



8 July 2016

Our reference: LEX 19880

Ms Sarah Van Winkle

By email: [foi+request-2032-d8db7752@righttoknow.org.au](mailto:foi+request-2032-d8db7752@righttoknow.org.au)

Dear Ms Van Winkle

### **Your Freedom of Information request**

I refer to your request dated 2 July 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:

'I request all documents created in the last 12 months which address patronage and nepotism in DHS recruitment processes. This includes matters such as:

1. Any complaints or concerns raised.
2. Any DHS response to such complaints including reports and/or recommendations made to delegates.'

### **Intention to refuse your request**

The department is unable to identify the documents you are seeking access to. The FOI Act requires that you provide such information concerning the documents you wish to access as is reasonably necessary to enable a responsible officer of the department to identify it. Despite consultations with the relevant area of the department, we are currently unable to identify the documents you wish to access. For this reason, we are asking you to revise your request to give us more specific details about the information you are seeking.

If you decide not to make any revisions, I will have to refuse your FOI request as a 'practical refusal reason' exists.

For a more detailed explanation of what this means see **Attachment A**.

### **How to send us a 'revised request'**

Before I make a final decision on your request, you can submit a revised request.

Within the next 14 days (consultation period) you must do one of the following, in writing:

- withdraw the request
- make a revised request, or

- tell us that you do not want to revise your request.

If you do not contact us during the consultation period, we will assume you do not want to continue with your request. See **Attachment A** for relevant sections of the FOI Act.

If you decide to make a revised request you should be specific about what documents you actually want. This could help the department find the documents.

We have 30 days to give you a decision about your request, however the time taken to consult with you now is not included in this 30 day time period.

### **Contact officer**

During the consultation period you are welcome to contact the department for assistance in revising your request and filling out the form. You can contact me:

- in writing to the address at the top of this letter
- via email to [FOI.LEGAL.TEAM@humanservices.gov.au](mailto:FOI.LEGAL.TEAM@humanservices.gov.au)

**Note:** When you contact us please quote the reference number **FOI LEX 19880**.

Your response will be expected by **22 July 2016**. If no response is received, your matter will be taken as withdrawn.

### **Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@humanservices.gov.au](mailto: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

### Unable to identify documents

Section 24 of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy the requirement in section 15(2)(b) of the FOI Act.

Section 15(2)(b) of the FOI Act provides that requests must provide such information concerning the documents as is reasonably necessary to enable a responsible officer of the department or the Minister to identify it.

The FOI team has consulted with the Recruitment Branch of the department in relation to your request. Subject matter experts in this area of the department have advised that your request is not clear enough to identify documents. In particular, it is unclear what you mean by 'patronage and nepotism'.

Patronage and nepotism are broad terms with a number of possible definitions. The terms are used in a variety of circumstances and can have both positive and negative implications, depending on the context. For example, the term 'patronage' can mean 'the power to control appointments to office or the right to privileges'. If the term is taken at its broadest, it is possible to construe the scope of your request as referring to each of the selection processes undertaken in the last 12 months which is of high volume given the size of the department with around 35 000 staff. This would mean that any request for review of the outcome of a selection process in the last 12 months could be considered a complaint or concern on the basis of patronage.

For this reason, it is unclear which documents you are seeking access to and we are asking you to revise your request to give us more specific details about the information you are seeking.

### Relevant sections of the *Freedom of Information Act 1982*

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy the requirement in section 15(2)(b) of the FOI Act.

Section 15(2)(b) of the FOI Act provides that a request must provide such information as is reasonably necessary to enable the agency to identify the documents that are being requested.

Section 24AB(7) of the FOI Act provides that the request is taken to have been withdrawn under at the end of the consultation period if:

- the applicant does not consult the contact person during the consultation period in accordance with the notice, or
- the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Section 24AB(7) (subsection 6) says that the applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:

- withdraw the request,
- make a revised request, or
- indicate that the applicant does not wish to revise the request.