



The Hon Christian Porter MP
Minister for Social Services

Mr Ben Fairless

By email: foi+request-1514-7d782ade@righttoknow.org.au

Dear Mr Fairless

I refer to your correspondence received by the Department of Social Services (**the Department**) on 25 January 2016 and referred to Office of the Minister for Social Services (**the Minister**) on 29 January 2016, in which you sought access under the *Freedom of Information Act 1982* (**FOI Act**) to:

"a copy of any complaints received in relation to the decision to introduce "No Jab, No Pay" legislation

[...]

I am happy to exclude duplicates of documents and personally identifiable information."

I note that, although the request was sent to the Department's FOI email address, your request was addressed to the Minister. I note that an FOI request from you on the same terms has been received by the Department, and it will respond to you separately.

I am authorised to make decisions on the Minister's behalf.

Decision on access to documents

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

Reasons for decision

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.*

I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that staff in the Minister's Office have taken all reasonable steps to find documents falling within the scope of your request, and I am satisfied that the documents do not exist.

The evidence on which I have based my decision is:

- your correspondence dated 25 January 2016 outlining the particulars of your request for documents under the FOI Act;
- consultations with staff in the Minister's Office as to the information held by the Office and searches for documents undertaken by them;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

I am advised by staff in the Minister's Office that thorough searches have not located any document which falls within the scope of your request.

Correspondence sent to the Minister on matters relating to the functions and activities of the Department, including feedback in relation to the administration of portfolio legislation such as the *Social Services Legislation Amendment (No Jab, No Pay) Act 2015*, is often responded to by the Department on the Minister's behalf. Documents in respect of this correspondence are therefore held by the Department and not the Minister.

Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the relevant documents exist 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

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

Should you have any enquiries concerning this matter, please do not hesitate to contact Lisa Scott via email at lisa.scott@dss.gov.au

Yours sincerely



Cheryl Gwilliam
Chief of Staff
Office of the Hon Christian Porter MP

8 February 2016

Internal review

Section 54 of the FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by the Minister.

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 Minister 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: PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Alternatively, you can send an email to lisa.scott@dss.gov.au or 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 this 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, 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.

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

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