



27 July 2017

Our reference: LEX 28338

Mr Justin Warren

By email: [foi+request-3230-a9030c88@righttoknow.org.au](mailto:foi+request-3230-a9030c88@righttoknow.org.au)

Dear Mr Warren

### Decision on your Freedom of Information request

I refer to your revised request, dated 14 March 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:

'I request the following information relating to the initiative to match Centrelink data with data from the Australian Tax Office (ATO) to detect potential overpayment and the recovery of those overpayments from citizens. This initiative has been extensively covered by the media using various names, including #robodebt and #notmydebt.

- Documents listing identified risks, categorisations (Likelihood, Impact, etc.), and treatments in the period 1 Jan 2016 to 31 Dec 2016. You have previously indicated that these are known more specifically as:

- a) Risk Plans
- b) Weekly Reports
- c) Issues and Escalated Issues Registers

as per the FOI request listed here:

[https://www.righttoknow.org.au/request/risk\\_governance\\_and\\_oversight\\_of\\_2](https://www.righttoknow.org.au/request/risk_governance_and_oversight_of_2), LEX 26567.

Excluding draft documents.'

### My decision

The department holds four documents (totalling 69 pages) that relate to your request.

I have decided to **refuse access** to these four documents.

I have decided that certain documents that you have requested are exempt under the FOI Act, as they contain:

- operational information, the disclosure of which could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

**You can ask for a review of our decision**

If you disagree with any part of 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](mailto:FOI.LEGAL.TEAM@humanservices.gov.au).

Yours sincerely

Chelsea  
Authorised FOI Decision Maker  
Freedom of Information Team  
FOI and Litigation Branch | Legal Services Division  
Department of Human Services



**LIST OF DOCUMENTS FOR RELEASE**  
**Justin Warren (Right to Know) - LEX 28338**

<b>Doc No.</b>	<b>Pages</b>	<b>Date</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
1.	1-22	06/08/15	Risk Management Plan	Refuse in full	s 47E(d)	Operational information removed under section 47E(d)
2.	23-40	Various	Open Issues Summary	Refuse in full	s 47E(d)	Operational information removed under section 47E(d)
3.	41-45	Various	Progress Report	Refuse in full	s 47E(d)	Operational information removed under section 47E(d)
4.	46-69	Various	Issues Summary	Refuse in full	S 47E(d)	Operational information removed under section 47E(d)



## REASONS FOR DECISION

### What you requested

I request the following information relating to the initiative to match Centrelink data with data from the Australian Tax Office (ATO) to detect potential overpayment and the recovery of those overpayments from citizens. This initiative has been extensively covered by the media using various names, including #robodebt and #notmydebt.

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On 23 March 2017, I wrote to you providing you with a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request was too big to process. On 24 March 2017 you responded to the consultation notice advising you were happy to exclude draft documents in order to limit the scope of your request.

Your revised request is therefore:

I request the following information relating to the initiative to match Centrelink data with data from the Australian Tax Office (ATO) to detect potential overpayment and the recovery of those overpayments from citizens. This initiative has been extensively covered by the media using various names, including #robodebt and #notmydebt.

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*Excluding draft documents.'*

On 4 April 2017, you were issued a preliminary assessment of charges notice in the amount of \$263.05. On 5 April you contended the charge. On 5 May the department issued a reconsidered charges assessment in the amount of \$226.25. On 15 May 2017 the department received your request for internal review of the reconsidered charges

assessment. On 13 June the department issued a decision affirming the reconsidered charges assessment dated 5 May 2017 in the amount of \$226.25.

I have considered the reconsidered charge assessment notified to you and have found that it is an accurate reflection of the time taken to process your request.

On 18 July 2017, the processing period recommenced following receipt of your payment of \$226.25.

### **What I took into account**

In reaching my decision I took into account:

- your original request dated 14 March 2017 and your revised request on 24 March 2017;
- the documents that fall within the scope of your request;
- whether the release of material is in the public interest
- consultations with departmental officers about:
  - the nature of the documents;
  - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**); and
- the FOI Act.

### **Reasons for my decisions**

I am authorised to make decisions under section 23(1) of the FOI Act.

I have decided that certain documents that you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that the exemption applies to those documents are discussed below.

#### Conditional Exemption - 47E(d) of the FOI Act

Section 47E(d) of the FOI Act provides that:

‘A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.’

I have found that Documents 1 - 4 are exempt from release under section 47E(d) of the FOI Act.

*Do the documents contain information regarding the operations of the department?*

Documents 1 and 4 describe the risk assessments and mitigation strategies of the department in relation to the Employment Income Matching (EIM) project. Document 2 discloses the issues that arose as the project was progressing, and document 3 contains the ICT progress summaries. The documents contain information regarding the operations of the department.

*Would/could disclosure of the documents have a substantial adverse effect on the proper and efficient conduct of the department?*

There is a reasonable expectation that if this information was made publicly available, it would have the capacity to undermine the conduct of the department's operations, particularly in relation to the delivery and implementation of the EIM project, which is a compliance and payment integrity measure announced in 2015-16 by the Government. The documents, by their very nature, indicate risks and potential gaps in the ICT infrastructure and workflows that underpin the delivery of the EIM project. It is therefore reasonable to consider that the release of these documents may undermine the effectiveness of departmental procedures in relation to investigating customer compliance. Further, the release of these documents would disclose the department's ICT design, testing and implementation processes and timeframes, some of which are still currently in place. Release of the documents may also prejudice the department's ability to collect the information it needs from income support recipients, who may be reluctant to provide information online if they do not believe that the department's ICT infrastructure is sufficiently robust and secure because the system would be potentially exposed to external threats.

*Has the passage of time reduced the substantial adverse effect on the department's operations that would or could reasonably be expected to result from the release of the documents?*

The documents in scope were created approximately one year ago. The EIM project is still ongoing; whilst there is an argument that the documents, in the version requested by you, reflect a "point in time" and therefore have diminished impact, I have been advised by the department's subject matter experts that a significant amount of the information contained in the documents is still current, either in the same version requested by you, or, in subsequent versions of the documents (where applicable).

Therefore, I have decided that the four documents you seek access to are conditionally exempt in full under s 47E(d) of the FOI Act as their release would have a substantial adverse effect on the department's operations.

#### *Public interest considerations*

In finding that the four documents contain conditionally exempt material, pursuant to section 11A(5) of the FOI Act, I am required to consider whether it would be contrary to the public interest to release the documents.

Section 11A(5) of the FOI Act provides the following:

'The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.'

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would:

- promote the objects of the FOI Act;
- inform debate on a matter of public importance; and
- promote effective oversight of public expenditure.

I have also considered the relevant factors weighing against disclosure. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- prejudice the security and integrity of the department's EIM project; and
- prejudice the department's ability to obtain and effectively utilise similar information in the future.

In *'IN' and Australian Taxation Office* [2016] AICmr 33 (*the IN decision*), the then Acting Australian Information Commissioner held that documents containing certain processes used by the ATO when conducting audits were conditionally exempt under section 47E(d) and their release was not in the public interest as release:

- could reasonably be expected to make it more difficult for the ATO to undertake audit activities generally; and
- could have a substantial adverse effect on the proper and efficient conduct of ATO operations.

I consider that *the IN decision* is analogous to the circumstances of your request, where you have sought access to documents that relate to the department undertaking compliance measures, the release of which may make it difficult for the department to conduct future compliance activities and on that basis this factor weighs heavily against the public interest for release.

When balancing all the relevant factors for and against release I have decided that in the circumstances of this particular request, the public interest in disclosing the information in the four documents is outweighed by the public interest against disclosure.

### **Summary of my decision**

In conclusion, I have decided to refuse access to documents 1 - 4 in full, under section 47E(d) 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 a 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](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto: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](http://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 Australian Information Commissioner and Commonwealth Ombudsman**

***Australian Information Commissioner***

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

Telephone: 1300 363 992  
Website: [www.oaic.gov.au](http://www.oaic.gov.au)

***Commonwealth Ombudsman***

You may also complain to the Commonwealth 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 Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

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