



Australian Government
Department of Social Services

3 March 2016

Ms Monique Dalby

By email: foi+request-1627-80fe8d52@righttoknow.org.au

Dear Ms Dalby,

Freedom of Information (FOI) Request No. 15/16-109

1. I refer to your correspondence received by the Department of Social Services (**the Department**) on 26 February 2016, in which you seek access under the *Freedom of Information Act 1982 (FOI Act)* to the following:

“information and/or supporting documents regarding the deaths of children who were uninvestigated/ignored by the Department of Community Services.

I would like to obtain information on the number of children under the age of 14 who died in the last 10 years from abuse/neglect after numerous reports about the child's welfare were made to child protective services in all states.”

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 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 (that is, they are not in the possession of the Department).

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 documents do not exist.

6. The evidence on which I have based my decision is:
- your correspondence dated 26 February 2016 outlining the particulars of your request for documents under the FOI Act;
 - consultations with departmental officers as to the information held by the Department 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.
7. I am advised by departmental officers in the Children's Policy Branch that the Department does not hold documents in relation to child protection services. State and territory governments are responsible for all aspects of child protection services, including the collection of statistics on deaths of children due to neglect or abuse.
8. In order to obtain the information you have requested, you may wish to contact:
- the Victorian Department of Human Services;
 - the NSW Department of Family and Community Services;
 - the Queensland Department of Communities, Child Safety and Disability Services;
 - the South Australian Department for Education and Child Development;
 - the Western Australian Department for Child Protection and Family Support;
 - the Tasmanian Department Health and Human Services;
 - the Northern Territory Department of Children and Families; and
 - the Australian Capital Territory Department of Community Services.
9. For reference, you may also wish to view the Australian Institute of Health and Welfare's web site at www.aihw.gov.au which provides publically available information on child protection services in Australia. I am advised that this information includes statistics at an aggregated national level.
10. 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

11. I have enclosed information about your rights of review at **Attachment A**.
12. Should you have any enquiries concerning this matter, please contact the Department's Information Team at foi@dss.gov.au.

Yours sincerely,



Clare McLean
Principal Legal Office and FOI Coordinator
Commercial, Disability, Housing and Information Law Branch
Legal Services Group

ATTACHMENT A

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, Disability, Housing and Information Law Branch, TOP AW2
Department of Social Services
GPO Box 9820
Canberra ACT 2601

Email: 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, 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
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

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.