



26 September 2018

Our reference: LEX 39599

Mr Keith Owen (Right to Know)

By email only: foi+request-4815-70f0d5fa@righttoknow.org.au

Dear Mr Owen

Your Freedom of Information request – Consultation

I refer to your request, dated 17 September 2018 and received by the Department of Human Services (**department**) on the same date, for access to documents under the *Freedom of Information Act 1982* (Cth) (**FOI Act**), made in the following terms:

I would like to access any reports made to the Office of the Australian Information Commission regarding any data breaches by the Department of Human Services from March 2018 when it became mandatory to report such breaches.

Your request gives rise to a practical refusal reason

I am consulting with you because:

- your request does not provide sufficient information as is reasonably necessary to enable the department to identify the documents that you are requesting.

I am asking you to:

- revise your request to give me more specific details about the documents you are requesting.

If you decide not to revise your request in order to resolve the issues raised above, I will have to refuse your request on the basis that one or more practical refusal reason still exists.

For a more detailed explanation of what this means, see **Attachment A**.

How to send us a 'revised request'

Within the next 14 days (consultation period); that is, by **10 October 2018**, you must do one of the following, in writing:

- withdraw the request;
- make a revised request; or
- advise that you do not want to revise your request.

If you do not contact me during the consultation period, your request will be deemed to have been withdrawn by operation of the FOI Act. See **Attachment A** for relevant sections of the FOI Act.

We have 30 days to give you a decision about your request, however, the time taken to consult with you is not included in this 30 day time period.

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:

- by 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 39599**.

Yours sincerely

Ellen

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



Attachment A

What you requested

On 17 September 2018, you made a request under the FOI Act in the following terms:

I would like to access any reports made to the Office of the Australian Information Commission regarding any data breaches by the Department of Human Services from March 2018 when it became mandatory to report such breaches.

Interpretation of the scope of your request

Your request is unclear

Your request does not provide such information as is reasonably necessary to enable the department to identify the documents that you are requesting.

Your request for 'reports made to the Office of the Australian Information Commission regarding any data breaches' is unclear as it could be interpreted to mean:

- access to any reports made to the Office of the Australian Information Commissioner regarding data breaches by the Department of Human Services;
- access to any reports the department sent to the Office of the Australian Information Commissioner regarding any data breaches, between March 2018 – 17 September 2018; or
- access to the reports the department made to the Office of the Australian Information Commissioner under the Notifiable Data Breaches scheme between March 2018 – 17 September 2018.

Because I cannot be certain what is and what is not intended to be captured by your request, I am consulting with you to determine precisely what documents you are requesting.

Accordingly, under sections 24AA(1) of the FOI Act, practical refusal reasons exist in relation to your request.

Assistance to revise the scope

You may wish to consider revising your scope with reference to the issues raised above by, for example:

- Specifying the type of report you are seeking; and
- Providing a date range for your request.

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 a responsible officer to identify the documents sought.

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to an FOI request if the request does not satisfy the requirements of section 15(2)(b) of the FOI Act.

Section 24AB(6) provides 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 subsection (6) before the end of the consultation period.