



9 May 2017

Our reference: LEX 29265

Mr Keith Owen
Right to Know

By email: foi+request-3440-58d5ed90@righttoknow.org.au

Dear Mr Owen

Your Freedom of Information request

I refer to your request, dated 23 April 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**).

I cannot identify the documents you want and I am asking you to give me specific details about the information you are after. If you decide not to give this information, 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.

We have 30 days to give you a decision about your request, however the time taken to consult with you now is not included in this 30 day time period.

Contact officer

I am the contact officer for your request. During the consultation period you are welcome to ask for my help in revising your request and filling out the form. You can contact me:

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

Note: When you contact us please quote the reference number **FOI LEX 29265**.

Your response will be expected within two weeks of the date of this letter. If no response is received, your matter will be taken as withdrawn.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au.

Yours sincerely

Charlotte
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 *Freedom of Information Act 1982* (the FOI Act) to the following documents:

'We would respectfully request data on the following:

1. The number of payees prosecuted for fraud or making false statements by the Child Support Arm of the Department of Human Services over the last 12 months.
2. The number of payees prosecuted for fraud or making false statements by the Child Support Arm of the Department of Human Services over the last 12 months.
3. The number of actual referrals made by the Child Support Arm of the Department of Human Services to the Commonwealth Director of Public Prosecutions over the last 12 months.
4. The number of Employees of the Child Support Arm of the Department of Human Services referred to the Commonwealth Director of Public Prosecutions over the last 12 months.
5. The number of Employees of the Child Support Arm of the Department of Human Services found to have committed fraud or making false statements and subsequently disciplined as a result.'

The department does not process FOI requests in part. Therefore, if you do not adequately revise the part of your request that the department has identified as attracting a practical refusal reason, your request will be refused in full.

In relation to Point 5 of your request;

'5. The number of Employees of the Child Support Arm of the Department of Human Services found to have committed fraud or making false statements and subsequently disciplined as a result.'

I am not able to reasonably identify the documents you are seeking. This is because the department does not hold data that is identifiable with reference to the criteria you have provided namely, 'committed fraud' or 'making false statements'.

The department investigates potential breaches of the Australian Public Service Code of Conduct, including the following broadly categorised activities or behaviours, which may relate to 'fraud' or 'making false statements' as identified in your request:

- Administrative Fraud – this relates to personnel issues including, for example, incorrect attendance recording;
- Payment Fraud – this relates to staff who may also be recipients of payments or services provided by the department; and
- Unauthorised access and/or disclosure of customer information.

Without more information about what you mean by 'fraud' or 'making false statements' the department is not able to identify the documents or data that you are seeking. To assist the department to continue processing your request, you may consider framing your request with reference to the activities or behaviours I have identified above.

Further, you have not included a time frame in relation to Point 5 of your request. It may be the case that you are seeking information from 'the last 12 months' as identified in points 1-4 of your request (24 April 2016 to 23 April 2017). Please advise if this interpretation is correct.

Please note, if you do not nominate a time frame for your request, every recorded instance of the department investigating a staff member for the reasons identified in your request, is likely to be considered within scope. It is likely a request covering such a broad period of time will constitute an unreasonable diversion of the department's resources and a practical refusal reason may still exist.

Under sections 24AA(1)(b) and 24 of the Freedom of Information Act, I intend to refuse your FOI request as a 'practical refusal reason' exists. Under the 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 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 under 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.