



8 October 2018

Our reference: LEX 39886

Mr Keith Owen

Only by email: foi+request-4852-c0d7abbc@righttoknow.org.au

Dear Mr Owen

Your Freedom of Information (FOI) Request

I refer to your request, dated 1 October 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)*, made in the following terms:

I would like to access any documents that fit this criteria:

Internal Procedure Documents

Policy Documents

relating to the Department of Human Services, Child Support Program, communicating with clients who have advised that they are:

Homeless

Do not have a physical address to send correspondence physically,

And who may have nominated an email address as an address for correspondence.

Consultation – your request gives rise to practical refusal reasons

I am consulting with you because practical refusal reasons exist in relation to your request. Specifically, your request does not provide such information as is reasonably necessary to enable a responsible officer to identify the documents you seek.

Additionally, to the extent that the department can identify the documents you may seek access to, processing your request would likely result in a substantial and unreasonable diversion of the resources of the department.

I am consulting with you to ask that you revise your request to:

- provide more specific information about the documents you are requesting in order for me to reasonably be able to identify the documents; and
- reduce the time that would be required to locate documents that may fall within the scope of your request.

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 exist.

For a more detailed explanation of what this means please refer to **Attachment A**.

How to send us a 'revised request'

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 **LEX 39886**.

How to send us a revised request

Within 14 days after the day 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.

Your written response must be received by the department before the consultation period ends on **22 October 2018**.

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

Further assistance

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

You may find the following general information of assistance:

- <http://operational.humanservices.gov.au/public/Pages/help-in-an-emergency/003-06010080-01.html>; and
- <http://operational.humanservices.gov.au/public/Pages/help-in-an-emergency/003-06010080-03.html>.

Yours sincerely

Doug

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



Attachment A

Practical refusal reasons

Your request:

- does not provide such information as is reasonably necessary to enable the department to identify the documents that you are requesting; and
- to the extent that documents can be identified, processing your request would result in a substantial and unreasonable diversion of the resources of the department.

What I took into account

Your request does not provide sufficient information to identify the documents you seek

Paragraph 3.54 of the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**) provides:

If in doubt, the agency or minister should consult the applicant to discuss exactly what documents are being requested.

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.

You state that you seek access to any documents 'that fit' the listed criteria and you have provided two types of documents, being 'internal procedure documents' and 'policy documents'. However, it is not clear whether the list you have provided is exhaustive or whether it is intended to include examples of the types of documents that you seek, in addition to 'any' other documents.

Furthermore, the terms 'internal procedure documents' and 'policy documents' are ambiguous and could apply to a broad range of material, such as informal email correspondence, or only the final formal versions of such material.

Also, the term 'relating to' does not identify whether the documents requested are to be limited to the Child Support programme, or whether it includes documents that may apply generally to the department, and any or all of its programmes. It is also not clear whether the documents that you seek must fit within all three criteria listed in the second part of your request; that is, 'homeless', 'do not have a physical address to send correspondence physically' *and* 'who may have nominated an email address as an address for correspondence', or whether documents that fit one or more description are to be included.

Accordingly, you have not provided sufficient information to enable a department officer to identify the documents you seek.

Processing your request would substantially and unreasonably divert the resources of the department from its other operations

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

This is because terms such as 'any documents' relating to a subject do not limit the searches that the department must undertake and could mean that, if your request is intended to cover more than the Child Support programme, the department would be required to conduct searches across a number of branches and systems to identify documents within scope.

The department would then need to review all of the documents retrieved, consult with the relevant departmental officers, as well as any third parties, review the documents and make redactions (if required).

Such an exercise would substantially and unreasonably divert the resources of the department from delivering other services to the public.

Assistance to revise your request

Departmental staff refer to information on the department's Operational Blueprint for procedural instruction and guidance in the course of delivering social security payments generally, and administering Child Support as is the department's ambit. As such, it may be that you mean to seek access to specific Operational Blueprint files, a range of which the department has made publicly accessible via the following link:

- <http://operational.humanservices.gov.au/public/Pages/SiteMap/siteMap.html>.

As provided above under the 'Further assistance' heading you may find the following Operational Blueprint files of assistance:

- <http://operational.humanservices.gov.au/public/Pages/help-in-an-emergency/003-06010080-01.html>; and
- <http://operational.humanservices.gov.au/public/Pages/help-in-an-emergency/003-06010080-03.html>.

Alternatively, if the above publicly available documents do not contain the information you seek, you may wish to consider revising your request to provide clarification of the documents that you are requesting. Please note that if you choose to revise your request, one or more practical refusal reasons may still exist in relation to any revised request.

Relevant sections of the *Freedom of Information Act 1982*

Section 24(1) of the FOI Act provides that an agency may refuse to give access to documents in accordance with an FOI request if:

- a practical refusal reason exists in relation to the request; and
- following a request consultation process under section 24AB of the FOI Act, the agency is satisfied that the practical refusal reason still exists.

Section 24AA(1)(a)(i) of the FOI Act provides that a practical refusal reason exists in relation to an 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 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 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.

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.