



1 December 2017

Our reference: LEX 33625

Mr Anatoly Kern

Only by email: [foi+request-4222-dcf8b38d@righttoknow.org.au](mailto:foi+request-4222-dcf8b38d@righttoknow.org.au)

Dear Mr Kern

### Your Freedom of Information request

I refer to your request dated 28 November 2017, and received by the Department of Human Services (**department**) on the same date. You have sought access under the *Freedom of Information Act 1982* (**FOI Act**) to the following:

- '1. The number of cases for the past 10 years, where the department administering CSRCA acted against foreign citizens with ignorance to limitations set in s 25C.
2. Out of above, the number of cases, where subsequent department actions led to severe/long term damage, disability or death.
3. Out of above, the number of cases, where the department has taken corrective actions, with specific details on such steps.'

Your request does not meet the requirements of section 15(2)(b) of the FOI Act because it is not sufficiently specific to enable the department to reasonably identify the documents you are seeking.

Please provide more specific details about the documents you seek in your request. If you decide not to give this additional information, I will have to refuse your FOI request as a 'practical refusal reason' exists. If you decide to make a revised request you should be specific about what documents you seek. This could help the department identify the documents.

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.

### **Request for statistical information**

Though there is uncertainty regarding the scope of your request, it may be that you are seeking access to statistical information. On that basis, it may assist you to request statistical information from the department's Information Management Branch.

You can contact the Branch by email to [statistics@humanservices.gov.au](mailto:statistics@humanservices.gov.au) or by post to:

Internal and External Gateway Section  
Information Management Branch  
Department of Human Services  
PO Box 7788  
Canberra BC ACT 2610

Please see <https://www.humanservices.gov.au/corporate/statistical-information-and-data> for further information regarding costs or requests for statistics and data in general.

### **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. You can contact me:

- 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 33625**.

### **Your response**

Your response will be expected by **15 December 2017**. If no response is received, your matter will be taken as withdrawn.

In the event that you do decide to make a revised request, please be aware of the following information:

### **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-4222-dcf8b38d@righttoknow.org.au](mailto:foi+request-4222-dcf8b38d@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.

### **Charges**

The department will advise you if a charge is payable to process your revised request and the amount of any such charge as soon as practicable. No charge is payable for providing a person with their own personal information.

## **Administrative Release of Documents**

The department has administrative access arrangements (**arrangements**) for the release of certain documents without the need for a formal FOI request. In the event that you do make a revised request, and 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**

Should you submit a revised request, any information released under the 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. If such details are included in the scope of your revised 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 revised request and they will be redacted under section 22 of the FOI Act.

## **Further assistance**

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

Yours sincerely

## **Ashleigh**

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:

- '1. The number of cases for the past 10 years, where the department administering CSRCA acted against foreign citizens (sic) with ignorance to limitations set in s 25C.
2. Out of above, the number of cases, where subsequent department actions led to severe/long term damage, disability or death.
3. Out of above, the number of cases, where the department has taken corrective actions, with specific details on such steps.'

However, I am not able to reasonably identify the documents in scope of your request, because several parts of your request are unclear.

For example, it is unclear what you mean by the term 'CSRCA' in the first part of your request. Given that the scope of your request appears to relate to the department's Child Support Programme, it may be that you are referring to Child Support legislation. However, the department is not in a position to speculate as to the possible meaning of this term. Given that the term 'CSRCA' is unclear, the department cannot reasonably interpret the meaning of 'where the department administering CSRCA acted against foreign citizens (sic)'. In particular, it is unclear what is meant by 'acted against'.

Further to this, it is unclear what is meant by 'foreign citizens (sic)'. For example, the term could refer to people who are foreign citizens to Australia, currently residing in Australia, or foreign citizens having previously resided in Australia at a point in time, or both foreign citizens who have previously resided in Australia as well as foreign citizens currently residing in Australia.

Part one of your request also refers to 'with ignorance to limitations set in s 25C'. It is unclear what you mean when you state 'with ignorance' in this part of your request.

Part two of your request refers to 'severe/long term damage'. It is unclear what is meant by this part of your request because it could be interpreted in a number of ways. For example, this part of your request could refer to cases where 'severe damage' has resulted, or whether 'long term damage' has resulted, or where both 'severe damage' and 'long term damage' has resulted. It is also unclear how you mean to define 'damage' for the purposes of this request, and I am unsure whether you refer to financial, physical, mental, property, or other damage.

Finally, in part three of your request, it is unclear whether 'out of the above' is meant to relate to a comparison of the number of cases between part two and part three of your request, or whether you mean that part three of your request is meant to relate to a comparison of the number of cases between part one and part three of your request. Further to this, it is unclear what you mean by 'corrective actions, with specific details on such steps' in part three of your request.

## Assistance to revise your request

To assist you to revise the scope of your request, you may wish to consider revising the scope of your request to clarify the issues set out above.

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 section 15(2)(b) (identification of documents).

### **Relevant sections of the *Freedom of Information Act 1982***

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 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.

### *Effect of this notice*

Section 24AB(6) of the FOI Act 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.

Section 24AB(7) of the FOI Act provides that the request is taken to have been withdrawn 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.