



17 February 2017

Our reference: LEX 24850

Mr Brendan Molloy

By email: foi+request-2887-8532b46e@righttoknow.org.au

Dear Mr Molloy

Decision on your Freedom of Information request

I refer to your revised request, dated 17 January 2017 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:

"Compliance system" refers to the DHS system that incorporates handling overpayment debt recovery communications for Centrelink clients.

- 1) Parts of final reports or similar documents relating to known errors and risks relating to the most recent iteration of "compliance system" that is currently in production;
- 2) Documents summarising or outlining the data sources used in the new "compliance system";
- 3) Documents listing the number of debt recovery requests sent on a monthly basis (or similar) from January 2016 to the date of receipt of this request; and
- 4) An aggregate number of reported complaints from when the system was introduced relating to false or miscalculated debt recovery requests.

The above parts should not contain:

- a) Publicly available documents;
- b) Documents intended for consumption by the media (such as press releases);
- c) Draft documents; nor
- d) Documents relating to issues no longer relevant to the "compliance system" in production

Further context:

Part 1 of the request should ideally only be part of a single technical report as would be consistent with the approach taken by private industry on software projects. These documents should detail any known defects and risks and should not duplicate any content of other documents where possible to limit scope and processing.

Part 2 should simply provide as few documents as possible that outline which data sources are used in the compliance system identified in Part 1. This could be as simple as a spreadsheet identifying what data is used and which department, database, or other organisation the data is supplied from. Any documents sufficient to provide a complete overview of the data sources available is sufficient for this part, and no further effort should be undertaken if possible'.

My decision

I have decided to refuse your request under section 24(1) of the FOI Act because a 'practical refusal reason' still exists under section 24AA of the FOI Act. I am satisfied that the work involved in processing your request would substantially and unreasonably divert the resources of the department from its other operations as specified in section 24AA(1)(a)(i) of the FOI Act.

The reasons for my decision, including the relevant sections of the FOI Act, are set out in **Attachment A**.

You can ask for a review of our decision

If you disagree with 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

- 'Recently there has been a public furore about the seemingly automated delivery of debt notices to persons receiving benefits from Centrelink programmes since early December, and perhaps earlier[1].

I hereby request, under the Freedom of Information Act 1982, copies of the following documents:

- 1) Technical reports or similar documents regarding known errors or probable risks from introducing the new "compliance system";
- 2) Documents outlining the data sources used in the new "compliance system";
- 3) Documents listing the number of debt recovery requests sent on a monthly basis (or similar) from January 2016 to the date of receipt of this request; and
- 4) An aggregate number of reported complaints from when the system was introduced relating to false or miscalculated debt recovery requests'.

Request consultation process

On 11 January 2017, the Office of the Australian Information Commissioner advised you that they had decided to grant the department an extension of time to process your request. The due date for your request was, with that extension, 11 February 2017.

The processing time was suspended during the period of consultation under section 24AB. For this reason you were advised that you could expect a decision from us by **17 February 2017**.

On 12 January 2017, I wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request was too big to process. I gave you an opportunity to consult with the department to revise your request so as to remove the practical refusal reason. Specifically, we advised that points 1 and 2 of your original request were especially voluminous.

On 17 January 2017, you emailed the department and revised your request to be:

"Compliance system" refers to the DHS system that incorporates handling overpayment debt recovery communications for Centrelink clients.

- 1) Parts of final reports or similar documents relating to known errors and risks relating to the most recent iteration of "compliance system" that is currently in production;
- 2) Documents summarising or outlining the data sources used in the new "compliance system";
- 3) Documents listing the number of debt recovery requests sent on a monthly basis (or similar) from January 2016 to the date of receipt of this request; and

4) An aggregate number of reported complaints from when the system was introduced relating to false or miscalculated debt recovery requests.

The above parts should not contain:

- a) Publicly available documents;
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Further context:

Part 1 of the request should ideally only be part of a single technical report as would be consistent with the approach taken by private industry on software projects. These documents should detail any known defects and risks and should not duplicate any content of other documents where possible to limit scope and processing.

Part 2 should simply provide as few documents as possible that outline which data sources are used in the compliance system identified in Part 1. This could be as simple as a spreadsheet identifying what data is used and which department, database, or other organisation the data is supplied from. Any documents sufficient to provide a complete overview of the data sources available is sufficient for this part, and no further effort should be undertaken if possible'.

What I took into account

In reaching my decision I took into account:

- your original request dated 28 December 2016 and your revised request of 17 January 2017;
- the documents that fall within the scope of your request;
- consultations with departmental officers about:
 - the nature of the documents; and
 - 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.

Following the request consultation process outlined above, in accordance with section 24AB of the FOI Act, I am satisfied that a practical refusal reason still exists in that the work involved in processing your request would substantially and unreasonably divert the resources of the department from its other operations. The reasons for my decision,

including consideration of the factors I am required to take into account in section 24AA(2), are outlined below.

Practical refusal reason

Section 24AA of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the work involved in processing the request would:

'substantially and unreasonably divert the resources of the agency from its other operations'.

The word 'substantial' has previously been interpreted to mean severe, of some gravity, large or weighty or of considerable amount, real or of substance and not insubstantial or of nominal consequence. The use of the word 'unreasonable' has been interpreted to mean that a weighing of all relevant considerations is needed, including the extent of the resources needed to meet the request.

In determining whether processing the request would substantially and unreasonably divert the department's resources, section 24AA(2) requires me to have regard to the resources that would have to be used for the following:

- identifying, locating or collating the documents within the filing system of the department;
- deciding whether to grant, refuse or defer access to a document including resources used for examining the document and consulting with any person or body in relation to the request;
- making a copy or an edited copy of the document; and
- notifying of any decision on the request.

In accordance with section 24AA(3), I did not consider your reasons for requesting access to the documents.

Why your request is substantial

In making my decision I estimate that over 225 hours of processing time would be required to deal with this request (excluding the time required to search for and retrieve electronic documents).

The department's searches and enquiries identified approximately 292 documents relevant to your revised request. These documents contain approximately 3391 pages.

I have calculated that it would take over 240 hours to process your request.

I have estimated the time to process your request as follows:

Search and retrieval time	14.5 hours
Examine pages for decision making at an average of two minutes per page	113 hours
Redaction time at two minutes per page for 3000 pages	100 hours

Draft statement of reasons and schedule the documents	17.5 hours
Total	245 hours

Sampling of documents for the purposes of the estimate

I determined it was appropriate to sample the first 150 pages of the documents in the scope of your request. The sampled documents revealed a range of sensitive material related to the identification and assessment of risks associated with the department's Online Compliance Intervention. The complex nature of the documents within scope would require lengthy examination and extensive redaction on most pages identified. This is a time-intensive process.

I am satisfied on the basis of the sample that I would need to consider applying the following redactions under the FOI Act:

- a. section 47C to deliberative material; and
- b. section 47E(d) to documents where release could interfere with the operations of the department.

In my calculation I have allowed four minutes per page for both considering the page, making a decision on the page and applying any necessary redactions. I am satisfied that this is the average amount of time that would be required to process your request.

Based on the sample I have outlined above, I estimated that to consider each document, redact exempt material, and prepare a statement of reasons it would take a decision maker approximately 230 hours. This calculation does not include the amount of time that would be spent consulting other Commonwealth agencies on material in the documents relevant to their portfolios, or the time spent by the decision-maker consulting on sensitivities with business areas within the department.

Why your request is unreasonable

For the purposes of deciding whether your request would unreasonably divert the resources of the department from its other operations, I considered whether the substantial resource burden would be unreasonable having regard to the following:

- one individual processing your request would be required to spend over six weeks processing your request; and
- the material in the documents is sensitive and would require careful consideration and redaction of exempt material.

As discussed above, I have estimated that your request would take approximately 240 hours to process. The department receives approximately 300- 400 FOI requests per month, the majority of which are requests from people seeking their own personal information. I am satisfied that the processing of your request would divert department resources from the processing of these other requests.

In making this finding, I have given weight to the significant possibility that a narrowed scope of request could satisfactorily meet your legitimate interest in seeking access to documents concerning the department Online Compliance Intervention.

Conclusion

In summary I am satisfied that the work involved in processing your request would substantially and unreasonably divert the resources of the department from its other operations, namely the processing of other FOI requests and the delivery of social services to all Australians more broadly.

I have found that a practical refusal reason exists in relation to your request for access to the documents. Accordingly I have decided to refuse your request under section 24(1) of the FOI Act.



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.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner 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 Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

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 telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.