



2 March 2018

Our reference: LEX 35004

Mr Justin Warren

Only by email: [foi+request-4381-a5de6590@righttoknow.org.au](mailto:foi+request-4381-a5de6590@righttoknow.org.au)

Dear Mr Warren

**Your Freedom of Information request – Acknowledgement and Consultation**

I refer to your request, dated 16 February 2018 and received by the Department of Human Services (**department**) on the same date, for access under the *Freedom of Information Act 1982 (FOI Act)* to the following:

A copy of all documents on the [operational.humanservices.gov.au](http://operational.humanservices.gov.au) website currently marked 'potentially FOI exempt' with boilerplate text of the following 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:

sending an email to [freedomofinformation@humanservices.gov.au](mailto:freedomofinformation@humanservices.gov.au)  
or writing to us at:

Freedom of Information  
FOI and Information Release Branch  
PO Box 7820  
Canberra Mail Centre ACT 2610

Your request covers a wide range of documents. We are asking you to revise your request to give us more specific details about the information you are after because of the amount of work involved for the department.

If you decide not to revise your request, I will have to refuse it 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'**

Within 14 days from the day after you receive this notice (**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.

If you decide to make a revised request you should be more specific about what documents you are seeking. This could help the department find the documents.

### **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 35004**.

### **Your response**

Your response will be expected by **16 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-4381-a5de6590@righttoknow.org.au](mailto:foi+request-4381-a5de6590@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

### **Alice**

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



## Attachment A

### What you requested

On 16 February 2018, you made the following FOI request:

A copy of all documents on the operational.humanservices.gov.au website currently marked 'potentially FOI exempt' with boilerplate text of the following form:

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### What I took into account

I consulted with the department's Business Processing Branch (**Branch**) in relation to the documents within the scope of your request. The Branch is responsible for authoring, editing and publishing operational information for staff and customers in collaboration with responsible business areas. This consultation, and my preliminary assessment of a sample of the documents that you are seeking, indicated that the department has over 3,000 documents within the scope of your request.

Based on my experience with this volume of material, I estimate that it would take over 700 hours to process your FOI request. This includes examining the documents for decision making purposes, but does not include additional time for any redactions that may be required, or any time to draft the notification of decision.

To estimate the number of pages in this calculation, I prepared a sample of 20 documents and averaged the number of pages across these documents, which was over 7 pages. This provided a conservative estimate of 21,000 pages within the scope of your request. While preparing each of the 20 documents in the sample, I calculated that it took me 30 seconds per document to search for and retrieve the document in a format that could be examined for decision making purposes.

Below is a summary of the conservative estimate of the number of hours it would take to process your request.

Search for and retrieve documents based on an average of 30 seconds per document	25 hours
Examine pages for decision making based on an average of two minutes per page	700 hours
<b>Total</b>	<b>725 hours</b>

I note that the Australian Information Commissioner was satisfied that a request requiring 343 hours of an Australian Tax Officer's time was a substantial and unreasonable diversion of resources in *Cash World Gold Buyers Pty Ltd and Australian Taxation Office (Freedom of information)* [2017] AICmr 20 (10 March 2017). This assessment was based on an average of three minutes per page to process the documents, including, reading and considering the documents, making redactions and undertaking consultation with the relevant business area. The estimate I have provided above is based on an average of two minutes per page to process the documents.

Additionally, the estimate I have provided does not consider the time needed to liaise with business areas on identified sensitivities within the documents. The department is responsible for the development of service delivery policy and provides access to social welfare, health and other payments and services including Medicare, Centrelink and Child Support, interacting with a significant number of Australians. There are over 130 branches alone in the department and your request, for over 3,000 documents containing operational information, would likely cover a substantial portion of these business areas. This means that a considerable number of departmental officers would need to be involved in assisting the decision maker to identify and understand sensitivities contained in the documents. This would add significant time to preparing a decision on your FOI request and contributes to it being manifestly voluminous in its current form.

### **Assistance to revise your request**

You may wish to consider narrowing the scope of your request to a specific process or policy that you seek operational information on. Reviewing the department's Operational Blueprint, accessible [here](#), may assist you to narrow the scope of your request to the specific documents that you would like access to.

Please note that the department has not provided exhaustive guidance in relation to the scope of your request. This is because your request is extensive and captures a large number of documents. Even if you provide the department with specific information that narrows the request, a revision may still give rise to a practical refusal reason because of the quantity of documents within scope of your current request. You will need to take this into consideration when revising your request.

Because of the amount of work involved for the department, I intend to refuse your FOI request as a 'practical refusal reason' exists under sections 24, 24AA(1)(a)(i) and 24AA(2) of the FOI Act. The practical refusal reason is that processing your request would substantially and unreasonably divert the resources of the agency from its other operations (section 24AA(1)(a)(i)).

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

Section 24AA(1)(a)(i) of the FOI Act provides that, for the purposes of section 24, 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(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 with any person or body 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) 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.