



6 February 2017

Our reference: LEX 24877

Mr William Shakespeare

By email: foi+request-2900-bffd82de@righttoknow.org.au

Dear Mr Shakespeare

Decision on your Freedom of Information request

I refer to your revised request, dated 13 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:

'Centrelink will be aware there has been significant media attention with respect to notices sent to large numbers of Centrelink clients recently, who were asked to confirm previous employment earnings. The letters to which I refer are detailed in articles such as this: <http://www.smh.com.au/national/public-service/centrelinks-debt-230000-have-now-been-hit-20170110-gtp8zt.html>

It has been reported that Centrelink has data matched annual-based ATO data to fortnightly-based Centrelink data which I assume was previously provided to Centrelink by individuals in receipt of some Centrelink payments such as Newstart.

In undertaking this exercise, I assume it was authorised by an appropriate delegate(s), and following their decision(s), appropriate instruction must have been given to the relevant officers in a team involved in data analysis.

I therefore request the following documents:

1. The request sent to the delegate for approval to undertake this exercise.
2. The approval given by the delegate
3. All documents which give instructions and any specifications given to the data analysis officer(s) involved in the development of this data matching exercise.'

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

- 'I assume A DHS employee, or group employees, would have been responsible for creating the 'model' which data matched ATO data to DHS data, which produced a target population to be sent letters, many of whom are clearly not in any debt to the Commonwealth.

With respect to the particular 'model' that is relevant here, I request the following documents:

1. All documents which describe, or otherwise concern decision making and approval processes.
2. Any document which details why a more 'sophisticated' model was not considered, for example, one that considered data at the Centrelink reporting period level, rather than an aggregate annual earnings figure.'

Request consultation process

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. Because your original request covered a very wide range of documents, the department suggested that you be more specific about the type of documents you were seeking.

On 13 January 2017, you revised your request to be:

- 'Centrelink will be aware there has been significant media attention with respect to notices sent to large numbers of Centrelink clients recently, who were asked to confirm previous employment earnings. The letters to which I refer are detailed in articles such as this: <http://www.smh.com.au/national/public-service/centrelinks-debt-230000-have-now-been-hit-20170110-gtp8zt.html>

It has been reported that Centrelink has data matched annual-based ATO data to fortnightly-based Centrelink data which I assume was previously provided to Centrelink by individuals in receipt of some Centrelink payments such as Newstart.

In undertaking this exercise, I assume it was authorised by an appropriate delegate(s), and following their decision(s), appropriate instruction must have been given to the relevant officers in a team involved in data analysis.

I therefore request the following documents:

1. The request sent to the delegate for approval to undertake this exercise.
2. The approval given by the delegate

3. All documents which give instructions and any specifications given to the data analysis officer(s) involved in the development of this data matching exercise.'

What I took into account

In reaching my decision I took into account:

- your original request dated 3 January 2017 and your revised request of 13 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

The department's searches and enquiries identified approximately 349 documents relevant to your revised request. These documents contain approximately 12942 pages in total.

I have calculated that it would take over 760 hours to process your request.

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

Search and retrieval time	19 hours
Examine pages for decision making at an average of 2 minutes per page	431 hours
Redaction time at 2 minutes per page for 8000 pages (noting that approximately 5000 pages will not require redaction)	266 hours
Draft statement of reasons	50 hours
Total	766 hours

Sampling of documents for the purposes of the estimate

The scope of your request captures a range of sensitive documents used in the development of the department's Online Compliance Intervention. The complex nature of the documents within scope would require lengthy examination and extensive redaction. This is a time-intensive process.

I determined it was appropriate to sample the pages of the documents within the scope of your request. The sampled documents revealed a range specifications used to develop the department's Online Compliance Intervention.

After reviewing a sample of the identified documents, I found that the files contain a substantial amount of sensitive information. A number of redactions will be required on many pages to remove sensitive information.

I am satisfied on the basis of that sample that I would have needed to consider applying the following redactions under 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 2 minutes per page for both considering the page and making a decision on the page, and an additional 2 minutes per page to apply any necessary redactions. I am satisfied that this is the average amount of time that would be required to process your request as some pages of your request which detail investigation material would require more than 2 minutes per page and some pages, where no sensitivities are present, would only take 1 minute per page.

Based on the sample of documents assessed, I estimate that to properly consider each document, redact exempt material and prepare a statement of reasons, it would take a decision maker approximately 747 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 fact that one individual processing your request would be required to spend over 20 weeks processing your request.

As discussed above, I have estimated that your request would take approximately 766 hours to process. The department receives approximately 300 - 400 FOI requests per month, the majority of which are requests from people seeking their own information. I am satisfied that the processing of your request would divert department resources from the processing of these other requests.

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 a 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.