



14 March 2017

Our reference: LEX 26566

Mr Justin Warren

By email: foi+request-3023-739e928d@righttoknow.org.au

Dear Mr Warren

Decision on your Freedom of Information request

I refer to your revised request dated 27 February 2017 and received by the Department of Human Services (the **department**) on the same day for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following documents:

'[In relation to] to either of:

- the Better Management of the Social Welfare System initiative, or
- Taskforce Integrity:
 - Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Human Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive.
 - Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Social Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive'.

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



REASONS FOR DECISION

What you requested

'- Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Human Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive.

- Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Social Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive'.

Request consultation process

On 23 February 2017, the department 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. You were given an opportunity to consult with the department to revise your request so as to remove the practical refusal reason.

On 27 February 2017, you revised your request to be:

'[In relation to] to either of:

- the Better Management of the Social Welfare System initiative, or

- Taskforce Integrity:

- Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Human Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive.

- Meeting agendas, minutes, and other notes for any and all meetings held with the Minister for Social Services, or their Office, between 1 Jan 2016 and 31 Dec 2016, inclusive'.

What I took into account

In reaching my decision I took into account:

- your original request dated 6 February 2017 and your revised request on 27 February 2017;
- the type of 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, even with your revision on 27 February 2017, over 130 hours of processing time would still be required to deal with this request. This includes time taken to search for and retrieve documents from a wide variety of business areas throughout the department.

You have requested documents related to 'the Better Management of the Social Welfare System initiative'. This is the name for the Government's policy platform for the social welfare system. It is not a departmental initiative in relation to a particular payment or programme. Any meeting held with the Minister or their office by any member of the department may therefore broadly be said to relate to the 'Better Management of the Social Welfare System

initiative'. Any relevant documents are also likely to contain Cabinet material and other deliberative material requiring careful consideration and redaction.

Furthermore, meetings with Ministers, or their offices, typically involve several officers. The part of your request covering "other notes" would capture any records made by individual officers who attended the meetings. Determining whether each participant in a meeting made notes would require extensive consultation across the department.

For these reasons, processing your request would involve approaching more than 130 branches within the department to determine whether they hold any documents within scope of your request. Allowing for one hour for each branch to conduct searches of their records for documents within scope, your request would take more than 130 hours to process. This does not include the time taken to examine any documents which may be in scope, consulting with third parties, making a decision on the documents, and writing a statement of reasons for the decision.

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 that one individual processing your request would be required to spend over three weeks processing your request.

As discussed above, I have estimated that your request would take approximately 130 hours to process. The department receives approximately 400 - 500 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 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.