



**Australian Government**  
**Department of Social Services**

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25 November 2015

Mr Ray Gibbons

By email: [foi+request-1315-320567b6@righttoknow.org.au](mailto:foi+request-1315-320567b6@righttoknow.org.au)

Dear Mr Gibbons,

**Freedom of Information Request No. 15/16-062**

1. I refer to your correspondence received by the Department of Social Services (the Department) on 8 November 2015, in which you seek access to the following:

*"information on numbers of deaths in social housing by period\* by state or territory".*

\*The period in question is 2005 to 2015.

2. I am authorised to make decisions under subsection 23(1) of the FOI Act. The following is my decision and the reasons for the decision.

**Decision on access to documents**

3. Pursuant to subparagraph 24A(1)(b)(ii) of the *Freedom of Information Act 1982* (FOI Act), I have decided to refuse your request for access to the document on the basis that the documents you are requesting do not exist.

**Reasons for decision**

4. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act 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.

5. I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that the Department has taken all reasonable steps to find the document falling within the scope of your request, and I am satisfied that the document does not exist.
6. The evidence on which I have based my decision is:
  - your correspondence dated 16 October 2015 requesting information relating to deaths in 'NSW FACS [New South Wales Government Department of Family and Community Services] housing

accommodation between 2005 and 2015'. This email was not considered by the Department to meet the requirements of a valid FOI request;

- Departmental correspondence sent to you on 20 October 2015 advising that the information you were requesting is held by the NSW State Government Department of Family and Community Services and that a request for documents or information would be best directed to that jurisdiction;
- your correspondence dated 30 October 2015 advising that your request was a 'nation wide request, for which your department must keep overall statistics across all states and territories';
- Departmental correspondence sent to you on 2 November 2015 advising that it was not apparent from your original correspondence that you were requesting documents held by the Commonwealth Government, or the Department in particular, or that you were requesting information relating to nation-wide statistics, and providing advice on how to submit a valid request under section 15 of the FOI Act;
- your email dated 8 November 2015 requesting 'internal review' of the handling of your request, and further request for information held by the Department relating to 'numbers of deaths in social housing by period by state or territory'. This email was deemed by the Department to be a valid FOI request, but not a request for internal review as an original decision on access to documents in respect of your request had not yet been made;
- consultations with departmental officers as to the information held by the Department;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

7. I am advised by departmental officers in the Housing and Homelessness Branch of the Housing, Homelessness and Assurance Group that the Department does not hold documents in relation to nation-wide deaths in social housing. The Australian Government is not responsible for policy or programmes in respect of social housing, including the collection of statistics on deaths in social housing, as this is a responsibility of state and territory governments.

8. In order to obtain the information you have requested, you may wish to contact:

- the New South Wales Department of Family and Community Services;
- the Victorian Department of Human Services;
- the Queensland Department of Housing and Public Works;
- the South Australian Department for Communities and Social Inclusion;
- the Western Australian Department of Housing;
- the Tasmanian Department of Health and Human Services;
- the Northern Territory Department of Housing; and
- the Australian Capital Territory Department of Community Services.

9. Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the relevant document exists and such steps have failed to locate any document falling within the scope of your request. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.

#### **Rights of review**

10. I have enclosed information about your rights of review at **Attachment A**.

11. Should you have any enquiries concerning this matter, please do not hesitate to contact the Department's Information Team at [foi@dss.gov.au](mailto:foi@dss.gov.au).

Kind regards,

A handwritten signature in black ink, appearing to read 'Clare McLean', with a stylized flourish at the end.

Clare McLean  
Principal Legal Officer and FOI Coordinator  
Information Team  
Legal Services Group

### **Internal review**

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter. No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: Freedom of Information (FOI) Coordinator  
Commercial, Child Care, Disability and Information Law Branch, TOP AE3  
Department of Social Services  
PO Box 7576  
Canberra Business Centre ACT 2601  
Email: [foi@dss.gov.au](mailto:foi@dss.gov.au)

### **External review by the Australian Information Commissioner**

Section 54L of the FOI Act gives you the right to apply to the Australian Information Commissioner (Information Commissioner) to review a decision made by an agency on internal review of an access refusal decision.

If you wish to have this decision reviewed by the Information Commissioner you must apply for the review, in writing or by using the online merits review form available on the Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter. To assist the Information Commissioner your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the Information Commissioner about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218  
Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
In person: Level 3, 175 Pitt Street  
Sydney NSW 2000

### **The Commonwealth Ombudsman**

You can 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.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone 1300 362 072.