



26 June 2023

Our reference: 73800

Mr Arthur Jordan (Right to Know)

Only by email: foi+request-10347-cdb6e3fe@righttoknow.org.au

Dear Mr Jordan

Decision on your Freedom of Information Request

I refer to your request, received by Services Australia (the Agency) on 27 May 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

A recent response from the Dept. of Veterans Affairs stated that all documents used by them are held by Services Australia on their computer Servers (not DVA Servers), in particular documents (both inward and outward facing documents) described by DVA as the Consolidated Library of Information and Knowledge, or CLIK.

I seek a list under S.17 of the FOI Act indicating the names and details of all documents held by Services Australia on their Servers, on behalf of and accessed by the Department of Veterans Affairs. I do not require a copy of any documents, just the list.

My decision

I have decided to refuse your request for access under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the document you have requested and I am satisfied that it does not exist, within the Agency's possession.

In respect of your reference to section 17 of the FOI Act, I am satisfied that this section does not apply to your request. The documents you seek are not documents of this Agency, and as such the Agency cannot produce a document containing the information through use of a computer or other equipment that is ordinarily available to this Agency for retrieving or collating stored information (section 17(c)).

The reasons for my decision, including the relevant sections of the FOI Act, are set out in **Attachment A**.

You can ask for a review of our decision

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within Services Australia, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for a review of the decision. See **Attachment B** for more information about how to request a review.

Further assistance

If you have any questions please email freedomofinformation@servicesaustralia.gov.au.

Yours sincerely

Claire
Authorised FOI Decision Maker
Freedom of Information Team
FOI and Ombudsman Branch | Legal Services Division
Services Australia



Attachment A

REASONS FOR DECISION

What you requested

A recent response from the Dept. of Veterans Affairs stated that all documents used by them are held by Services Australia on their computer Servers (not DVA Servers), in particular documents (both inward and outward facing documents) described by DVA as the Consolidated Library of Information and Knowledge, or CLIK.

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What I took into account

In reaching my decision I took into account:

- your request dated 27 May 2023
- consultations with Agency officers about the Agency's operating environment and functions
- consultation with the Department of Veterans Affairs (DVA)
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines), and
- the FOI Act.

Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (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.

Your request indicates you have been provided advice that DVA documents are stored on the Agency's computer servers. I am advised the Agency has a shared ICT platform with other government departments and agencies such as DVA. However, documents owned by other departments that may be stored on this server are not within the Agency's possession. Therefore, the Agency does not hold possession of the documents (should they exist) nor a list with the the names and details of any such documents.

On this basis, I am satisfied that in accordance with section 24A of the FOI Act:

1. all reasonable steps have been taken to locate the document, and
2. the document does not exist.

Ordinary use of a computer

Where a document does not currently exist but an agency could create a document which contains the information sought using a computer that is ordinarily available to it for retrieving or collating stored information, section 17 of the FOI Act requires the agency to treat the FOI request as if the document does exist.

I am satisfied that section 17 of the FOI Act does not apply to your request as this Agency is unable to produce a written document containing the information you have requested in discrete form by use of a computer or other equipment that is ordinarily available to the Agency (as required under section 17(c)). This is because the Agency does not hold the information you have requested, as it belongs to the DVA.

On 2 June 2023, we attempted to transfer your request to DVA under section 16 of the FOI Act. The transfer was declined by DVA on the grounds that a similar request from you received by that department had already been finalised.

If you are dissatisfied with the decision made by DVA, we suggest you contact that department for a further explanation, or internal review of the decision. Alternatively, you may wish to submit a new FOI request to DVA at Information.Access@dva.gov.au.

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a freedom of information (FOI) decision

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of a FOI decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982 (FOI Act)* gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in Services Australia; and/or
2. the Australian Information Commissioner.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the Services Australia delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

Note: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in Services Australia within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application:**

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

Note: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at **www.oaic.gov.au**.
- If you have one, you should include with your application a copy of the Services Australia decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to Services Australia's decision.

Complaints to the Australian Information Commissioner and Commonwealth Ombudsman

Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an Agency in the exercise of powers or the performance of functions under the FOI Act, There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Commonwealth Ombudsman concerning action taken by an Agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.