



16 October 2017

Our reference: LEX 32105

Danielle

Only by email: foi+request-4096-978d8ae4@righttoknow.org.au

Dear Danielle

Decision on 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 am requesting documents with details of:

- leave that was approved and taken by FOI Legal Team members between January 2017 - present.
- the reasons for that leave.

I do not require names of individual staff members as I understand this would raise privacy concerns.'

My decision

I have decided to refuse your request under section 24(1) of the FOI Act because a 'practical refusal reason' still exists under section 24AA of the FOI Act. I am satisfied under section 24AA(1)(b) that your request does not provide sufficient information to enable the department to identify the documents you are seeking, as required by section 15(2)(b) of the FOI Act.

The reasons for my decision, including the relevant sections of the FOI Act, are set out in **Attachment A**.

You can ask for a review of our decision

If you disagree with 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.

Yours sincerely

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



Attachment A

REASONS FOR DECISION

What you requested

'Can I please request details of leave arrangements for the FOI Team between January 2017 - present. I do not require personal details.'

Request consultation process

On 15 September 2017, I wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as your request did not clearly identify the documents you were seeking access to. I gave you an opportunity to consult with the department to revise your request so as to remove the practical refusal reason.

Specifically, the department advised that 'details' of leave arrangements could include a number of types of information including:

- dates of leave;
- type of leave (i.e. personal or annual leave);
- whether the leave has been taken, approved or requested;
- whether the leave is to be/was taken at half or full pay; and/or
- the reasons for requesting leave.

The department suggested you revise the scope of your request to specify the type of information you were seeking.

In addition, the department advised that the FOI Act provides for a right of access to documents not to information in general. The department also suggested that you revise your request to be for certain documents that may contain details about leave taken in the FOI team such as a leave calendar.

On 15 September 2017, you revised your request to be:

'I am requesting documents with details of:

- leave that was approved and taken by FOI Legal Team members between January 2017 - present.
- the reasons for that leave.

I do not require names of individual staff members as I understand this would raise privacy concerns.'

What I took into account

In reaching my decision I took into account:

- your original request and your revised request both dated 15 September 2017;

- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**); and
- the FOI Act.

Reasons for my decision

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

Following the request consultation process outlined above, in accordance with section 24AB of the FOI Act, I am satisfied that a practical refusal reason still exists in that you have not provided sufficient information to identify the requested documents. The reasons for my decision are outlined below.

Practical refusal reason

Section 24AA 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 (identification of documents).

Section 15(2)(b) of the FOI Act provides that a valid FOI request must:

'provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it'.

Why your request does not satisfy the requirement in section 15(2)(b) of the FOI Act

The department's correspondence to you, dated 15 September 2017, clearly stated that in order to remove the practical refusal reason you needed to be specific about what you meant by 'details' in the context of your request.

Your revised request provided that you were seeking a document with details of leave that was approved and taken from January 2017 to present and the reasons for that leave. However, this revised request has not provided sufficient detail to enable me to identify the documents you are seeking because you still have not identified which details should be included in the document requested. For example, it is not clear whether you are seeking:

- a document that identifies only the number of staff who had leave approved and took it in the relevant period; or
- a document that includes the dates leave was approved and/or taken; or
- a document that includes the type of leave approved and/or taken.

In addition, the department indicated that it might be helpful for you to more specifically identify a document which would include certain details about leave that has been approved and taken by members of the FOI team since 1 January 2017, such as a leave calendar. You did not revise your request to be for a particular document such as this.

On this basis I am satisfied that your request has not provided sufficient information to enable me to identify the document or documents you are seeking.

Conclusion

In summary, I am satisfied that your request does not satisfy the requirement in section 15(2)(b) of the FOI Act, in that it does not provide sufficient information to enable the department to identify the documents you are seeking.

I have found that a practical refusal reason exists in relation to your request for access to the documents. Accordingly I have decided to refuse your request under section 24(1) 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
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: 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.
- 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 Information Commissioner and Commonwealth Ombudsman

Information Commissioner

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

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

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

Phone: 1300 362 072
Website: www.ombudsman.gov.au

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