



29 June 2016

Our reference: LEX 19340

Mr Patrick Conheady

By email: foi+request-1971-1fd1c035@righttoknow.org.au

Dear Mr Conheady

Decision on your Freedom of Information request

I refer to your request dated 30 May 2016 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:

'The document 'Analysis Approach - Department of Finance and Deregulation - Reliance Framework - 2 September 2011' (available at http://www.finance.gov.au/sites/default/files/reliance_framework_analysis_approach_110902.docx) refers at page 2 to:

'A relational database, using MS Access, was built for data entry.'

This database was populated with lists of forms and the labels on those forms, with a view to identifying common labels which could be de-duplicated.

The Department of Finance advised me on 13 May 2016 that the function with which this document is associated was moved to your Department in 2013 (correspondence from Finance available online at: https://www.righttoknow.org.au/request/reliance_framework_ms_access_dat#incoming-5500).

Please provide that MS Access database.'

My decision

I have decided to refuse your request for access under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the documents you have requested and I am satisfied that they do not exist. Please see **Attachment A** for the reasons behind my decision.

You can ask for a review of our decision

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the department, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for reviews of decisions. See **Attachment B** for more information about how arrange a review.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au.

Yours sincerely

Authorised FOI Decision Maker
Freedom of Information Team
FOI and Litigation Branch | Legal Services Division
Department of Human Services
FOI.Legal.Team@humanservices.gov.au

REASONS FOR DECISION

What you requested

- 'The document 'Analysis Approach - Department of Finance and Deregulation - Reliance Framework - 2 September 2011' (available at http://www.finance.gov.au/sites/default/files/reliance_framework_analysis_approach_110902.docx) refers at page 2 to:
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Please provide that MS Access database'.

What I took into account

In reaching my decision I took into account:

- your original request dated 30 May 2016;
- the documents that fall within the scope of your request;
- consultations with the Department of Finance;
- consultations with departmental officers about:
 - the nature of the documents;
 - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**);
- the FOI Act.

Reasons for my decisions

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

Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document 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.

The MyGov Strategy Branch conducted searches of the department's records. This Branch did not identify any documents matching the description in your request.

I undertook further consultations with this Branch and was informed that the relevant database was developed by an external consultancy firm to record reference material and other information. This was for the purpose of producing a report commissioned by the then Department of Finance and Deregulation. I understand from my consultation with the Department of Finance that the Deregulation function was transferred out of Finance as a result of the 2013 Machinery of Government changes.

The department was a stakeholder in the development of the commissioned report, only insofar as we entered information via an e-form arrangement into the database. For this reason, the department has no record of the document that you have requested access to.

On the basis of these searches, I am satisfied that in accordance with section 24A of the FOI Act:

1. all reasonable steps have been taken to find the documents; and
2. the documents do not exist.



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information decision

Before you ask for a formal review of an FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of an Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in the Department of Human Services (the department); and/or
2. the Australian Information Commissioner.

Note 1: There are no fees for these reviews.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

Note 2: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the department within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

Note 3: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Department of Human Services' decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the department's decision.

Making complaints

Commonwealth Ombudsman

You may also 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 phone or in writing. The Ombudsman's contact details are:

Address: Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Phone: 1300 362 072

Website: www.ombudsman.gov.au

Note 4: You can phone the Commonwealth Ombudsman's office first. The Ombudsman prefers people to ask for a review before making a complaint about a decision.