



11 October 2017

Our reference: LEX 32104

Danielle

Only by email: [foi+request-4093-48c40d7c@righttoknow.org.au](mailto:foi+request-4093-48c40d7c@righttoknow.org.au)

Dear Danielle

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

I refer to your revised request, dated 15 September 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**) to the following documents:

'I would like copies of instant messenger trials between members of the FOI Legal Team that discuss the use of names in FOI related correspondence.'

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:

- by phone on the number below - if you are calling long-distance you are welcome to reverse the charges
- in writing to the address at the top of this letter
- 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 32104**.

Your response will be expected by **[insert date]**. If no response is received, your matter will be taken as withdrawn.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](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

### **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 copies of instant messenger trials between members of the FOI Legal Team that discuss the use of names in FOI related correspondence.'

I am not able to reasonably identify what documents you want. You have referred to instant messenger 'trials', which in the context of the remainder of your request does not make sense. However, you may have intended that your request seek instant messenger 'trails'. If this is correct, please confirm by reply email.

If you are seeking access to copies of instant messenger 'trails' between members of the FOI Legal Team that discuss the use of names in FOI related correspondence, can you please clarify what the limits on this request are. For example, are you seeking only those parts of conversations that discuss use of names in FOI related correspondence, or are you seeking access to entire conversation trails between officers where they have at some point discussed the use of names in FOI related correspondence.

In addition, your request relates to conversations between officers regarding the use of 'names' in FOI related correspondence. Please clarify whether this part of your request relates to the use of FOI Officer's names, departmental staff names more broadly or other non-staff names, for example use of third party names relating to a relevant consultation under the FOI Act.

Finally, you have asked for conversations regarding the use of names in 'FOI related correspondence'. The department generates a range of correspondence in the course of processing an FOI request including correspondence sent to applicants regarding the processing and outcome of their request as well as internal correspondence. Please clarify what types of FOI related correspondence are relevant to your request.

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.