



8 October 2018

Our reference: LEX 39739

Mr Keith Owen

Only by email: foi+request-4830-f27bfeab@righttoknow.org.au

Dear Mr Owen

Your Freedom of Information Request – Consultation

I refer to your request, dated and received by the Department of Human Services (**department**) on 22 September 2018, for access under the *Freedom of Information Act 1982* (**FOI Act**) to the following documents:

I would like to access any training documents for DHS Employees regarding dealing/interacting with clients who have a disability. In particular I am seeking access to training documents used by the Child Support Program.

Consultation - your request gives rise to two practical refusal reasons

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; and
- processing your request, as best the department can understand its terms, is likely to result in a substantial and unreasonable diversion of the resources of the department.

I am asking you to:

- revise your request to give me more specific details about the documents you are requesting; and
- narrow your request so that it is not too large for the department to process.

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

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

How to send us 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
- advise that you do not want to revise your request.

Your written response must be received by the department before the consultation period ends.

If no response is received, your request will be taken to have been withdrawn, pursuant to the operation of the FOI Act.

The 14 day consultation period is not included in the initial 30 day processing period for your request.

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 39739**.

Further assistance

The department's Protocol for engaging people with disability

The department is a member of the National Disability Strategy Interdepartmental Committee which is responsible for carrying out the National Disability Strategy at a national level. The department has developed a protocol that applies to the entire department to provide guidance on the manner in which the National Disability Strategy is to be implemented.

The following is a link to the protocol which is publicly available on our website: <https://www.humanservices.gov.au/organisations/about-us/publications-and-resources/protocol-engaging-people-disability>. The information contained in the protocol may provide you with the information you are seeking in regards to how the department delivers services to persons who may have a disability.

If you have any questions please email FOI.LEGAL.TEAM@humanservices.gov.au.

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

What you requested

I would like to access any training documents for DHS Employees regarding dealing/interacting with clients who have a disability. In particular I am seeking access to training documents used by the Child Support Program.

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.

Firstly, the phrase 'training' is broad and can be interpreted to mean:

- compulsory formal training modules compiled by the department for all employees;
- internal formal training modules made available to departmental employees;
- external formal training modules made available to departmental employees;
- specific training provided as part of a positional requirement; or
- informal or ad hoc training.

Secondly, the phrase 'documents for DHS employees' is open to various interpretations including, specific training workbooks, learning packages, previously completed workbooks from employees, training calendars on a team and entire departmental scale, internal department correspondence and correspondence between the department and third parties.

Thirdly, in your request you use the term 'clients'. I note that the department refers to people who use the department's services as 'customers', however it is unclear as to the type of customer you are referring to. You may be referring to a small group, such as customers who have identified as having a disability, or may be referring to all the members of the community we service.

Fourthly, the term 'disability' itself is unclear as the term could be interpreted to refer to any condition which restricts a person's mental, sensory or mobility function. It can be temporary or permanent, it can be visible or invisible, and it may have a minimal or substantial impact on a person's abilities. Accordingly, it is not clear what form of disability you are referring to.

Finally, your request makes particular mention to 'training documents used by the Child Support Program', in light of your request for 'any training documents', this is unclear. Your request could be interpreted to mean:

- Documents developed for Child Support exclusively; or
- Documents developed for the department more broadly (but also used by Child Support).

The terms you have used in your request are unclear; your request does not identify specific documents. Please provide additional information and specify the documents you are seeking so that we may be able to process your request.

Your request may be too large for the department to process

To the extent that some of the documents you are requesting are able to be identified, processing your request would substantially and unreasonably divert the resources of the department from its other operations.

For example, if your request was to be interpreted as 'any training document for DHS employees', which, as discussed above, includes a broad range of material, this could mean the department would potentially have to search for, retrieve, and process thousands of documents.

Your request is not narrowed by reference to a date range and you have also not excluded drafts which further increases the volume of documents potentially within scope of your request.

Revising your request

If you wish to revise your request, please consider specifying:

- whether you are seeking documents from the Child Support program only;
- the type of documents you would like;
- the type of training you would like documents for;
- what you are mean by 'training';
- what you mean by 'clients';
- what you mean by 'disability'; and
- providing a precise, and limited, date range for your request.

Please note that, even if you provide the department with specific information that allows us to identify the documents you are seeking, the request may still give rise to a practical refusal reason if the revised scope remains too broad. You will need to take this into consideration when revising the scope of your request.

The department does not undertake 'part processing' of an FOI request, meaning that, even if some parts of your request were clear, the department cannot process any aspect of your request if part of it remains unclear.

Additionally, broad and large requests also often mean that, if an officer were to reasonably identify the documents that you seek, it would be an unreasonable and substantial diversion of departmental resources to search for, retrieve and process such a large 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 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) 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.