



9 September 2016

In reply please quote:

FOI Request FA 16/03/00104
File Number ADF2016/9672

Ms Fern McNulty
Right to Know

Sent via email: foi+request-1637-c99aaf4a@righttoknow.org.au

Dear Ms McNulty

Request deemed withdrawn under s.24AB

I am writing to you in relation to your request under the *Freedom of Information Act 1982* (the Act) on 2 March 2016 for:

As a Macleay College student journalist, and under the Freedom of Information act 1982, I would like to request access to all communication between the Immigration Minister Peter Dutton's office with Lady Cilento Children's Hospital in regards to baby Asha's medical condition during the time she was in care (release date 22nd February 2016). Additionally, I am requesting to see any proposed plan or adaptations after the precedent expedited by Asha and her circumstances in reference to her future placement in either offshore or community detention, by Mr. Dutton and/or the lawyers and advocates for Asha's family

Purpose of this letter

This letter is further to the 'practical refusal reason' notice that I sent you on 25 August 2016, under the 'request consultation process' required in s.24AB of the Act. The notice advised you that you were required to contact me before the end of the 'consultation period' to either:

- withdraw the request or
- revise the request or
- advise me that you do not intend to revise the request.

The notice advised you that the consultation period for the practical refusal notice ended at close of business on 8 September 2016.

However, as you did not contact me before the end of the consultation period your request is now 'deemed withdrawn' under the combined operation of ss.24AB(6) and (7) of the Act.

You remain welcome to resubmit your request at any time, taking into account the issues I raised in the practical refusal reason notice about the current scope of your request.

Yours sincerely

A handwritten signature in blue ink that reads "Shannon B". The signature is written in a cursive, flowing style.

Shannon Bevan
Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection
Email foi@border.gov.au

Extract of relevant legislation

24AB What is a **request consultation process**?

Scope

- (1) This section sets out what is a **request consultation process** for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the **contact person**) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the **consultation period**) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), **reasonable steps** includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or

- (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.