



14 December 2023

Our reference: LEX 76729

Trent Morrison-Francis
Right to Know

Only by email: foi+request-10823-cf625a7c@righttoknow.org.au

Dear Mr Morrison-Francis,

Your Freedom of Information Request - Outcome of Request Consultation Process

I refer to your request, received by Services Australia (the Agency) on 31 October 2023 for access to documents under the *Freedom of Information Act 1982* (the FOI Act). You requested access to:

All active Memorandum of Understanding, Heads of Agreement, Data Sharing Agreements, and Service Contracts that result in the sharing of veteran data, even if de-identified. I am looking for similar documents for programs and agreements that ceased within the last 10 years or are still active.

My decision

I have decided to refuse your request under section 24(1) of the FOI Act because a 'practical refusal reason' exists under section 24AA of the FOI Act. I am satisfied that your request is unclear and does not sufficiently identify the documents you require as specified in section 24AA(1)(b) of the FOI Act.

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 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. 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

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

REASONS FOR DECISION

What you requested

All active Memorandum of Understanding, Heads of Agreement, Data Sharing Agreements, and Service Contracts that result in the sharing of veteran data, even if de-identified. I am looking for similar documents for programs and agreements that ceased within the last 10 years or are still active.

Request consultation process

On 8 November 2023, I wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act, giving you an opportunity to consult with the Agency to revise your request so as to remove the practical refusal reason. This is because we consider your request to be voluminous and unclear. We required further information from you to sufficiently identify the documents you require.

On 14 November 2023, you wrote to us in response to the section 24AB(2) notice. You advised that it is not unreasonable to request what other persons the Agency shares data with. Additionally, you advised that you are only requesting data specific to veterans and not general data transfers relating to interest information or companies.

On 17 November 2023, I wrote to you again, providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as parts of your request did not clearly identify the documents you were seeking access to and would potentially be voluminous in its current form. I explained that veterans' data is not mutually exclusive to agreements between the Department of Veterans Affairs' (DVA) and the Agency, as veteran information may be shared in conjunction with business as usual Medicare, Centrelink, Child Support and administrative service offers, or where information is provided to support Federal entities to assist their administrative responsibilities. This means your request in its current form would extend to every single exchange, which may include veterans' data. I gave you an opportunity to consult with the Agency to revise your request so as to remove the practical refusal reason.

On 25 November 2023, you responded to my letter and advised you disagreed that your request was too unclear and broad for us to process. Your response did not include any revisions to the scope of your request.

What I took into account

In reaching my decision I took into account:

- your original request dated 31 October 2023
- correspondence I sent to you dated 8 November 2023, and your response dated 14 November 2023
- further correspondence I sent to you dated 17 November 2023, and your response dated 25 November 2023
- 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.

Following the request consultation process outlined above, in accordance with section 24AB of the FOI Act, I am satisfied that a practical refusal reason still exists as the scope of your request remains unclear. The reasons for my decision, including consideration of the factors I am required to take into account in section 24AA(2), are outlined below.

Practical refusal reason

Section 24AA of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).

Section 15(2)(b) provides that the request must provide enough information concerning the documents that is reasonably necessary to enable the Agency to identify the documents.

In determining whether a practical refusal reason exists, section 24AA(2) requires me to have regard to the resources that would have to be used for the following:

- identifying, locating or collating the documents within the filing system of the Agency
- deciding whether to grant, refuse or defer access to a document including resources used for examining the document and consulting with any person or body in relation to the request
- making a copy or an edited copy of the document, and
- notifying of any decision on the request.

In accordance with section 24AA(3), I did not consider your reasons for requesting access to the documents.

Conclusion

In summary I am satisfied the scope of your request does not provide enough information for the Agency to identify the documents you are seeking access to. Additionally, the request in its current form would potentially be voluminous.

I have found that a practical refusal reason exists in relation to your request for access to the documents. Accordingly, I have decided to refuse your request under section 24(1) of the FOI Act.

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 an 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 (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.

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 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: 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 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.