



19 October 2023

Our reference: LEX 75590

Ben Faithful

By email: foi+request-10603-e3827bca@righttoknow.org.au

Dear Ben

Decision on your Freedom of Information Request

I refer to your request, dated and received by Services Australia (the **Agency**) on 22 August 2023 for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following documents:

'Under the FOI Act, requesting access to the business case document(s) for the Pay As You Go (PAYG) data matching initiative that was the subject of Question on Notice HS 15 from the Senate Community Affairs Legislation Committee Budget Estimates hearing on 3 June 2015.
http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/clacctte/estimates/bud1516/DHS/index

- Documents that describe the algorithm or process used to perform the data matching that identified the "approximately 1,080,000" discrepancies between PAYG data and data reported by DHS customers, as referred to in the Answer to Question HS 15.

- Documents that describe the analysis process for how the value of "historical discrepancies", as described in the Answer to Question HS 15, was determined. Such documents should describe the statistical method, the sampling process used, statistics returned (standard error, mean, confidence interval, etc.), how the likely average debt value was determined, etc.

Where multiple revisions of documents exist, I am only interested in the version current at the time the Department referred to in its answer to HS15'.

My decision

The Agency holds 11 documents (totalling 273 pages) that relate to your request.

I have decided to:

- grant you **full access** to 5 documents (documents 4, 5, 9, 10 and 11), and
- **refuse access** to 6 documents (documents 1, 2, 3, 6, 7 and 8).

I have decided that certain documents that you have requested are exempt under the FOI Act because disclosure would be in contempt of court (section 46 exemption).

This is because documents 1, 2, 3, 6, 7 and 8 are the subject of an ongoing matter being heard by the Federal Court of Australia. The Federal Court of Australia have issued an order that prohibits disclosure, with limited exceptions.

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

How we will send your documents to you

The documents are attached.

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 the Agency, 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

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



SCHEDULE OF DOCUMENTS FOR RELEASE
FAITHFUL, Ben - LEX 75590

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1.	1 - 18	2015	Costing	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)
2.	19 - 31	2015	Costing	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)
3.	32 - 36	2015	Proposal	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)
4.	37 - 50	2015	External Costing Request "Extend Enhanced Welfare Payment Integrity - non-employment income data matching	Release in full	-	
5.	51 - 79	2015	External Costing Request "Increased Welfare Compliance for Assets and Investments"	Release in full	-	
6.	80 - 92	2015	Proposal	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)
7.	93 - 106	2015	Proposal	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
8.	107 - 112	2015	Proposal	Exempt in full	s 46	Court order prohibiting release (s 46 exemption)
9.	113	2015	PAYG – Assumptions Summary	Release in full	-	
10.	114 - 115	2015	Extension PAYG New Measure – Costing Assumptions	Release in full	-	
11.	116 - 273	2015	External Data – PAYG Data Matching – User Change Specification	Release in full		Staff details deleted under s22 (out of scope)



REASONS FOR DECISION

What you requested

'Under the FOI Act, requesting access to the business case document(s) for the Pay As You Go (PAYG) data matching initiative that was the subject of Question on Notice HS 15 from the Senate Community Affairs Legislation Committee Budget Estimates hearing on 3 June 2015.

http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/claccte/estimates/bud1516/DHS/index

- Documents that describe the algorithm or process used to perform the data matching that identified the "approximately 1,080,000" discrepancies between PAYG data and data reported by DHS customers, as referred to in the Answer to Question HS 15.

- Documents that describe the analysis process for how the value of "historical discrepancies", as described in the Answer to Question HS 15, was determined. Such documents should describe the statistical method, the sampling process used, statistics returned (standard error, mean, confidence interval, etc.), how the likely average debt value was determined, etc.

Where multiple revisions of documents exist, I am only interested in the version current at the time the Department referred to in its answer to HS15'.

On 31 August 2023, the Agency acknowledged your request and advised you that we would not include personal details about our staff (such as their names). You did not contact Services Australia again about this. Staff details have therefore been redacted in accordance with section 22(1) of the FOI Act.

On 15 September 2023, we sought your agreement to an extension of time for the processing of your request. On the same day you replied agreeing to a 7 day extension of time under section 15AA of the FOI Act.

On 25 September 2023, I sought your agreement to a further 23 day extension of time for the processing of your request. On 26 September 2023 you replied agreeing to the further 23 day extension of time under section 15AA of the FOI Act.

What I took into account

In reaching my decision I took into account:

- your original request dated 22 August 2023
- the documents that fall within the scope of your request
- whether the release of material is in the public interest
- consultations with Agency officers about:
 - the nature of the documents
 - the Agency's operating environment and functions

- 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.

I have decided that certain documents that you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that the exemption applies to those documents are discussed below.

Contempt of Court

I have applied the exemption in section 46 of the FOI Act to documents 1, 2, 3, 6, 7 and 8 as outlined in the schedule.

This section of the FOI Act allows the Agency to redact material from a document if disclosure of the document would be in contempt of court.

On 18 August 2023, the Federal Court of Australia issued an order that prohibits disclosure of documents relevant to the matter of *Justin Warren and Chief Executive Officer, Services Australia* [VID763/2022], except for disclosure to:

- a) the Court and its staff, and any person performing services for the Court, acting in the course of their duties
- b) the Respondent and its legal representatives, or
- c) the Commonwealth and its officers.

The court order can be found here:

<https://www.comcourts.gov.au/file/Federal/P/VID763/2022/3949543/event/31430041/document/2153217>

I am satisfied that documents 1, 2, 3, 6, 7 and 8 are documents also in issue in this Federal court matter. Further, I am satisfied that none of the above exceptions apply and as such, at this time disclosure is prohibited and the documents are exempt in full under section 46 of the FOI Act.



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information 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 an Freedom of Information 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 (the **Agency**); 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 Agency 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, or by email to freedomofinformation@servicesaustralia.gov.au

Note 2: 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 the Agency 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 3: 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 'FOI Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Agency's decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the Agency'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.