



14 March 2017

Our reference: LEX 27888

UD
Right to Know

By email: foi+request-3173-b5348078@righttoknow.org.au

Dear UD

Your Freedom of Information request

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

[1] Emails from Centrelink staff to Fairfax Media journalists which contain the personal information of Andie Fox with the personal information redacted and any preceding emails or emails in reply;

[2] The document containing the approval under section 208 of the Social Security (Administration) Act 1999 to release information about Andie Fox to the media.

[3] Internal emails within the Department discussing the release of personal information about Andie Fox to the media

...

For clarification I do not want to request any personal information of a Centrelink client'.

I cannot identify the documents you want and I am asking you to give me specific details about the documents you seek. If you decide not to give these details, 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 seek. This could help the department find the documents.

Contact

During the consultation period you are welcome to contact us:

- in writing to the address at the top of this letter, or
- via email to FOI.LEGAL.TEAM@humanservices.gov.au

Note: When you contact us please quote the reference number **FOI LEX 27888**.

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

What I took into account

You requested access under the FOI Act to the following documents:

[1] Emails from Centrelink staff to Fairfax Media journalists which contain the personal information of Andie Fox with the personal information redacted and any preceding emails or emails in reply;

[2] The document containing the approval under section 208 of the Social Security (Administration) Act 1999 to release information about Andie Fox to the media.

[3] Internal emails within the Department discussing the release of personal information about Andie Fox to the media

...

For clarification I do not want to request any personal information of a Centrelink client'.

Part 1

In the interests of assisting you, I note the documents described in part 1 of your request were discussed on 2 March 2017 at the Community Affairs Legislation Committee Senate Estimates ('Senate Estimates'). You may wish to consider the documents tabled at Senate Estimates in revising the scope of your request.

In particular, the department has tabled two relevant documents:

- 'Extract of media correspondence sent to the Department of Human Services requesting information on matters related to Centrelink'; and
- 'Extract of the Department of Human Services' response to media correspondence requesting information on matters related to Centrelink.

These documents are publicly available on the Parliament of Australia website and, on that basis, will fall outside the definition of 'documents' under section 4 of the FOI Act.

Part 2

The document you are referring to in part 2 of your request is a 'public interest certificate'. As above, this document was discussed at recent Senate Estimates.

In particular, at page 14 of the transcript (available on the Parliament of Australia website), the department noted that the public interest certificate you are referring to does not exist.

On that basis, you may wish to consider removing part 2 in the revision of your request. This is because this part of your request will be refused under 24A of the FOI Act

Part 3

In regards to part 3 of your request, I am not able to reasonably identify the documents you want because the terms you have used are not clear. In particular, it is not clear what you mean by '[3] Internal emails within the Department **discussing** the release of personal information about Andie Fox to the media' (emphasis added).

The wording of this part of your request is framed in such broad terms that the department cannot specifically identify documents. This part of your request potentially covers anything from an email asking about the topic of your request to a memo asking a staff member to draft a brief, through to an email referencing or attaching relevant related media articles.

This part of your request could cover internal emails from a number of different areas of the department, where the topic of your request could have been 'discussed'. On that basis I cannot identify the relevant business area for your request. This impacts on our ability to search for and retrieve documents relevant to your request. Due to the size of the department, in order for us to undertake reasonable searches, the department must be able to clearly identify the business area who would hold relevant documents. The words in your request are not clear enough for us to approach any particular business area for documents.

I am providing you my intention to refuse your request as it fails to reasonably identify documents. Under sections 24AA(1)(b) and 24 of the FOI Act, I intend to refuse your FOI request as a 'practical refusal reason' exists. Under the FOI Act, the practical refusal reason is that your request does not satisfy the requirements in paragraph 15(2)(b) (identification of documents).

Relevant sections of the *Freedom of Information Act 1982*

Section 4 of the FOI Act defines 'document' as excluding 'material maintained for reference purposes that is otherwise publicly available'.

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document, and the agency is satisfied that the document cannot be found or does not exist.

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 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.