



Office of the Hon Christian Porter MP
Minister for Social Services

Mr Justin Warren
foi+request-3171-42cd2bbe@righttoknow.org.au

12 May 2017

Dear Mr Warren

1. I refer to your correspondence received by the Office of the Minister of Social Services (the Office) on 27 February 2017, in which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:
 1. *Diary extracts listing the date, time, and duration of any and all meetings held with the Department of Human Services between 1 Jan 2016 and 31 Dec 2016, inclusive*
 2. *Meeting agendas for any and all meetings held with the Department for Human Services between 1 Jan 2016 and 31 Dec 2016, inclusive*
 3. *Minutes, and other notes for any and all meetings held with the Department for Human Services between 1 Jan 2016 and 31 Dec 2016, inclusive.*
2. On 29 March 2017, the Office issued you with a section 24AB practical refusal notice under the FOI Act, as processing your request would substantially and unreasonably interfere with the performance of the Minister's functions.
3. On 3 April 2017, you requested assistance in revising the scope of your FOI request and after a telephone discussion on 6 April 2017 with the Department of Social Services (the Department), the Office advised you on 12 April 2017, that the documents you sought would be held by the Office of the Minister for Human Services (who has day-to-day responsibility for the Debt Recovery Program) and that you should therefore revise your request and re-submit it to the Department of Human Services or the Office of the Minister for Human Services. Alternatively, you could revise the request as advised in the section 24AB notice of 29 March 2017.
4. On 12 April 2017, you revised the scope of your request to:

... formal documents relating to meetings held between your Office and the Department of Human Services. These formal documents are:

 - *Diary extracts, or similar items, that list the date, time, and duration of these meetings. Something like the Calendar Details Style printout of a calendar from Microsoft Office would be appropriate. I would want this as a PDF or in similar electronic form.*

- *The formal agenda for each of these meetings. Again, an electronic form of the document, or PDF printout, would be appropriate.*
- *The formal record of what happened in each meeting, usually known as minutes, which records what was discussed, decisions made, etc. Such a document would normally be circulated to those at the meeting to seek agreement that it is an accurate record of what occurred at the meeting. Again, an electronic form of this document is preferred. These documents record the existence of these meetings, what was planned to occur in them, and what actually did occur. They should show a record of the Minister's governance of the programs I have described: those relating to the integrity of the welfare system initiatives, such as the Online Compliance Intervention programme.*

5. I am authorised to make decisions under subsection 23(1) of the FOI Act and the following is my decision and the reasons for the decision.

Decision on access to documents

6. Pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act, I have decided to refuse your request for access to the documents on the basis that the documents you are requesting in your revised request do not exist.

Reasons for decision

7. An agency or Minister may refuse a request for access to documents under subsection 24A(1) of the FOI Act 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.*

8. I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that the Office has taken all reasonable steps to find the documents falling within the scope of your revised request and I am satisfied that the documents do not exist within the Office.

9. The evidence on which I have based my decision is:

- your correspondence of 27 February, 3 April and 12 April 2017 outlining the particulars of your request for documents under the FOI Act
- consultations with officers in the Department's IT Operations Branch who have assisted in searching for the relevant documents
- the FOI Act, and

- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

10. I am advised by officers in the Department's IT Operations Branch that detailed searches of this Office's records management system have not located any documents which fall within the scope of your request as set out at paragraph 4 of this decision. The officers conducted a search of the Office's shared drive and the Office's outlook calendar for any documents or entries relating to meetings with the Department of Human Services or meetings relating to the online compliance intervention program.
11. Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the relevant documents exist and such steps have failed to locate any documents falling within the scope of your revised request. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.
12. It is important to note that the absence of any formal documents reflects the fact that the Minister for Social Services (the Minister) did not have any *formal* meetings or communications with the Department of Human Services about the program.
13. As advised in our letter to you on 12 April 2017, while the Department and the Department of Human Services were both responsible for the program and worked together on the program, the Department of Human Services took the lead on the program and the Department dealt with the policy. Therefore, any available formal documents would be held by the Office of the Minister for Human Services who has day-to-day responsibility for this matter.

Rights of review

14. I have enclosed information about your rights of review at **Attachment A**.
15. Should you have any enquiries concerning this matter, please do not hesitate to contact the Department of Social Services' FOI Team at foi@dss.gov.au.

Yours sincerely



Cheryl Gwilliam
Chief of Staff

Encl.

Application for review of decision by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply to the Australian Information Commissioner (Information Commissioner) to review a decision made by an agency on internal review of an access refusal decision.

If you wish to have this decision reviewed by the Information Commissioner you must apply for the review, in writing or by using the online merits review form available on the Information Commissioner's website at www.oaic.gov.au, within 60 days of receipt of this letter.

To assist the Information Commissioner your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the Information Commissioner about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218
SYDNEY NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3
175 Pitt Street
SYDNEY NSW 2000