



16 February 2018

Our reference: LEX 34896

Mr Justin Warren

Only by email: foi+request-4373-ac3db2f7@righttoknow.org.au

Dear Mr Warren

Your Freedom of Information request

I refer to your request dated 12 February 2018, 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:

I request a copy of any documents that define how a decision is, or was, made to replace a document on the department's operational information website (those hosted on <http://operational.humanservices.gov.au/>) with a statement of the form:

"The guideline you have requested is potentially FOI exempt.

You have a right to apply for the document through FOI legislation.

You can request a copy from the department's Information Publication Scheme by:

..." etc.

I request only final versions of these documents, not draft versions.

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. As a result, your request currently gives rise to different interpretations of its scope.

Also, your request as it currently stands may relate to a wide range of documents and correspondence, such that were the department to attempt to interpret its scope processing it would likely result in an unreasonable diversion of resources for the department.

Please revise your request to address these issues. If you decide not to make any revisions, I will have to refuse your FOI request as 'practical refusal reasons' exist in relation to it.

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.

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

Note: When you contact us please quote the reference number **FOI LEX 34896**.

Your response

Your response will be expected by **2 March 2018**. 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-4373-ac3db2f7@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.

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.

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 FOI Act to the following:

I request a copy of any documents that define how a decision is, or was, made to replace a document on the department's operational information website (those hosted on <http://operational.humanservices.gov.au/>) with a statement of the form:

"The guideline you have requested is potentially FOI exempt.

You have a right to apply for the document through FOI legislation.

You can request a copy from the department's Information Publication Scheme by:

..." etc.

I request only final versions of these documents, not draft versions.

However, I am not able to reasonably identify the documents in scope of your request, because it is not clear what document or documents you are seeking access to.

It is unclear whether, for example, you seek access to only documents that outline a procedural process that departmental staff are to follow in reaching these types of decisions, or whether you may seek access to email trails wherein a decision is made. Given this, not only is it unclear what documents you specifically seek access to, but it may be that you seek access to such a range of documents that multiple searches for different types of documents may be required. For example, if you do seek access to emails, then it may be necessary to conduct searches in relation to every business area in the department.

Further, though you clarify that you seek access only to 'final versions of these documents, not draft versions' it is unclear whether, given that you appear to seek access to documents relating to historical determinations, you seek access to current final versions of documents or whether you seek access to historical but final versions of other documents that may fall within scope of your request.

For the reasons addressed above regarding the scope of your request, the documents you seek access to have not been properly identified as the scope of your request could be interpreted in a number of ways. Consequently, the scope of your request is currently both uncertain and too broad.

The department is not in a position to speculate as to the scope of your request. If the department were to try to interpret the scope of your request, given that an extensive range of documents may be within scope of your request, processing your request would likely result in an unreasonable diversion of resources for the department.

Searches for documents across a number of different systems and platforms for a varying range of documents could be required. Further, work relating to the Centrelink, Medicare and Child Support master programmes and their associated operational blueprints is not centralised in the department in one business area or one team. As such, the department would potentially need to consult a large range of business areas on sensitivities in any

documents that fall within the scope of your request. The number of business areas may increase, depending on the nature of documents and the information contained in them.

Given this, even if the department were able to identify relevant documents in scope of your request as it currently stands, there is manifest voluminosity associated with the search, retrieval, and processing of such a quantity of documents.

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 address the issues raised 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)(a)(i) of the FOI Act provides that a practical refusal reason exists in relation to a FOI request if the work involved in processing the request would substantially and unreasonably divert the resources of the department from its other operations.

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 24AA(2) of the FOI Act sets out certain factors which the department must consider when determining whether providing access in relation to a request would substantially and unreasonably divert the department's resources. The department must specifically have regard to the resources that would have to be used for:

- identifying, locating or collating the documents within the department's filing system;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for examining the document or consulting in relation to the request;
- making a copy, or an edited copy, of the document; and
- notifying any interim or final decision on the request.

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 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 section 24AB(6) of the FOI Act before the end of the consultation period.