



31 May 2017

Our reference: LEX 29909

Mr Anatoly Kern

By email: foi+request-3572-848b6b87@righttoknow.org.au

Dear Mr Kern

Your Freedom of Information request

I refer to your request dated and received by the Department of Human Services (the **department**) on 26 May 2017 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.

If you decide to make a revised request you should be specific about what documents you actually want. 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 29909**.

Further assistance

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

Yours sincerely

Sophie
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:

'I would like to request the information leading to the recent appointment of Katharine Hay as an Acting Child Support Registrar, specifically:

1. Reasons for assignments (within the definitions of 10a(1) of CHILD SUPPORT (REGISTRATION AND COLLECTION) ACT 1988
2. Any correspondence and consultation leading to the appointment and concluding so.
3. List of the positions/time periods previously held by Katharine Hay within DHS.
4. Remuneration and allowances provided on appointment.'

I am not able to reasonably identify the documents you want because the terms of your request are not clear. This is because the wording of your request is framed in such general terms that the department cannot specifically identify documents.

In particular, it is not clear what you mean by 'reasons for assignments' in part 1 of your request, and the phrase 'and concluding so' in part 2 of your request.

Part 1 of your request

The phrase 'reasons for assignments' in part 1 of your request is unclear. Part 1 is worded as follows:

1. **Reasons for assignments** (within the definitions of 10a(1) of CHILD SUPPORT (REGISTRATION AND COLLECTION) ACT 1988

You have qualified 'reasons for assignments' by stating 'within the definition definitions of 10a(1) of CHILD SUPPORT (REGISTRATION AND COLLECTION) ACT 1988', however there is no such term defined in this Act. You have also used the term 'assignments' as a plural, indicating that you are seeking the reasons for more than one 'assignment'.

Further, section 11(1) of the FOI Act provides that the right of access under the FOI Act is to 'a document of an agency' rather than to information. In requesting '(r)asons for assignments', it is unclear which specific document you are seeking.

Section 4 of the FOI Act provides an inclusive list of materials which may be considered 'documents', you may wish to view this section before making a revised request.

Part 2 of your request

The phrase 'and concluding so' in part 2 of your request is similarly unclear. This part of your request is worded as follows:

2. Any correspondence and consultation leading to the appointment **and concluding so.**

Although I understand what you mean by the first part of your request for, '(a)ny correspondence and consultation leading to the appointment', the phrase 'and concluding so' is ambiguous. For example, the description could mean the '(a)ny correspondence and consultation' up to the point where Katherine Hay was appointed or, more broadly, '(a)ny correspondence and consultation' *including* the process of 'concluding' this appointment, which would include any finalisation emails.

Conclusion

In summary, the terms you have used do not offer a sufficiently precise description of the documents you are after, to enable the department to locate the documents sought.

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 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.