



16 August 2017

Our reference: LEX 31342

Mr Ringo Starr

By email: [foi+request-4021-e8f746e2@righttoknow.org.au](mailto:foi+request-4021-e8f746e2@righttoknow.org.au)

Dear Mr Starr,

### **Your Freedom of Information request**

I refer to your request dated and received by the Department of Human Services (the **department**) on 12 August 2017 for access under the *Freedom of Information Act 1982* (the **FOI Act**).

Your request was received by the department on 12 August 2017 and the 30 day statutory period for processing your request commenced from the day after that date. You should therefore expect a decision from us by 11 September 2017. The period of 30 days may be extended if we need to consult third parties or for other reasons.

The department will advise you if a charge is payable to process your request and the amount of any such charge as soon as practicable.

### **Your address**

The FOI Act requires that you provide us with an address which we can send notices to. You have advised your electronic address is [foi+request-4021-e8f746e2@righttoknow.org.au](mailto:foi+request-4021-e8f746e2@righttoknow.org.au). We will send all notices and correspondence to this address. Please advise us as soon as possible if you wish correspondence to be sent to another address or if your address changes. If you do not advise us of changes to your address, correspondence and notices will continue to be sent to the address specified above.

### **Administrative release of documents**

The department has administrative access arrangements ('the arrangements') for the release of certain documents without the need for a formal FOI request. Unless you advise us otherwise, in processing your request we may provide you with documents under these arrangements where appropriate. The arrangements do not extend to information or materials of third parties. Where documents are released to you under the arrangements we will advise you in our decision letter.

## Disclosure log

Please note that information released under FOI Act may be published in a disclosure log on the department's website. Section 11C of the FOI Act requires this publication, however it is subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable.

## Exclusion of junior staff details

The department is working towards ensuring that all staff have a choice about whether they provide their full name, personal logon identifiers and direct contact details in response to public enquiries. Where such details are included in the scope of a request, this may add to processing time and applicable charges as it may be necessary to consider whether the details are exempt under the FOI Act. On this basis, unless you tell us otherwise, we will assume that these details are out of scope of your request and they will be redacted under section 22 of the FOI Act.

## 'Practical refusal reason' in relation to your request

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](mailto:FOI.LEGAL.TEAM@humanservices.gov.au).

**Note:** When you contact us please quote the reference number **FOI LEX 31342**.

**Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@humanservices.gov.au](mailto:FOI.LEGAL.TEAM@humanservices.gov.au).

Yours sincerely

Stacey  
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 refer to your media release 'Appeal to the Fair Work Commission' dated 8 April 2016 regarding the departments decision to appeal the Fair Work decision and order to reinstate one of your employees.

I would like to know if that appeal went ahead and of so what the outcome of that appeal was? Is the employee in question still employed by the department?

This can be considered an administrative request for an answer to the above questions, alternatively please consider this an FOI request for the most recent documents that will answer the above questions.'

In summary, you have requested 'the most recent documents' that address the following:

'if that appeal went ahead and of so what the outcome of that appeal was? Is the employee in question still employed by the department?'

Your request does not specify particular documents held by the department, but rather, asks for 'the most recent documents' that address the questions you pose. To this end, you have not provided enough information for the department to identify the specific documents you are seeking.

Without further information concerning the particular documents that you wish to request, your request does not comply with section 15(2)(b) of the FOI Act. This section provides that a request must provide such information as is reasonably necessary to enable the agency to identify the documents that are being requested.

Further, even if the department were able to accurately identify the documents that you are seeking, by requesting 'the most recent documents' your request potentially captures a broad range of documents.

This is because the parameters of 'recent' are unclear, and potentially captures documents from today's date to six months ago, or to one year ago, or longer. Further, by requesting 'documents' rather than a single document, it is unclear how many documents you intend to capture within the scope of your request.

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. You should consider requesting a document with a specific name or a specific category of documents.

Accordingly, 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).

## **Publicly available information**

In the interests of assisting you to find the information you are seeking, I note that you can contact the Fair Work Commission on 1300 799 675 with enquiries relating to decisions of the Fair Work Commission.

## **Relevant sections of the FOI Act**

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.