. inviting Professor Ross Garnaut to update the Garnaut Climate Change Review and to provide advice on pricing carbon;
   6.2. consider the findings of an expert body, which will be tasked with calculating the carbon price equivalent of measures taken by other countries;
   6.3. inviting experts to conduct a public forum in Parliament House on the economic, environmental and social impacts of climate change;
   6.4. receiving up-to-date date assessments of the science (from the Climate Change Commission, Australian Academy of Science, the Bureau of Meteorology and CSIRO, and eminent scientists);
   6.5. considering whether a Citizens' Assembly on Climate Change should be established and, if so, its objectives, format and timeframes; and
   6.6. considering the objectives, functions, form and membership of the Climate Change Commission.

7. The Committee will establish a work program that addresses these terms of reference.
8. The Committee will ensure its deliberations and papers remain confidential to the Committee and the Cabinet until a final position is agreed or all parties to the Committee agree otherwise. At its initial meeting the Committee will determine the mechanism by which it will provide updates of its work.

8.1. As part of building community consensus around the need for action on climate change and a carbon price, the Committee may choose to make some of its materials available to the public.

8.1.1. Committee members may not act unilaterally in this regard.

8.1.2. Committee members will be mindful of the need to balance public participation against effective and genuine negotiation.

9. The Committee will meet regularly, usually monthly, until the end of 2011, at which time the ongoing need for the Committee will be considered.

10. In making its recommendations, the Committee shall have regard to:

10.1. the Copenhagen Accord;

10.2. Australia’s national economic, social and environmental interests;

10.3. the views and ideas of the Australian people as determined through consultation and public forums;

10.4. the views and ideas of experts, and key stakeholders;

10.5. international trends, including action taken by other countries;

10.6. Commonwealth, state and territory climate change policies; and

10.7. the impacts of, and interactions between, proposed carbon price mechanisms and complementary measures.

11. The Committee will be supported by:

11.1. Up to four permanent expert advisors appointed by the Government to regularly advise the Committee on their areas of expertise;

11.2. a Secretaries’ Group, comprising Secretaries of the Departments of Prime Minister and Cabinet, the Treasury, Finance and Deregulation, Resources, Energy and Tourism, the Attorney-General, Climate Change and Energy Efficiency (chair), Agriculture, Fisheries and Forestry, Regional Australia, Regional Development and Local Government, Families, Housing, Community Services and Indigenous Affairs, Foreign Affairs and Trade, Infrastructure and Transport, Innovation, Industry, Science and Research, Sustainability, Environment, Water, Population and Communities, and the Director-General of AusAID, with others participating as required; and

11.3. the Department of Climate Change and Energy Efficiency (in relation to most policy matters), and the Treasury (in relation to modelling, macroeconomic impacts, budgetary impacts and any changes to the tax and transfer systems to compensate certain households for price impacts of any scheme).

12. The Committee would generally meet in the Cabinet room. The Cabinet Division of the Department of Prime Minister and Cabinet will be responsible for minute-taking.
FREEDOM OF INFORMATION ACT 1982

INFORMATION ON RIGHTS OF REVIEW IN RELATION TO DECISIONS MADE BY THE DEPARTMENT OF THE PRIME MINISTER AND CABINET

Information about your review rights is set out in the attached Fact Sheet ‘Freedom of Information – Your review rights’ published by the Office of the Australian Information Commissioner (the OAIC). The fact sheet explains that you may apply to the department for internal review, or you may apply to the OAIC for external review.

You have the right to apply for an internal review of a decision refusing to grant access to documents in accordance with your request, including a decision to defer access, or a decision to impose charges. If you apply to internal review, an authorised officer of the Department (not the person who made the original decision) will conduct a review and make a fresh decision on the merits of the case. You should apply in writing for a review of the decision within 30 days of receipt of this letter. If you wish to apply outside this period, you would also need to request an extension of time to apply, and give reasons why an extension should be granted.

No particular form is required to request an internal review, it is desirable (but not essential) to set out in the request the grounds on which you consider that the decision should be changed.

Your request for internal review of the decision should be addressed to:

The FOI Co-ordinator
Department of the Prime Minister and Cabinet
PO Box 6500
CANBERRA ACT 2600

Email: foi@pmc.gov.au

Telephone: (02) 6271 5849
Facsimile: (02) 6271 5776

If you request internal review and are dissatisfied with the internal review decision, you could then seek OAIC review of that decision. The attached Fact Sheet explains how to apply to the OAIC for external review of an agency’s decision.
Freedom of information – Your review rights

April 2011

If you disagree with the decision of an Australian Government agency or minister under the Freedom of Information Act 1982 (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if someone is to be granted access to information that is about you, if the agency has informed you that it will impose a charge for processing your request or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by the agency, and external review by the Australian Information Commissioner.

Internal review

If an agency makes an FOI decision that you disagree with, you can ask the agency to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless the agency extended the application time. You should contact the agency if you wish to seek an extension. The agency must make a review decision within 30 days. If it does not do so, its original decision is considered to be affirmed.

Internal review is not available if a minister or the chief officer of the agency made the decision personally.

Review by the Information Commissioner

The Information Commissioner is an independent office holder who can review the decisions of agencies and ministers under the FOI Act.

Is a review the same as a complaint?

No. The Information Commissioner also investigates complaints about agency actions under the FOI Act. However, if you are complaining that an agency decision is wrong, it will be treated as an application for a review. Your matter will be treated as a complaint when a review would not be practical or would not address your concerns (for example, if you were not consulted about a document that contains your personal information before it was released). For more information see FOI fact sheet 13 – Freedom of information: How to make a complaint.

Do I have to go through the agency’s internal review process first?

No. You may apply directly to the Information Commissioner. However, going through the agency’s internal review process gives the agency the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

Do I have to pay?

No. The Information Commissioner’s review is free.

How do I apply?

You must apply in writing and you can lodge your application in one of the following ways:

- **online:** www.oaic.gov.au
- **post:** GPO Box 2999, Canberra ACT 2601
- **fax:** +61 2 9284 9666
- **email:** enquiries@oaic.gov.au
- **in person:** Level 3, 175 Pitt Street, Sydney NSW 2000
An application form is available on the website at www.oaic.gov.au. Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

Can I get help in completing the application?
Yes. The Information Commissioner’s staff are available to help you with your application if anything is unclear.

When do I have to apply?
If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the Information Commissioner within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

You can ask the Information Commissioner for an extension of time to apply, and this may be granted if the Information Commissioner considers it is reasonable in the circumstances.

Who will conduct the review?
Staff of the Information Commissioner will conduct the review. Only the Information Commissioner, the FOI Commissioner or the Privacy Commissioner can make a decision at the end of the review.

Does the Information Commissioner have to review my matter?
No. The Information Commissioner may decide not to review an application that is frivolous, misconceived or lacking in substance, or if you fail to cooperate with the process or cannot be contacted after reasonable attempts. You cannot appeal against that decision.

Alternatively the Information Commissioner may decide that the Administrative Appeals Tribunal (AAT) would be better placed to review the matter, and if so, will advise you of the procedure for applying to the AAT. This will not be common.

Can I withdraw my application?
Yes. An application can be withdrawn at any time before the information Commissioner makes a decision.

What happens in the review process?
The review process is designed to be as informal as possible. The Information Commissioner may contact you or any of the other parties to clarify matters and seek more information. The Information Commissioner may also ask the agency or minister to provide reasons for their decision if the reasons given were inadequate.

Most reviews will be made on the basis of the submissions and papers provided by the parties. Sometimes the Information Commissioner may decide to hold a hearing if one of the parties applies. Parties may participate in a hearing by telephone. If confidential matters are raised, the hearing may be held partly or wholly in private.

Will there be other parties to the review?
There may be. The Information Commissioner can join other parties who are affected by the application. For example, if you are objecting to someone else being granted access to information that concerns you, that person may be joined in the review.

Can someone else represent me?
Yes, including a lawyer. However, the Information Commissioner prefers the process to be as informal and cost-effective as possible and does not encourage legal representation.

Will the Information Commissioner look at all documents, including ones that are claimed to be exempt?
Yes. The Information Commissioner’s review is a fresh decision, so all the relevant material must be examined, including documents that the agency or minister has declined to release. Developments that have occurred since the original decision may also be considered.
What powers does the Information Commissioner have?

While the review process is designed to be informal, the Information Commissioner has formal powers to require anyone to produce information or documents, to compel anyone to attend to answer questions and to take an oath or affirmation that their answers will be true.

An agency or minister can also be ordered to undertake further searches for documents.

What decisions can the Information Commissioner make?

After reviewing a decision, the Information Commissioner must do one of three things:

- set the decision aside and make a fresh decision
- affirm the decision, or
- vary the decision.

The Information Commissioner will give reasons for the decision.

Will the decision be made public?

Yes. The Information Commissioner will publish decisions on the website. Exempt material (that is, material that is not released) will not be included. Nor will the name of the review applicant, unless that person requests otherwise or there is a special reason to publish it.

What can I do if I disagree with the Information Commissioner’s review decision?

You can appeal to the AAT. The Information Commissioner will not be a party to those proceedings. The fee for lodging an AAT application is $777 (at November 2010), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

FOI applications made before 1 November 2010

The Information Commissioner can only review an agency’s or minister’s FOI decision if you made your FOI request on or after 1 November 2010. If you made your FOI request before 1 November, even if the decision was made after that date, the review process is different.

You must first ask the agency for internal review of the decision. You may then appeal to the AAT if you are not satisfied with the decision.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information
telephone: 1300 363 992
email: enquiries@oaic.gov.au
write: GPO Box 2999, Canberra ACT 2601
or visit our website at www.oaic.gov.au
You may complain to the Australian Information Commissioner if you have concerns about how an Australian Government agency handled a request for documents under the Freedom of Information Act 1982 (the FOI Act) or took any other action under that Act. If you are unhappy with the agency's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process.

Disagree with an FOI decision?

If you disagree with an agency's or minister's decision on your request under the FOI Act, you have the right to have the decision reviewed. You can ask an agency to review its decision internally. You also have the right to ask the Information Commissioner to review an agency's or minister's decision. See FOI Fact Sheet 12 Freedom of information – Your review rights for more information about the review process.

If you are concerned about the way an agency has handled your matter, you can complain to the Information Commissioner.

What are the powers of the Information Commissioner?

The Information Commissioner can investigate a complaint about how an agency handled an FOI request, or other actions the agency took under the FOI Act. The Information Commissioner cannot investigate a complaint about a minister.

In conducting the investigation the Information Commissioner has the power to:

- make inquiries of an agency
- obtain information from any person
- take possession of, or inspect, any relevant documents.

If the Information Commissioner decides to investigate your complaint, the agency you have complained about will be notified in writing of the complaint. The Information Commissioner conducts investigations of complaints in private.

Who can make a complaint?

Any person can make a complaint about the actions of an agency in relation to an FOI activity. You do not need to have requested documents under the FOI Act.

When should I make a complaint?

You can complain to the Information Commissioner at any time. If your complaint relates to an FOI request you can make the complaint at any stage of the process.

Before making a complaint to the Information Commissioner, you should contact the agency directly to try to resolve your concerns. The Information Commissioner may decide not to investigate your complaint if you have not raised your concerns first with the agency or you have not given the agency a reasonable opportunity to deal with your complaint.
How do I make a complaint?

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to us using the details at the end of this fact sheet. A complaint form is also available on our website at www.oaic.gov.au.

If you need help we can assist you. You can contact us on 1300 363 992 or by email to enquiries@oaic.gov.au.

What information do I need to put in the complaint?

To help the Information Commissioner give the best consideration to your complaint, please provide as much relevant information as possible. Be clear about the issues in your complaint and what action or outcome you would like to see as a result.

Is there a fee for making a complaint?

No. There are no costs involved in making a complaint to the Information Commissioner.

What will happen to my complaint?

An officer of the Information Commissioner will contact you to discuss your complaint and you will be kept informed of the progress of your complaint along the way.

Before deciding whether to investigate your complaint, the Information Commissioner may make preliminary inquiries of the agency you have complained about.

If the Information Commissioner decides to investigate your complaint, the Commissioner will write to the agency and request information to assist with the investigation.

Can the Information Commissioner decide not to investigate my complaint?

Yes. The Information Commissioner may decide not to investigate, or may discontinue an investigation, if:

- your complaint does not concern an agency’s action under the FOI Act
- it is more appropriate for you to complain to another body (such as the agency or the Commonwealth Ombudsman)
- it is more appropriate for you to ask for the decision to be reviewed
- the agency you complained about has dealt with your complaint, or is in the process of dealing with it
- your complaint is frivolous, lacking in substance or not made in good faith
- you do not have sufficient interest in the matter.

If the Information Commissioner decides not to investigate or discontinues an investigation, the Commissioner will notify you and the agency of the reasons for this in writing.

How will my complaint be resolved?

In some cases the Information Commissioner’s investigation and intervention may result in the agency addressing the issues that you have complained about. In other cases the Information Commissioner may make suggestions or recommendations that the agency should implement. You and the agency will be notified in writing of the outcome of the investigation.
If an agency fails to take adequate and appropriate action to implement any recommendations, the Information Commissioner may issue a formal implementation notice. This notice requires the agency to explain what action it will take to implement the recommendations. The Information Commissioner may also provide a written report to the minister responsible for the agency, and the report will be tabled in Parliament.

Your name will not be included in the report unless there is a special reason and you were first consulted.

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint and all relevant documents must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. This could occur where the FOI complaint is only one part of a wider grievance about an agency’s actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information
telephone: 1300 363 992
email: enquiries@oaic.gov.au
write: GPO Box 2999, Canberra ACT 2601
or visit our website at www.oaic.gov.au