



29 February 2024

Our reference: LEX 78069

B

Only by email: foi+request-11048-6xxxxxxxxx@xxxxxxxxxxxxxx.xxx.xx

Dear B,

Decision on your Freedom of Information Request

I refer to your request, received by Services Australia (the Agency) on 24 January 2024, and revised on 5 February 2024 for access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

Reports, briefs, and letters between the CEO and the Senior Executive Staff from 2021-2024, regarding the workforce management system.

- o Please advise if: Communication to include emails between the CEO's positional mailbox and the Senior Executive Staff divisional positional mailboxes with the following keywords:
 - "workforce" + "management" + "system"
 - "monitor" + "staff" + "breaks"
 - "implement".

My decision

I have decided to refuse your request under section 24(1) of the FOI Act because a 'practical refusal reason' still exists under section 24AA of the FOI Act. I am satisfied that the work involved in processing your request would substantially and unreasonably divert the resources of the Agency from its other operations as specified in section 24AA(1)(a)(i) 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. 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

Elizabeth
FOI Officer
Freedom of Information Team
FOI and Reviews Branch | Legal Services Division
Services Australia



REASONS FOR DECISION

What you requested

I am submitting a FOI request under the Freedom of Information Act 1982, the request is an application for the purposes of the FOI Act, to gain insight into the decision-making process regarding the monitoring of staff breaks within the organization.

I am specifically seeking access to any correspondence, interactions, reports, briefs, or documents related to the decision to implement a system for monitoring staff breaks.

Moreover, I am interested in understanding the communication and involvement of the CEO and general management in this decision-making process.

Additionally, I am requesting information about how staff are notified and warned about the monitoring of their breaks, as well as the procedures in place for performance management related to this matter.

Please provide any relevant documents, policies, or communication materials pertaining to staff warnings and performance management in connection with breaks.

Request consultation process

On 2 February 2024, I wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request did not clearly identify the documents you were seeking access to. I gave you an opportunity to consult with the Agency to revise your request so as to remove the practical refusal reason. Specifically, the Agency suggested clarifying the specific type and nature of the documents you were seeking, and providing a sender/recipient, and keywords if you were seeking access to emails.

On 2 February 2024, you revised your request to be:

To gain insight into the decision-making process regarding the monitoring of staff breaks within the Services Australia organization, seeking access to any correspondence, interactions, reports, briefs, or documents related to the decision to implement a system for monitoring staff breaks by the CEO and executive team.

On 5 February 2024, I wrote to you again providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request did not clearly identify the documents you were seeking access to. I explained your request for 'correspondence' was very broad, and if this were to include emails, that we would require you to provide a sender/recipient and relevant keywords to enable searches to be conducted. Further, I advised it was likely a request for emails would capture a high volume of emails, of which FOI would need to manually review to determine if they relate to the scope of your request. To be assistive, I provided a suggested revised scope for your consideration.

On the same day you revised the scope of your request to:

Reports, briefs, and letters between the CEO and the Senior Executive Staff from 2021-2024, regarding the workforce management system.

- o Please advise if: Communication to include emails between the CEO's positional mailbox and the Senior Executive Staff divisional positional mailboxes with the following keywords:
“workforce” + “management” + “system”
“monitor” + “staff” + “breaks”
“implement”.

On 8 February 2024, I wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request was too big to process. I explained that preliminary searches relating to the component of your request for emails identified more than 950 emails based on the current terms of your request.

I gave you an opportunity to consult with the Agency to revise your request so as to remove the practical refusal reason. Specifically, the Agency suggested either removing internal emails from the scope of your request, or providing more information in relation to the emails requested, such as limiting the sender/recipient list and providing more targeted keywords that would be less likely to capture a broad range of irrelevant material. Further, I advised that based on further consultations with internal business areas about the information you were seeking, you might wish to consider requesting the Agency's Rostering Policy.

On 14 February 2024, you advised that you did not wish to revise your request.

What I took into account

In reaching my decision I took into account:

- your original request dated 24 January 2024
- your revised requests on 2 February 2024, and 5 February 2024
- other discussions and correspondence with you on 8 February 2024
- the documents that fall within the scope of your request
- consultations with Agency officers about:
 - o the nature of the documents
 - o 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 in that the work involved in processing your request would substantially and unreasonably divert the resources of the Agency from its other operations. 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 work involved in processing the request would:

'substantially and unreasonably divert the resources of the agency from its other operations'.

The word 'substantial' has previously been interpreted to mean severe, of some gravity, large or weighty or of considerable amount, real or of substance and not insubstantial or of nominal consequence. The use of the word 'unreasonable' has been interpreted to mean that a weighing of all relevant considerations is needed, including the extent of the resources needed to meet the request.

In determining whether processing the request would substantially and unreasonably divert the Agency's resources, 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.

Why your request is substantial

In making my decision I estimate that more than 950 emails would equate to over 83 hours of processing time required to process this request.

I have estimated the time to process your request as follows:

Search and retrieval time	1 hour
Saving and converting the emails at an average of 2 minutes per page	31.5 hours
Examine emails for decision making at an average of 3 minutes per page	47.5 hours
Draft statement of reasons	3 hours
Total	83 hours

Why your request is unreasonable

For the purposes of deciding whether your request would unreasonably divert the resources of the Agency from its other operations, I considered whether the substantial resource burden would be unreasonable having regard to the following:

- one individual processing your request would be required to spend over 2 weeks and 1 day processing your request
- your request involves duplication of documents for example email trails which would require identification and removal

As discussed above, I have estimated that your request would take approximately 83 hours to process. The Agency receives approximately 300- 400 FOI requests per month, the majority of which are requests from people seeking their own information. I am satisfied that the processing of your request would divert Agency resources from the processing of these other requests.

In making this finding, I have given weight to the significant possibility that the second proposed narrowed scope of request could satisfactorily meet your legitimate interest in seeking access to documents concerning the monitoring of staff breaks, and the implementation of a system to monitor staff breaks.

Conclusion

In summary I am satisfied that the work involved in processing your request would substantially and unreasonably divert the resources of the Agency from its other operations, namely the processing of other FOI requests and the delivery of social services to all Australians more broadly.

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, or by email to freedomofinformation@servicesaustralia.gov.au

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 '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.