



**Australian Government**  
**Department of Social Services**

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Sandra Legro  
via Right to Know

By email: [foi+request-4286-e8ab1808@righttoknow.org.au](mailto:foi+request-4286-e8ab1808@righttoknow.org.au)

Dear Ms Legro

**Freedom of Information (FOI) Request No. 17/18-071**

1. I refer to your correspondence to the Department of Human Services dated 28 December 2017, in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

*Item 1: A previous FOI request confirmed over 40 people are exempt from the cashless welfare card.*

*What are the following demographics of those with current exemptions*

*Indigenous / Non Indigenous status*

*Age*

*Sex*

*Payment type*

*Housing status*

*Item 2: With over 40 people being granted exemption from the cashless welfare card trials, I would like to request the procedural guidelines for assessing this exemption.*

*In the interest of fairness and equality, it is important to be transparent in assessing the suitability of recipients who may be granted exemptions. Please provide the information relied upon for making these decisions by departmental staff.*

*Item 3: I would like to request information regarding the method of payment for people receiving rent assistance who are subjected to the cashless welfare card.*

*To be clear, as I have been unable to find it listed as a restrict-able payment within the allowing legislation and instruments, is this payment paid into a recipients chosen bank account and not included as any portion of the 80/20 split or is it paid as part of the 20% of unrestricted payment or is it paid as part of the 80% restricted payment.*

*Please provide the procedure or guidelines used when assessing how rent assistance is paid to those who are subjected to the cashless welfare card, if rent assistance does form part of the 80/20 split please also provide evidence of rent assistance being included as a restrict-able payment within the allowing legislation or instrument.*

2. On 3 January 2018, the Department of Human Services requested that the Department of Social Services (the Department) take transfer of these three requests and on 4 January 2018, the Department agreed to do so, combining the three requests into a single request with three items.
3. I am authorised to make decisions under subsection 23(1) of the FOI Act. My decision regarding your request and the reasons for my decision are set out below. The Schedule of Documents at **Attachment A** summarises my decision in relation to each document.
4. I have decided that no charges will be imposed for processing your request.

#### **Decision on access to documents**

5. The Department has identified two documents, consisting of nine pages, that fall within the scope of your request.
6. Having considered these documents, I have decided to:
  - grant access in full to one document for Item 1 of your request;
  - grant access in part to one document for Item 2 of your request in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act on the grounds that the deleted material is exempt under section 47E [conditional exemptions – operations of an agency] of the FOI Act;
  - refuse access to documents for Item 3 of your request under subparagraph 24A(1)(b)(ii) [requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act; and
  - remove irrelevant material in accordance with section 22(1)(b)(ii) of the FOI Act.
7. In reaching my decision, I have taken the following material into account:
  - the scope of your request;
  - the content of the documents falling within the scope of your request;
  - the FOI Act;
  - consultation with departmental officers about the nature of the documents; and
  - the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

#### **Reasons for decision**

##### **Section 17 of the FOI Act – Requests involving use of computers**

8. I have consulted with officers in the relevant Branch of the Department and they have advised me that the requested information for Item 1 of your request is not available in a discrete form in written documents held by the Department.
9. The relevant Branch has advised that while the information is not available in a discrete form, it is available for extraction from other information held by the Department.

10. Section 17 of the FOI Act deals with requests involving the use of computers and provides as follows:

(1) *Where:*

- (a) *a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;*
  - (b) *it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and*
  - (ba) *it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and*
  - (c) *the agency could produce a written document containing the information in discrete form by:*
    - (i) *the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or*
    - (ii) *the making of a transcript from a sound recording held in the agency;*
- the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.*

11. Accordingly, the Department has produced a document containing the information requested in Item 1 of your request.

#### **Section 47E of the FOI Act – public interest conditional exemption – certain operations of agencies**

12. Subsection 47E(d) of the FOI Act provides that:

*A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:*

*...(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

13. The document identified as relevant to Item 2 of your request describes the process of exempting participants from the Cashless Debit Card (CDC) program.
14. The Department is responsible for the policy relating to the CDC program under the *Social Security Legislation Amendment (Debit Card Trial) Act 2015* (the Act). Disclosing some of the specific details of the process by which individuals are assessed for an exemption from the CDC program would undermine the program by enabling individuals to circumvent established Departmental processes in relation to this assessment.
15. I am satisfied that releasing the identified material could have a substantial adverse effect on the proper and efficient conduct of the Department as it would undermine its operations in relation to implementation of the CDC program.
16. In light of the above, I have decided that the specified material is conditionally exempt in accordance with section 47E(d) of the FOI Act.

#### **The public interest test – section 47E**

17. Section 11A(5) provides that the Department must give access to the material identified as conditionally exempt unless, in the circumstances, it would be, on balance, contrary to the public interest to do so.

18. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the FOI Guidelines together with a range of factors that favour access to a document set out in section 11B(3) of the FOI Act.
19. I consider that disclosing the conditionally exempt material may promote some of the objects of the FOI Act as information held by the Government is a national resource.
20. However, disclosure of the information could reasonably be expected to prejudice the operation of an agency and undermine the application of social security legislation.
21. Based on these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the information identified above is outweighed by the public interest factors against disclosure.
22. I have not taken into account any of the irrelevant factors set out under subsection 11B(4) of the FOI Act in making this decision.
23. As a result, I find the material exempt under section 47E of the FOI Act.

#### **Section 24A – documents do not exist**

24. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act if:
  - (a) *all reasonable steps have been taken to find the document; and*
  - (b) *the agency or Minister is satisfied that the document:*
    - (i) *is in the agency's or Minister's possession but cannot be found; or*
    - (ii) *does not exist.*
25. I am advised by departmental officers in the Families and Communities Reform Group that thorough searches have not located any documents which describe “the procedure or guidelines used when assessing how rent assistance is paid to those who are subjected to the cashless welfare card”, requested by you in Item 3 of your request.
26. As Rent Assistance is not a payment in its own right, but rather, a component of a person's social security or family assistance payment, Rent Assistance is not listed as either a trigger payment or a restrictable payment. As such, there are no special guidelines for paying Rent Assistance to individuals on the cashless debit card, rather, the usual Rent Assistance guidelines apply.
27. Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the relevant document exists and such steps have failed to locate any documents falling within the scope of your request. I have therefore decided to refuse this portion of Item 3 of your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.

**Release of documents**

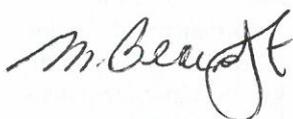
28. Documents for release are enclosed and listed in the schedule of documents at **Attachment A**.

**Rights of review**

29. Information about your rights of review under the FOI Act is set out at **Attachment B**.

30. If you have any enquiries concerning this matter, please do not hesitate to contact me at [foi@dss.gov.au](mailto:foi@dss.gov.au) or on 02 6146 0348.

Yours sincerely



Dr Melanie Beacroft  
Assistant Director, Legislation & FOI  
Government & Executive Services Branch  
Corporate Services Group

29 January 2018

## Attachment A

## Schedule of Documents

Document Number	Page Number	Date	Description	Decision
1.	1	16/01/17	Exemption data	Release in full. Document produced under section 17 of the FOI Act
2.	2-9	undated	Wellbeing Exemption: Cashless Debit Card Trial	Release in part with deletions made in accordance with section 22 of the FOI Act, on the grounds that the deleted material is either irrelevant to the request or exempt under section 47E [conditional exemption – certain operations of agencies] of the FOI Act

## Your rights of review

### Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter. No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: Freedom of Information (FOI) Team  
Government and Executive Services Branch  
Department of Social Services  
GPO Box 9820  
CANBERRA ACT 2601

Email: [foi@dss.gov.au](mailto:foi@dss.gov.au)

### External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act. Applications for review or complaint can be lodged in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: GPO Box 5218  
SYDNEY NSW 2001

Fax: +61 2 9284 9666

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

In person: Level 3  
175 Pitt Street  
SYDNEY NSW 2000