



13 October 2015

Mr Gino Iannazzo

By email: [foi+request-1227-0096b2ea@righttoknow.org.au](mailto:foi+request-1227-0096b2ea@righttoknow.org.au)

Our reference: LEX 15507

Dear Mr Iannazzo

### Your Freedom of Information Request – Decision

1. I refer to your request, dated 15 September 2015 and received by the Department of Human Services (the **department**) on the same date, for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following documents:

‘National Welfare Fund 01/01/1946 was established by the Prime Minister Chiefly by charging all Taxpayer 7.5% levy. Like to know what happened to the fund and all the money accumulated belonging to the Australian Pensioners.’

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

### Background

3. On 22 September 2015, I sent you a consultation letter to inform you of my intention to refuse your request under section 24AA of the FOI Act. In my letter, I outlined the reasons why I wanted to refuse your request and suggested revisions to the scope of your request in order to enable the department to continue to process it. I also noted that it was unlikely that the department holds the type of information you are seeking access to and suggested that you withdraw your request with the department and submit a fresh request to the Department of Finance and/or The Treasury.
4. On 23 September 2015, you responded to my consultation letter.
5. On 2 October 2015, I sent you an email I noted that you are seeking information about the National Welfare Fund and informed you that the right of access under the FOI Act is a right to access documents, rather than a right to access to information. I also reminded you that if you wish to continue with your request, you would need to consider the issues I raised in paragraphs 6—12 of my letter dated 22 September 2015 before midnight 6 October 2015 (when the consultation period ends).

### Decision

6. I have decided to refuse your FOI request under section 24AA(1)(b) of the FOI Act on the basis that you have not provided such information concerning the documents you are seeking access to, as is reasonably necessary to enable the department to identify them, as required by section 15(2)(b) of the FOI Act.

## Information Considered

7. In reaching my decision, I considered:

- the terms of your request dated 15 September 2015;
- your correspondence dated 23 September 2015;
- the FOI Act;
- consultations with departmental officers about the department's operating environment and functions; and
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**).

## Reasons for Decision

### *Section 24AA of the FOI Act*

8. Section 24AA(1)(b) of the FOI Act provides that:

'For the purposes of section 24, a **practical refusal reason** exists in relation to a request for a document if either (or both) of the following applies:

(b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).'

9. Section 15(2) of the FOI Act provides that:

'Requirements for request

(2) The request must:

(a) be in writing; and

(aa) state that the request is an application for the purposes of this Act; and

(b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and

(c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).'

10. As I noted in my consultation letter, the right of access under the FOI Act is a right to access documents, rather than a right to access to information or to have a question answered. You have requested information.

11. Further, you have not provided any information to the department to undertake meaningful and relevant searches for the document/s you are seeking access to.

12. In my consultation letter, I asked you to inform the department of the type of document/s or categories of documents you are seeking access to under FOI processes.

13. I note that you have not provided the department with requested information within the consultation period allowed under section 24AB of the FOI Act.

14. As such, I have refused your request under section 24AA(1)(b) of the FOI Act. Without further information in relation to the documents you are seeking access to, your request does not comply with section 15(2)(b) of the FOI Act and is not a valid FOI request.

**Rights of review**

15. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
16. Should you have any enquiries concerning this matter, please contact me.

Yours sincerely

**Rachel Noronha**

Government Lawyer

FOI & Litigation Branch

Legal Services Division

Department of Human Services

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**INFORMATION ON RIGHTS OF REVIEW**

***FREEDOM OF INFORMATION ACT 1982***

**Application for review of decision**

The Freedom of Information Act 1982 (FOI Act) gives you the right to apply for a review of this decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of this decision by:

- (i) an internal review officer in the Department of Human Services; or
- (ii) the Information Commissioner.

**Internal Review**

If you apply for internal review, it will be carried out by a different decision-maker who will make a fresh decision on your application. An application for review must be:

- made in writing;
- made within 30 days of receiving this letter; and
- sent to the address at the head of this letter.

No particular form is required, but it is desirable to set out in the application the grounds upon which you consider the decision should be reviewed.

If the internal review officer decides not to grant you access to all of the documents to which you have requested access, you have the right to seek a review of that decision by the Information Commissioner. You will be further notified of your rights of review at the time you are notified of the internal review decision.

Please note that if you apply for an internal review and a decision is not made by an internal review officer within 30 days of receiving the application, you have the right to seek review by the Information Commissioner for a review of the original FOI decision on the basis of a 'deemed refusal' decision. An application for Information Commissioner review in this situation must be made within 60 days of the date when the internal review decision should have been made (provided an extension of time has not been granted or agreed).

**Information Commissioner review**

You must apply in writing within 60 days of the receipt of the decision letter and you can lodge your application in one of the following ways:

Online: <a href="http://www.oaic.gov.au">www.oaic.gov.au</a> Post: GPO Box 2999, Canberra ACT 2601 Fax: +61 2 9284 9666 Email: <a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
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If a person has sought an internal review and no result of that review is provided within 30 days, then the applicant may apply to the Information Commissioner to review the matter.

An application form is available on the website at [www.oaic.gov.au](http://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.

## **Complaints to the Commonwealth Ombudsman and Information Commissioner**

### ***Commonwealth Ombudsman***

You may complain to the 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 Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

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

### ***Information Commissioner***

You may also complain to the 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 Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992  
Website: [www.oaic.gov.au](http://www.oaic.gov.au)