



14 December 2018

Jay Doe

BY EMAIL: foi+request-4620-f5675cf8@righttoknow.org.au

In reply please quote:

FOI Request: FA 18/08/01346

File Number: ADF2018/182770

Dear Jay Doe

I refer to your email dated 24 August 2018 in which you request access to documents held by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to tell you that I intend to refuse your request on the basis that a practical refusal reason exists. However, before I make a final decision to do this, you have an opportunity to revise your request to remove the practical refusal reason. This is called a 'request consultation process'. You have 14 days to respond to this notice in one of the ways set out below.

Scope of Request

You have requested access to the following:

1) Any training material, policy documents/emails, guidelines regarding the assessment of identity. In particular those regarding the assessment of identity for stateless people, protection visa applicants and other cohorts where identity documents are a concern for the department (eg Afghans, Sri Lankans, etc).

To narrow the scope of the search, I am interested in how citizenship and protection visa processing officers assess identity and what guidelines/training/policy they have been guided by.

*2) A copy of and information about an "identity toolkit". This is mentioned in paragraph 62 of *BMF16 v Minister for Immigration and Border Protection* [2016] FCA 1530 (link: <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/1530.html>)*

3) A copy of the "risk-based quality assurance program" which is used in the assessment of citizenship applications and any documents associated with it. This is mentioned in paragraph 86 of the same court case.

Power to refuse request

Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

Practical refusal

A *practical refusal reason* exists if either (or both) of the following applies:

- (a) the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations
- (b) the request does not satisfy the requirement in section 15(2)(b) of the FOI Act, which requires you to provide such information concerning the document you are seeking access to, to enable the Department to be able to identify it.

Reasons for practical refusal

Part 1

Please note that a request for 'any documents' concerning a particular subject will likely attract refusal under section 24AA of the FOI Act because, it would not be possible for the decision maker to certify that he or she has located every copy of every single document in the Department's possession, which falls within the scope of the request, without conducting a search of every hard copy file and all individuals electronic communication records in the agency.

The relevant business area being the Identity and Biometrics Section has advised that to produce the data for part 1 of your request, it would require the Department to extensively divert its resources to process your request. Interrogation of the Department's Identity and Biometrics database yielded a total of 6,560 results to be reviewed in relation to part 1 of your request and the relevance determined. This would substantially and unreasonably divert the resources of the Department from its other operations and that a practical refusal reason applies to your request as it currently stands. Therefore, I am required to consult with you under s.24AB of the Act regarding the scope of your request.

Request Consultation Process

You now have an opportunity to revise your request to enable it to proceed. You may wish to re scope part 1 of your request to limiting it to before the Citizenship decision was made and define a start date and reduce the scope to approved policies and training only.

I note that part 2 of the information requested in the scope is publicly available on Legendcom.

LEGENDcom is an electronic database of migration and citizenship legislation and policy documents which is available to members of the public on a subscription basis. See: <http://www.border.gov.au/Trav/Visa/LEGE>

Section 12(1)(c) of the FOI Act provides that a person is not entitled to obtain access to a document for which the agency has made available for purchase by the public. Please note

that should you wish to seek access to further documents available through LEGENDcom you will need to subscribe to gain access. Details on how to subscribe are available on the Department's website.

You may be able to access LEGENDcom through one of the major libraries in your state as they may maintain a subscription. I have attached a link that will assist you to identify those libraries that can have access to LEGENDcom, however, you should contact one of these libraries to confirm if this service is available. See:

<http://www.finance.gov.au//policy-guides-procurement/publishing-information/lds/>

I would request you consider the information which is publicly available to you.

Under section 24AB of the FOI Act, you have 14 days to respond to this notice in writing and advise me whether:

- you wish to make a revised request;
- indicate that you do not wish to revise your request; or
- withdraw your request.

If you do not do one of the three things listed above during the consultation period (14 days) or you do not consult the contact person listed below during this period, your request will be taken to have been withdrawn in accordance with section 24AB(7) of the FOI Act.

Contact

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact foi@homeaffairs.gov.au.

Freedom of Information Officer
Position number: 60007884
Authorised Decision Maker
Department of Home Affairs