

From: s 47E(c) & (d) Amy on behalf of INFORMATION.LAW
Sent: Wednesday, 5 September 2018 9:37 AM
To: 'foi+request-4766-7f73f37e@righttoknow.org.au'
Cc: INFORMATION.LAW
Subject: Acknowledgement of FOI Request – FOI 24297 [DLM=For-Official-Use-Only]

Dear Julie,

Acknowledgement of FOI Request – FOI 24297

I refer to your request to access information held by our Department under the *Freedom of Information Act 1982* (FOI Act). The Department received your request on 31 August 2018. In accordance with section 15(5)(b) of the FOI Act, the Department has 30 days to process your request. As such, a decision on your request is due by 1 October 2018.

If you have any questions about your FOI matter, please contact us using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

In all communications please quote reference **FOI 24297**.

Kind Regards,

Information Law | Legal Services & Assurance Branch
Department of Veterans' Affairs
GPO Box 9998 Canberra ACT 2601
E: informationlaw@dva.gov.au



From: s 47E(s) & (c) Amy on behalf of INFORMATION.LAW
Sent: Wednesday, 5 September 2018 9:43 AM
To: EMB.Secretariat
Cc: INFORMATION.LAW
Subject: FW: Search request for documents related to FOI 24297 Julie (Right to Know) - Please provide by 14 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Attachments: Document Schedule where more than 10 documents are identified.docx

Good morning,

Re: Search request for documents related to FOI 24297 Julie (Right to Know)

On 31 August 2018, the Department received a request for documents under the *Freedom of Information Act 1982* (FOI Act) from Julie via Right to Know. A decision on this request is due by the Department no later than COB 1 October 2018. Details of the FOI request are below.

Requested action

As it is the responsibility of line areas to conduct searches for potentially relevant documents, we would be grateful if you could undertake searches for relevant documents and provide them to Information Law at informationlaw@dva.gov.au by **COB Friday 14 September 2018**.

Please note that line areas are required to provide relevant documents to Information Law even if the line area is of the view that the documents should not be released. When responding, please advise of any concerns or sensitivities you have about releasing the information in the table below.

If you believe the searches would best sit within a different line area please let us know as soon as possible so this request can be forwarded on for action.

Details of the FOI request & request input by line area

We would appreciate you completing the yellow highlighted portions of the below table and return it when responding to this request.

FOI applicant and details of the FOI request	
Applicant name:	Julie
UIN:	N/A
Julie has sought access to: "I seek copy of all the DVA Executive Management Board Minutes for FY16/17".	
Action/information required	Details/response
Time spent on this request DVA is required to report annually on the time spent by all DVA staff responding to FOI matters. To assist capturing this information please advise how much time was spent by staff to respond to this search request.	<i>(e.g. APS6 spent 2 hours to search and provide documents to Information Law)</i>

<p>Searches undertaken</p> <p>Please indicate which systems were searched to identify relevant documents and the results of those searches.</p> <p>*Systems include Y-drive, outlook, TRIM, PDMS, VIEW, hard copies and any other systems your line area has access.</p>	<p>(e.g. Search of TRIM identified relevant documents (details below). Further searches were undertaken in outlook and no documents could be found)</p>
<p>Documents identified</p> <p>Please advise total number of documents identified that fall within scope of the request detailed above.</p> <p>Where documents total more than 10, please use the attached table to insert details of those documents. If this applies, in the column to the right, please indicate the source of the documents only (e.g. TRIM file 123ABC etc).</p> <p>*Please remember to attach all relevant documents when responding to this request.</p>	<p>(e.g.</p> <ul style="list-style-type: none"> • TRIM file 123ABC – 10 documents – emails • Y-drive – Folder 456DEF – 5 documents – draft and finalised letters)
<p>Sensitivities or concerns about releasing the documents</p> <p>Please advise Information Law of any concerns you have about releasing the document(s) under the FOI Act. Where concerns are raised, we would appreciate some context to support your concerns.</p> <p>Line areas are the subject matter experts in their respective areas. The Information Law team may need to rely on line areas to assist forming justifications to refuse access to documents. This may include seeking more information about the context in which documents were received, created or provided to other individuals or organisations. Based on the information you provide, the Information Law team will be better placed to determine whether justifications exist under the FOI Act to refuse access to the document(s).</p> <p>If you have any concerns please call or email the Information Law team to discuss the request and/or documents further.</p>	<p>(e.g The paper dated 1/1/2020 contains legal advice. It was drafted for the sole purpose of responding to a claim in the AAT) OR (e.g. The information in document X is not usually released to the public because XYZ..... If this information were released it could cause harm because/reveal information that is ...etc)</p>

We appreciate your assistance with this request. If you have any questions please do not hesitate to contact us to discuss.

Kind Regards,

Amy 
Information Access Assistant

Information Law | Legal Services & Assurance Branch

Department of Veterans' Affairs

Gnabra House – 21 Genge Street Canberra City ACT 2601 | GPO Box 9998 Canberra ACT 2601

E: informationlaw@dva.gov.au

Please note I work part-time: Monday, Wednesday & Thursday.



FOI request details – Schedule of documents

Schedule of documents where line area identifies more than 10 documents as falling within the scope of the request – line area conducting searches to complete

FOI reference number: FOI XXXXX

Document reference #	Date of document	Document description e.g. Policy & Admin file, Email from DVA to DHS, etc.	Number of Pages
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

From: s 47E(c) & (d) Sharyn on behalf of EMB.Secretariat
Sent: Wednesday, 5 September 2018 1:24 PM
To: INFORMATION.LAW; EMB.Secretariat
Cc: s 47E(c) & (d) Kate
Subject: RE: Search request for documents related to FOI 24297 Julie (Right to Know) - Please provide by 14 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Attachments: EMB 13 July 2016 - Minutes - FINAL.docx; EMB August 2016 Minutes - FINAL Redacted version.docx; EMB 13 September 2016 - Minutes - FINAL - REDACTED.docx; EMB 17 October 2016 Minutes - Final - SENSITIVE - REDACTED.docx; EMB 16 November 2016 Minutes - FINAL - SENSITIVE - Redacted Version.docx; EMB 14 December 2016 Minutes - FINAL - REDACTED VERSION.docx; EMB Minutes - 16 February 2017 - FINAL.docx; EMB - 16 March 2017 - Redacted Version - Sensitive.docx; EMB Minutes - 13 April 2017 - FINAL - REDACTED.docx; EMB - 18 May 2017 - Minutes - FINAL - Redacted.docx; EMB - 15 June 2017 - Minutes - FINAL - SENSITIVE.docx; Document Schedule where more than 10 documents are identified.docx

Hi Amy

As requested, please find attached the information as requested under this FOI – EMB minutes for financial year 2016/17.

In answer to the below questions:

- This request took an EL1 50 minutes to complete;
- The information for this search was conducted at: Y:\Corporate\Parl & Govnce\Comm & Cttee Supp\Common\Committees\4. EMB;
- The documents identified are referenced in the attachment; document schedule; and
- I would like to stress that the information contained in the Executive Board Minutes is **SENSITIVE**.

Let me know if you require anything further.

Regards,

Sharyn s 47E(c) & (d)
A/g Assistant Director
Governance and Appointments Section
Department of Veterans' Affairs
T: s 47E(c) & (d)
Ext: s 47E(c) & (d)

From: s 47E(c) & (d) Amy On Behalf Of INFORMATION.LAW
Sent: Wednesday, 5 September 2018 9:43 AM
To: EMB.Secretariat <EMB.Secretariat@dva.gov.au>
Cc: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: FW: Search request for documents related to FOI 24297 Julie (Right to Know) - Please provide by 14 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good morning,

Re: Search request for documents related to FOI 24297 Julie (Right to Know)

From: INFORMATION.LAW
Sent: Tuesday, 2 October 2018 5:59 PM
To: 'foi+request-4766-7f73f37e@righttoknow.org.au'
Subject: FOI 24297 - Decision and Statement of Reasons [SEC=UNCLASSIFIED]
Attachments: FOI 24297 Decision and Statement of Reasons.pdf

Good evening Julie,

FOI 24297 Decision and Statement of Reasons

I refer to your FOI request received by the Department on 31 August 2018. Please find attached the decision in respond to your request.

Kind Regards,

Information Law Team
Department of Veterans' Affairs
E: information.law@dva.gov.au | W: www.dva.gov.au

-----Original Message-----

From: Julie [mailto:foi+request-4766-7f73f37e@righttoknow.org.au]
Sent: Friday, 31 August 2018 8:58 PM
To: FOI <AMBFOI@dva.gov.au>
Subject: Freedom of Information request - Department's Executive Management Board Minutes [TO BE CLASSIFIED]

Dear Department of Veterans' Affairs,

I seek copy of all the DVA Executive Management Board Minutes for FY16/17.

Yours faithfully,

Julie

Please use this email address for all replies to this request:
foi+request-4766-7f73f37e@righttoknow.org.au

Is foi@dva.gov.au the wrong address for Freedom of Information requests to Department of Veterans' Affairs? If so, please contact us using this form:
https://www.righttoknow.org.au/change_request/new?body=dva

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.



Statement of reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Position Number 62210022

Applicant: Julie
Decision date: 2 October 2018
FOI reference number: FOI 24297

Dear Julie,

Freedom of Information Request: FOI 24297

1. I have made a decision to refuse access to the documents relevant to your request.

Summary

2. I, Position Number 62210022, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).
3. On 31 August 2018, you made a request for access to documents in the possession of the Department. You specifically sought access to:

"...I seek copy of all the DVA Executive Management Board Minutes for FY16/17..."
4. As no extensions of time have been applied to process your request, a decision is due by 2 October 2018.
5. I have decided not to impose a charge in relation to this request, in accordance with regulation 3(1) of the *Freedom of Information (Charges) Regulations 1982*.
6. The Department has undertaken a reasonable search of its records and has identified 11 documents relevant to your request. The documents relevant to your request are listed at Schedule 1.

Documents subject to this request

7. The documents under assessment are the minutes that arose from Department's Executive Board meetings for the 2015/16 Financial Year. For ease of reference, the documents will be referred to as the "Minutes" and the Executive Board will be referred to as the "Board".

Decision

8. I have made a decision to refuse access to the documents relevant to your request. The documents that I have chosen to refuse access to are set out in Schedule 1, together with the applicable exemption provisions.

Material taken into account

9. In accordance with section 26(1)(a) of the FOI Act, my findings on any material question of fact, the material on which those findings were based and the reasons for my decision to refuse access to the documents follows.
10. I have taken the following material into account in making my decision:
- the terms of your request;
 - the types of documents that are in the Department's possession;
 - the content of the documents that fall within the scope of your request;
 - Departmental practice around the dissemination and access to the Minutes;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth. I also considered the following provision[s] of the FOI Act relevant to my decision:
 - Section 11B Public interest exemption – factors
 - Section 47C Public interest conditional exemptions--deliberative processes
 - Section 47E Public interest conditional exemptions--certain operations of agencies; and
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).
11. A full extract of all FOI Act provisions used to make my decision are provided in Schedule 2.

Reasons for Decision

12. I have decided to refuse access to documents within the scope of your request in accordance with the following exemptions in the FOI Act:

Public interest conditional exemptions--deliberative processes (section 47C)

13. I consider that the Minutes contain discussions and recommendations by the Board in relation to a broad range of issues and that this material is conditionally exempt in accordance with section 47C of the FOI Act.

14. Section 47C of the FOI Act provides that a document is conditionally exempt if its disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth.

15. The Australian Information Commissioner has issued Guidelines under section 93A of the FOI Act to which regard must be had for the purposes of performing a function, or exercising a power, under the FOI Act. As the Guidelines explain:

... the deliberative processes involved in the functions of an agency are its thinking processes—the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

16. Further, while purely factual material is not considered to be deliberative matter, where a document contains factual material that is related to the provision of policy advice and elaborates its context or likely impact it may potentially come within the deliberative document exemption.

17. The Minutes are official records of actions and decisions of the board, including discussions and opinions about sensitive policy, proposals, activities and other matters of concern. The Minutes contain high level advice and discussions outlining options and strategies that were or are under consideration in relation to a number of matters concerning the Department. Due to the sensitivity of some discussions, restrictions are placed within the Department as to who can access the Minutes, noting that some material is restricted to Board members only.

18. Release of the Minutes under the FOI Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth. Some of these deliberations are of a sensitive nature. Upon inspection of the Minutes, I am of the view that where factual material is provided, it is done so in the course of assisting with the Board's deliberations.

19. The information does not fall within any of the exclusions in subsections 47C (2) and (3) of the FOI Act. Accordingly, I have decided that the Minutes which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

20. Section 11A(5) provides that an agency must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document would, on balance, be contrary to the public interest.

21. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
- (a) disclosure would promote the objects of the FOI Act, including:
 - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (ii) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (iii) enhance the scrutiny of government decision making.
22. I also considered the following factors which do not favour disclosure:
- (a) disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth;
 - (b) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
 - (c) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future; and
 - (d) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency (insofar as content relates to the commercial affairs of the Commonwealth).
23. Releasing the documents sought may significantly reduce the quality, clarity or frankness of discussions between Board members and ultimately, the advice and recommendations that arise from these meetings. This potential detriment to the public interest of release of the documents outweighs the factors in favour of access.
24. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.
25. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Public interest conditional exemptions--certain operations of agencies (section 47E)

26. I also consider that the Minutes contain information about the operation of the Department, which if it were to be released, could have a substantial adverse effect on the proper and efficient conduct of those operations. As such, the Minutes are also conditionally exempt in accordance with section 47E(d) of the FOI Act.
27. Section 47E of the FOI Act provides that a document is conditionally exempt if its disclosure would, or could reasonably be expected to, do any of the following:
 - (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
 - (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
 - (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
 - (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
28. As noted above, the Minutes derive from the meetings of the Board. Discussions in these meetings can be highly sensitive, with access to those deliberations restricted on a need to know basis.
29. Disclosure could allow individual's access to sensitive information about the Department's operations, including where certain issues discussed in those Board meetings are controversial and/or have not yet been resolved. It is important Board members are open and honest in these meetings and that they can share confidential information or views without recourse where that is in the best interests of the Department and ultimately, its operations. Disclosing this type of information could reasonably be expected to diminish the type of information discussed in the meetings and subsequently, the quality of the decisions made in those meetings.
30. Accordingly, I have decided that the documents which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

31. Section 11A(5) provides that an agency must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document would, on balance, be contrary to the public interest.

32. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
- (a) disclosure would promote the objects of the FOI Act, including:
 - (iv) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;
 - (v) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (vi) enhance the scrutiny of government decision making.
33. I also considered the following factors which do not favour disclosure:
- (a) disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth;
 - (b) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
 - (c) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future; and
 - (d) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency (insofar as content relates to the commercial affairs of the Commonwealth).
34. Release of the Minutes would be contrary to public interest. Board members need to be able to undertake rigorous and candid assessment of all information relevant to the Department's operations, and to consider in confidence, the most effective options and solutions to address the Department's affairs. It is important that Board members feel able to provide information, consider options and deliberate without restriction in order to ensure that the Board always considers all relevant information and opinions.
35. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.
36. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Your rights of review

37. If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal Review

38. Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.
39. You can make your application for internal review in one of the following ways:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

Information Commissioner Review

40. Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:
41. You can make your application for Information Commissioner review in one of the following ways:

Online: www.oaic.gov.au
Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney NSW

42. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

43. If you wish to discuss this decision, please do not hesitate to contact me using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.law@dva.gov.au

Yours Sincerely,

Position number 62210022
Authorised officer

2 October 2018

Schedule of documents

Applicant: Julie

Decision date: 2 October 2018

FOI reference number: FOI 24297

Doc ref	Date of document	Document description	Pages	Decision	Exemption provision
1	13 July 2016	Final Minutes of July Meeting	8	13 July 2016	ss 47C & 47E(d)
2	16 August 2016	Final Minutes of August Meeting	7	16 August 2016	ss 47C & 47E(d)
3	13 September 2016	Final Minutes of September Meeting	7	13 September 2016	ss 47C & 47E(d)
4	17 October 2016	Final Minutes of October Meeting	6	17 October 2016	ss 47C & 47E(d)
5	16 November 2016	Final Minutes of November Meeting	6	16 November 2016	ss 47C & 47E(d)
6	14 December 2016	Final Minutes of December Meeting	7	14 December 2016	ss 47C & 47E(d)
7	16 February 2017	Final Minutes of February Meeting	7	16 February 2017	ss 47C & 47E(d)
8	16 March 2017	Final Minutes of March Meeting	8	16 March 2017	ss 47C & 47E(d)
9	13 April 2017	Final Minutes of April Meeting	9	13 April 2017	ss 47C & 47E(d)
10	18 May 2017	Final Minutes of May Meeting	6	18 May 2017	ss 47C & 47E(d)
11	15 June 2017	Final Minutes of June Meeting	7	15 June 2017	ss 47C & 47E(d)



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

11 B Public interest exemptions--factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
 - (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
- (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii); including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the Administrative Decisions (Judicial Review) Act 1977 does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.
(see section 11A).

Public interest conditional exemptions

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency; or
- (b) a Minister; or
- (c) the Government of the Commonwealth; or
- (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
 - (a) operational information (see section 8A);
 - (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

- (3) This section does not apply to any of the following:
 - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
 - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

Julie (Right to Know)

Julie (Right to Know)

LEX ID	24465	Outcome
DVA file number		Charges notified (\$) 0.00
Applicant name	FOI - Julie (Right to Know)	Charges collected 0.00
DVA officer	Canberra - George s 47E(c) & (d)	(\$)
Source	3. Email	Date received/valid 12 September 2018
Group	FOI Primary	Date dcn
PPI	No	notif'd/wdn/trsf
File request	Not required	Date finalised
Practical refusal reasons	N/A	Access level Unrestricted
Response time		Date created 13 September 2018
Disclosure log		Last updated 5 November 2018
Status	In progress	Due date 12 Oct 2018
		Days running 54
		Days to go (if clock running) -24
		Days running beyond timeframe (if clock stopped)

Client/Rep details Please use this email address for all replies to this request:

foi+request-4803-7dcd2b85@righttoknow.org.au

Scope/Notes OUTCOME:
TBC

REQUEST:
Dear Department of Veterans' Affairs,

It occurred to me that understanding a bit more about RACER, DVA's new claims performance management system would assist me to better understand DVA's new veteran centric policies, especially given it is a system introduced as part of those 'reform' policies.

I therefore seek under FOI any document sent or received by any DVA SES level officer (just to reduce the scope, as otherwise it might unreasonably catch too many documents about inane and irrelevant things), whether by email or other method of passing, about RACER, from today back until 12 September 2017.

If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RACER, and if that still exceeds 50 documents, can you please compile a list of said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50).

Yours faithfully,

Julie

File notes

Date	Type	DVA officer	Timeframe days
------	------	-------------	----------------

s 22

s 22

s 22

10 Oct 2018 1. File note Leia s 47E(c) & (d)

Email from applicant re 'secretly' applying for EOT. Discussed with Nick and advised NFA as we have not sought EOT.

8 Oct 2018 1. File note Leia s 47E(c) & (d)

Spoke with George as I appear to still be managing/following up this FOI, not as previously advised to hand over to George.

Advised will need to look at docs and then go back to BA as they state they have applied redactions -will need unredacted versions

A lot of documents to look through and need to go back to BA for full copies. In interim need to create list as BA still has not provided it. Need 15AB EOT as need more time to consult with applicant re the list and revising and due to number of docs & complexity of the project/content within docs.

Advised I wanted to send email to applicant before seeking EOT

8 Oct 2018 1. File note Leia s 47E(c) & (d)

Received email from CBD with docs in zip file

8 Oct 2018 1. File note Leia s 47E(c) & (d)

Sent email to Maralyn advising decision is due this week. Asked for the list again.

5 Oct 2018 1. File note Leia s 47E(c) & (d)

Copied into email from Maarten to Maralyn re docs and issues.

4 Oct 2018 1. File note Leia s 47E(c) & (d)

Email to Maarten advising we highlighted potential for misconception. Advised will wait to hear back & that if we need EOT we need more info.

4 Oct 2018 1. File note Amy s 47E(c) & (d)

Email copied in from Maarten that she sent to Michelle re docs and issues.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Email from Maarten advising may be more manageable. Will review & send through. Also mentioned concern that applicant has a misconception of what RaCER is and the stage of development.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Sent info to Maarten, asked to revise search etc

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Further email from Applicant re contacting RaCER etc. We already did & that is who is searching & assisting. NFA.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

response from applicant. Sent to Maarten to see if assists & if still fall within scope.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Response from Maarten re key docs. 100+ docs. Sent email to applicant.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Advised Maarten will raise with applicant. If not agree, may need EOT & if so need more info. Also that I could provide list to applicant as indicated willing to keep scope to < =50.

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Email from business area. Advised the FOI is 'big' and noted issues with staffing & crucial period for the actual project. Asked if it can be revised. Advised Nick.

3 Oct 2018 1. File note Amy s 47E(c) & (d)

Email from applicant

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Sent another follow up to BA re search results (Maarten & CBD)

3 Oct 2018 1. File note Leia s 47E(c) & (d)

Email to applicant as advised by Nick. Advised searches & follow up etc

2 Oct 2018 1. File note Leia s 47E(c) & (d)
Email from applicant. As such, sought to find out from George what was happening. Advised Nick re the EOT responses

27 Sep 2018 1. File note Amy s 47E(c) & (d)
Response from applicant. Not agreed.

27 Sep 2018 1. File note Amy s 47E(c) & (d)
sought EOT from applicant

26 Sep 2018 1. File note Leia s 47E(c) & (d)
Sent follow up on searches

26 Sep 2018 1. File note Leia s 47E(c) & (d)
Follow up email sent to Maarten (CC in CBD)

24 Sep 2018 1. File note Leia s 47E(c) & (d)
Advised to handover to George.

20 Sep 2018 1. File note Amy s 47E(c) & (d)
Search forward to Maarten by CBD as he is working on RaCER

17 Sep 2018 1. File note Amy s 47E(c) & (d)
Search request to CBD - due 25/9
FOI acknowledgment sent.

12 Sep 2018 5. Clock start Amy s 47E(c) & (d) 30
Clock started

s 22

From: [REDACTED] Linda on behalf of INFORMATION.ACCESS
Sent: Wednesday, 12 September 2018 2:23 PM
To: INFORMATION.LAW
Cc: INFORMATION.ACCESS
Subject: FW: Freedom of Information request - Documents about RACER [TO BE CLASSIFIED]
[DLM=For-Official-Use-Only]

Good afternoon.

Please see to the following.

Regards.

Linda [REDACTED]
Assistant Information Access Officer
National Information Access Processing Team (NIAPT) Department of Veterans' Affairs Tel : [REDACTED] Fax: (02) 9213 7400

-----Original Message-----

From: Julie [mailto:foi+request-4803-7dcd2b85@righttoknow.org.au]
Sent: Wednesday, 12 September 2018 1:18 PM
To: FOI <FOI@dva.gov.au>
Subject: Freedom of Information request - Documents about RACER [TO BE CLASSIFIED]

Dear Department of Veterans' Affairs,

It occurred to me that understanding a bit more about RACER, DVA's new claims performance management system would assist me to better understand DVA's new veteran centric policies, especially given it is a system introduced as part of those 'reform' policies.

I therefore seek under FOI any document sent or received by any DVA SES level officer (just to reduce the scope, as otherwise it might unreasonably catch too many documents about inane and irrelevant things), whether by email or other method of passing, about RACER, from today back until 12 September 2017.

If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RACER, and if that still exceeds 50 documents, can you please compile a list of said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50).

Yours faithfully,

Julie

Please use this email address for all replies to this request:
foi+request-4803-7dcd2b85@righttoknow.org.au

Is foi@dva.gov.au the wrong address for Freedom of Information requests to Department of Veterans' Affairs? If so, please contact us using this form:
https://www.righttoknow.org.au/change_request/new?body=dva

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

FOI request details – Schedule of documents

Schedule of documents where line area identifies more than 10 documents as falling within the scope of the request – line area conducting searches to complete

FOI reference number: FOI XXXXX

Document reference #	Date of document	Document description e.g. Policy & Admin file, Email from DVA to DHS, etc.	Number of Pages
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

s 22

From: INFORMATION.LAW
Sent: Wednesday, 26 September 2018 9:57 AM
To: s 47E(c) & (d) Maarten
Cc: CLIENTS.BENEFITS.DIV.COORD
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good morning,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

I am sending through a follow up email to find out how you are going in locating documents in response to the below search request for this FOI matter?

Please feel free to contact me if you have any questions.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) desk S6.11.3

From: s 47E(c) & (d) Sue On Behalf Of CLIENTS.BENEFITS.DIV.COORD
Sent: Thursday, 20 September 2018 12:09 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: FW: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten

I discussed this request with Michelle Glanville, A/g AS Business Improvement and Support Branch, who advised that this FOI request should be referred to you to consider and action.

Can you please confirm that you will take carriage of this request.

Thanks

Sue
Sue s 47E(c) & (d)
A/g Director Division Coordination Unit
Clients' Benefits Division
Department of Veterans' Affairs (DVA)
T. s 47E(c) & (d) (Ext: s 47E(c) & (d))

From: INFORMATION.LAW
Sent: Monday, 17 September 2018 2:29 PM
To: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>

Cc: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>

Subject: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good afternoon,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

On 12 September 2018, the Department received a request for documents under the *Freedom of Information Act 1982* (FOI Act) from Julie via Right to Know. A decision on this request is due by the Department no later than COB 12 October 2018. Details of the FOI request are below.

Requested action

As it is the responsibility of line areas to conduct searches for potentially relevant documents, we would be grateful if you could undertake searches for relevant documents and provide them to Information Law at informationlaw@dva.gov.au by **COB 25 September 2018**.

Please note that line areas are required to provide relevant documents to Information Law even if the line area is of the view that the documents should not be released. When responding, please advise of any concerns or sensitives you have about releasing the information in the table below.

If you believe the searches would best sit within a different line area please let us know as soon as possible so this request can be forwarded on for action.

Details of the FOI request & request input by line area

We would appreciate you completing the yellow portions of the below table and return it when responding to this request.

FOI applicant and details of the FOI request	
Applicant name:	Julie
UIN:	N/A
Julie has sought access to: <i>"....It occurred to me that understanding a bit more about RACER, DVA's new claims performance management system would assist me to better understand DVA's new veteran centric policies, especially given it is a system introduced as part of those 'reform' policies.</i> <i>I therefore seek under FOI any document sent or received by any DVA SES level officer (just to reduce the scope, as otherwise it might unreasonably catch too many documents about inane and irrelevant things), whether by email or other method of passing, about RACER, from today back until 12 September 2017.</i> <i>If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RACER, and if that still exceeds 50 documents, can you please compile a list of said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50)...."</i>	
Action/information required	Details/response
Time spent on this request DVA is required to report annually on the time spent by all DVA staff responding to FOI matters. To assist capturing this information	<i>(e.g. APS6 spent 2 hours to search and provide documents to Information Law)</i>

<p>please advise how much time was spent by staff to respond to this search request.</p>	
<p>Searches undertaken</p> <p>Please indicate which systems were searched to identify relevant documents and the results of those searches.</p> <p>*Systems include Y-drive, outlook, TRIM, PDMS, VIEW, hard copies and any other systems your line area has access.</p>	<p><i>(e.g. Search of TRIM identified relevant documents (details below). Further searches were undertaken in outlook and no documents could be found)</i></p>
<p>Documents identified</p> <p>Please advise total number of documents identified that fall within scope of the request detailed above.</p> <p>Where documents total more than 10, please use the attached table to insert details of those documents. If this applies, in the column to the right, please indicate the source of the documents only (e.g. TRIM file 123ABC etc).</p> <p>*Please remember to attach all relevant documents when responding to this request.</p>	<p><i>(e.g.</i></p> <ul style="list-style-type: none"> • <i>TRIM file 123ABC – 10 documents – emails</i> • <i>Y-drive – Folder 456DEF – 5 documents – draft and finalised letters)</i>
<p>Sensitivities or concerns about releasing the documents</p> <p>Please advise Information Law of any concerns you have about releasing the document(s) under the FOI Act. Where concerns are raised, we would appreciate some context to support your concerns.</p> <p>Line areas are the subject matter experts in their respective areas. The Information Law team may need to rely on line areas to assist forming justifications to refuse access to documents. This may include seeking more information about the context in which documents were received, created or provided to other individuals or organisations. Based on the information you provide, the Information Law team will be better placed to determine whether justifications exist under the FOI Act to refuse access to the document(s).</p> <p>If you have any concerns please call or email the Information Law team to discuss the request and/or documents further.</p>	<p><i>(e.g The paper dated 1/1/2020 contains legal advice. It was drafted for the sole purpose of responding to a claim in the AAT) OR (e.g. The information in document X is not usually released to the public because XYZ..... If this information were released it could cause harm because/reveal information that is ...etc)</i></p>

We appreciate your assistance with this request. If you have any questions please do not hesitate to contact us to discuss.

Kind Regards,

Information Law Team

Amy s 47(2)(b) & (d)

Information Access Assistant

Information Law | Legal Services & Assurance Branch

Department of Veterans' Affairs

Gnabra House – 21 Genge Street Canberra City ACT 2601 | GPO Box 9998 Canberra ACT 2601

E: informationlaw@dva.gov.au

Please note I work part-time: Monday, Wednesday & Thursday.



From: Julie <foi+request-4803-7dcd2b85@righttoknow.org.au>
Sent: Thursday, 27 September 2018 8:25 PM
To: INFORMATION.LAW
Subject: Re: FOI 24465 Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act) [DLM=For-Official-Use-Only]

Follow Up Flag: Follow up
Flag Status: Completed

Dear INFORMATION.LAW,

I don't have enough information from what you have provided to assess whether an extension would be reasonable, or even whether the time frame sought is reasonable.

You have basically just inferred you haven't done any work to date on this FOI, but now realising the due date is coming up, want to treat the FOI as if it was made next week, instead of nearly a month ago.

Whether this is actually true or not, I have no information to determine either way.

I do note that the Information Commissioner has previously determined that if an agency's mismanagement or failure to adequately resource its FOI functions had caused a delay, the FOI applicant should not be penalised for it (because it's not their fault).

While I would consider agreeing to a reasonable extension, I have no information before me from DVA to assess what is reasonable in the circumstances (which may be 30 days or something lesser or not at all).

I am also concerned that despite citing a higher FOI workload, it seems that many people are being told they will have ongoing delays to their FOI by DVA at the moment, so it is unclear what DVA is actually working on right now that is causing these delays (especially if everyone is getting these delay notices).

So, as I do not want to treat you unfairly by just making a decision on very limited information from you, can you please advise the following before Oct 3:

- * What work to date has already taken place on this FOI?
- * What timetable of steps can DVA outline for this FOI if the extension is granted (maybe I can save you some time by letting you know what's not necessary)?
- * Will DVA agree not to make any charges notices or not to refuse to release anything, if the extension is agreed (there is not much point giving extra time if you have no intent to provide access)?
- * Can you provide some transparency about this higher workload? Is it due to more FOIs, or higher priority FOIs, or staff absences or some other factor (and was there a reason DVA did not foresee it)?

I look forward to your response, which will hopefully provide the missing detail necessary to make an informed and fair decision on your application.

Yours sincerely,

Julie

-----Original Message-----

Dear Julie,

Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act)

FOI 24465

A decision is due on your request by 12 October 2018.

Unfortunately, the Department will be unable to finalise your request by this date due to a large competing case load. While it is our goal to process your request as soon as practicable, we would be grateful if you would agree to a 30 day extension of time to process your request under section 15AA of the FOI Act. If you are agreeable to the extension, the revised due date for the decision will be 11 November 2018.

Please advise whether you agree to the extension of time by 5 October 2018.

If you agree to an extension, we will advise the Office of the Australian Information Commissioner (OAIC) of the extension. As part of this, the Department will provide your name and email address in case the OAIC needs to contact you in about your FOI request.

If you have any questions about your FOI matter, please contact us using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs

GPO Box 9998, Canberra ACT 2601

Facsimile: (02) 6289 6337

Email: [1][email address]

Kind regards,

Information Law Team

Information Law | Legal Services & Assurance Branch

Department of Veterans' Affairs

Gnabra House – 21 Genge Street Canberra City ACT 2601 | GPO Box 9998 Canberra ACT 2601

E: [2][email address]

[3]cid:image001.png@01D0027A.1DAB84F0

Please use this email address for all replies to this request:
foi+request-4803-7dcd2b85@righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

s 22

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 12:08 PM
To: s 47E(c) & (d) Maarten
Cc: CLIENTS.BENEFITS.DIV.COORD
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Importance: High

Good morning Maarten,

Just following up on the below emails. Grateful if you could advise the status of your response to this FOI search request please.

Thank you.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) | desk S6.11.3

From: INFORMATION.LAW
Sent: Wednesday, 26 September 2018 9:57 AM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good morning,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

I am sending through a follow up email to find out how you are going in locating documents in response to the below search request for this FOI matter?

Please feel free to contact me if you have any questions.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) | desk S6.11.3

From: s 47E(c) & (d) Sue On Behalf Of CLIENTS.BENEFITS.DIV.COORD
Sent: Thursday, 20 September 2018 12:09 PM
To: s 47E(c) & (d) Maarten

From: Julie <foi+request-4803-7dcd2b85@righttoknow.org.au>
Sent: Wednesday, 3 October 2018 12:43 PM
To: INFORMATION.LAW
Subject: Re: FOI 24465 Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act) [DLM=For-Official-Use-Only]

Dear INFORMATION.LAW,

So, to summarise your carbon copy response (which is the same response given to all the FOIs of mine you have delayed, despite them being on very different topics and even different in scope capture and even different application dates):

^ Despite, according to Prime Minister and Cabinet guidelines someone else posted here on Right to Know, agencies commit no more than 2 calendar days to the conducting searches phases (and then only up to a maximum of one hour of staff time), the DVA has only just started this step and has yet to complete it (I note the DVA did not state when it first conducted these searches, nor state when they would be completed, despite the DVA being aware there is a hard limit on the time the DVA will conduct such searches);

^ Despite that the DVA has not completed any steps, even though the 30 day s 15(5)(b) deadline has almost expired, the DVA has not and will not commit nor consider what time it will commit to completing all the FOI steps by (which is concerning given the DVA has hard limits as to how much time it will spend on any FOI step, and should be planning and managing FOIs, not asserting that they are treated as ad hoc by the DVA's specialised FOI staff);

The DVA may cause further delay by issuing a very late practical refusal, or very late charges notice, or very late intent to refuse access decision, all which will extend this FOI by months (possibly years if it goes to IC Review).

It is concerning that, having failed to substantiate any reasonable grounds for the initial failure to handle this FOI in accordance with the statutory obligations, that the DVA has just sat on the FOI for the vast majority of the s 15(5)(b) statutory period, to create delay. That is inconsistent with the aims and objects of the Freedom of Information Act.

It is also concerning that the 30 day extension sought, was not based on any reasonable need assessment, but rather to just claim the maximum extension possible (again inconsistent with the aims and objects of the Act).

You have not provided me with any substantive evidence that would justify that they delays caused were due to factors outside your control, to support extension. There is a worrying lack of transparency here, especially when the DVA has sought extensions to all my FOIs, regardless of simplicity or narrowness of scope.

I do note however that there remains another 8 business days before the s 15(5)(b) statutory deadline expires and that according to the Prime Minister and Cabinet guidance, this is ample time to complete a number of steps (including assessment).

If the DVA can update me on the progress it has made by COB Tuesday 9 October 2018, and if there has been substantive progress made, I will consider an extension at that time.

It is still something of a concern however, that the DVA is processing FOIs in an ad hoc haphazard way (which is the most generous and positive interpretation you can put on in), instead of planning and managing them professionally and competently in line with the aims, objects and purposes of the FOI Act and the various directives and guidelines that apply.

Yours sincerely,

Julie

-----Original Message-----

Good morning Julie,

Thank you for your replies.

The Department has undertaken steps to process your request, including search requests to identify the documents you have sought access to. The Information Law Section is following up the results of those searches. We are unable to provide you with a timetable as such, but can advise that once the documents are identified and received, this section will need to review the material and then ultimately make a decision on your request. As the documents have not yet been received by this section, we cannot advise at this stage how voluminous it may be. The Department is unable to agree that a charges notice will not be applied nor can we provide an undertaking that full access will be provided in lieu of you agreeing to an extension of time.

Although we have asked for an extension of 30 days, we would welcome any extension you are agreeable with.

Kind Regards,

Information Law Team
Department of Veterans' Affairs
E: [email address] | W: www.dva.gov.au

Please use this email address for all replies to this request:
foi+request-4803-7dcd2b85@righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

s 22

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 12:48 PM
To: INFORMATION.LAW
Cc: CLIENTS.BENEFITS.DIV.COORD; Douglas-Robertson, David
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi

This is going to be a big job which we are not resourced to provide. The RaCER DVA team comprises a part time business lead (myself) and full time IBM Cognos report writer and technical support (both contractors and on a limited budget).

I estimate this request will require at least 30 hours to fully obtain all information – contractor cost to department of \$4,500, plus diversion of scarce resources at a crucial period of time in the project.

Can we negotiate with Julie to receive a briefing and provide key business requirements documents which is much more likely to meet her information needs, rather than Fol.

Regards

Maarten

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 12:08 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Importance: High

Good morning Maarten,

Just following up on the below emails. Grateful if you could advise the status of your response to this FOI search request please.

Thank you.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) | desk S6.11.3

From: INFORMATION.LAW
Sent: Wednesday, 26 September 2018 9:57 AM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 2:37 PM
To: s 47E(c) & (d) Maarten
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten,

Thank you. I will send Julie an email providing that clarification below and also ask if she is willing to revise the scope to the key documents being:

- the RaCER business requirements;
- occasional 'newsletters' to business (three to date); and
- meeting minutes and papers, which include the above (14 meetings to date).

Our previous FOI decisions have been to refuse access to executive board minutes, but we haven't necessarily looked at papers tabled etc. As such, we would be relying on you to provide enough information surrounding the sensitive and determine if that material were to be released. We can discuss this, if the scope is revised.

We will also advise here that to identify and assess surrounding SES material will require an assessment in excess of 100 documents and could result in a diversion of resources decision.

We will let you know if she revises the request.

Thank you,

Kind Regards,
 Leia

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 1:11 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Leia

The key documents would be:

- the RaCER business requirements (with sample reports in attachments redacted due to client confidentiality) – 1 hours work
- occasional 'newsletters' to business (three to date)
- minutes of board meetings and papers tabled, which include the above (14 meetings to date) – 10 hours to compile and review

If we include emails to and from SES, there would be at least 100 of these mostly dealing with the administrivia of getting project up and keeping it going. Each would need to be scanned for confidentiality issues. (20 hours to compile and review as not all emails would be in a single location).

I think also Julie may have misinterpreted RaCER as a “*new claims performance management system*” when it a performance reporting system. As such RaCER provides data for performance management rather than take on the role itself.

Regards

Maarten

From: INFORMATION.LAW

Sent: Wednesday, 3 October 2018 12:54 PM

To: s 47E(c) & (d), Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>

Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>; s 47E(c) & (d), David <David.s 47E(c) & (d)@dva.gov.au>

Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten,

I will raise the possibility with the applicant, how many documents would that encompass?

If the applicant does not agree, I could seek an extension of time to process the request through the Office of the Australian Information Commissioner (for a further 30 days), but will need a little more information to illustrate how voluminous and/or complex the task is. I will also need to know whether there are likely to be any sensitivities with releasing the information. We will be unable to refuse the request on a diversion of resources issue unless the work involved well exceeds 40 hours.

If at all possible, I could present a list of the available documents to the applicant as she has indicated she could revise the scope by specifically identifying which ones from the list she would like access to.

Happy to discuss.

Kind Regards,
Leia

From: s 47E(c) & (d), Maarten

Sent: Wednesday, 3 October 2018 12:48 PM

To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>

Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>; s 47E(c) & (d), David <David.s 47E(c) & (d)@dva.gov.au>

Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi

This is going to be a big job which we are not resourced to provide. The RaCER DVA team comprises a part time business lead (myself) and full time IBM Cognos report writer and technical support (both contractors and on a limited budget).

I estimate this request will require at least 30 hours to fully obtain all information – contractor cost to department of \$4,500, plus diversion of scarce resources at a crucial period of time in the project.

Can we negotiate with Julie to receive a briefing and provide key business requirements documents which is much more likely to meet her information needs, rather than Fol.

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 2:47 PM
To: 'foi+request-4803-7dcd2b85@righttoknow.org.au'
Subject: FOI 24465 - Request to revise scope of the request [DLM=For-Official-Use-Only]

Good afternoon Julie,

FOI 24465 - Request to revise the scope of your request

We have received advice from the relevant business area that there are in excess of 100 documents potentially within scope of your request, with most of those documents relating to emails across the SES. As such, we would like to know if you would be willing to revise the scope of your request to the key documents which have been identified as:

- the RaCER business requirements;
- occasional 'newsletters' to business (three to date); and
- meeting minutes and papers, which include the above (14 meetings to date).

The business area wanted to note that there may be a misconception that RaCER is a "new claims performance management system"; with advice being that it is rather a "performance reporting system". As such RaCER provides data for performance management rather than take on the role itself.

We would be grateful if you could advise whether you agree to the revised scope.

Kind Regards,

Information Law Team
 Department of Veterans' Affairs
 E: informationlaw@dva.gov.au | W: www.dva.gov.au

-----Original Message-----

From: Julie [<mailto:foi+request-4803-7dcd2b85@righttoknow.org.au>]
 Sent: Wednesday, 12 September 2018 1:18 PM
 To: FOI <FOI@dva.gov.au>
 Subject: Freedom of Information request - Documents about RACER [TO BE CLASSIFIED]

Dear Department of Veterans' Affairs,

It occurred to me that understanding a bit more about RACER, DVA's new claims performance management system would assist me to better understand DVA's new veteran centric policies, especially given it is a system introduced as part of those 'reform' policies.

I therefore seek under FOI any document sent or received by any DVA SES level officer (just to reduce the scope, as otherwise it might unreasonably catch too many documents about inane and irrelevant things), whether by email or other method of passing, about RACER, from today back until 12 September 2017.

If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RACER, and if that still exceeds 50 documents, can you please compile a list of said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50).

Yours faithfully,

Julie

Please use this email address for all replies to this request:
foi+request-4803-7dcd2b85@righttoknow.org.au

Is foi@dva.gov.au the wrong address for Freedom of Information requests to Department of Veterans' Affairs? If so, please contact us using this form:
https://www.righttoknow.org.au/change_request/new?body=dva

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

s 22

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 5:28 PM
To: INFORMATION.LAW
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Leia

I think that makes the project more manageable. As mentioned, I have compiled the documentation. I will review the documentation for sensitivity. I should have this to you by Monday.

I am concerned that Julie has a misconception of what RaCER is and the stage of development. We are in the process of release 3.0, there are two more major stages in Feb and March next year. So it is a work in progress.

You should also refer this request to the Portfolio Project Unit as it may have records of the July 2017 Executive Management Board meeting which approved the RaCER project (the business case which went to the Board will be in the papers). There was no Ministerial or Secretary decision-making or briefing outside of the EMB process.

Regards

Maarten s 47E(c) & (d)
Business Analyst - RaCER
Departmental Management Information System (DMIS) Development and Support Section
Data, Informatics and Research Branch
External Stakeholder and Government Relations Division
Email: [maarten.s 47E\(c\) & \(d\)@dva.gov.au](mailto:maarten.s 47E(c) & (d)@dva.gov.au)
Tel: 02 s 47E(c) & (d) (do not use as I am "hot desking" or working from home)
Mob: s 47E(c) & (d) (preferred)

In the office on Tuesday and Thursday

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 4:01 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten,

The applicant has responded by advising:

"...Without requiring a detailed schedule to be created, I would refer you back to the FOI scope as made, which stated:

If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RaCER, and if that still exceeds 50 documents, can you please compile a list of said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50).

It is likely many of the emails referred to mention RaCER coincidentally but are actually discussing something else, and therefore falls out of scope.

The scope is particularly targeted towards documents (in whatever format) that explain the purposes and functions of RaCER and it's capabilities, rather than just general references or coincidental inclusion.

As a new system there would have been a brief to the Minister and one to the Secretary of the Department too, about RaCER and what it hoped to achieve.

The context within which RaCER was mentioned in all these documents identified would be quickly evident from a five second skim of the document involved.

As I placed a hard limit of no more than 50 documents on my FOI request, I recommend that those documents the search has returned be whittled down in accordance with the following priority:

- * Documents that are not emails, but that are Briefs or Minutes, which only discuss RaCER (and no other topic);*
- * Other documents that are not emails, which only discuss RaCER (and no other topic);*
- * Emails that only include attachments, where at least one attachment only discusses RaCER (all other parts of the email and attachments can be excluded from consideration as irrelevant)*

If there are still less than 50 documents after that, any email without attachments which only discusses RaCER may also be included, up to the cap of 50 documents.

Duplicates of documents or attachments can be excluded, so to any draft documents or preliminary working papers..."

Can you please advise based on the above, whether those SES emails you identified are in fact, within scope of the request or if they can essentially be excluded from scope based on the above?

Kind Regards,
Leia

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 2:45 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Thanks Leia

I have compiled all documentation in the three dot points. I will review for sensitivity once you have a response from Julie.

Cheers

Maarten

From: s 47E(c) & (d) Maarten
Sent: Thursday, 4 October 2018 8:21 AM
To: s 47E(c) & (d) Michelle
Cc: Binu s 47E(c) & (d) (binu.s 47E(c) & (d)@humanservices.gov.au); s 47E(c) & (d) David; INFORMATION.LAW; s 47E(c) & (d) Peter
Subject: RaCER FoI [DLM=For-Official-Use-Only]
Attachments: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]; ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]; FoI RaCER foundation documents.png; FoI RaCER PMB meetings.png

Hi Michelle

I thought I should bring you up to date with the FoI request sent to me last week, but overlooked in the pressure of user testing of release 3.0. I mistook the initial request for a bit of DVA gumph which fills my inbox.

You will note that following further negotiation with the requestor, the scope has been refined to foundation documents and executive (to/from) communication in the Project Management Board context and more senior.

I have asked the FoI area to contact DVA's project management area for minutes relating to the July 2017 Executive Management Board meeting which approved the RaCER project (Peter – please note). I do not have access to any other communication at executive level in the establishment of the project. Neither do I have access to any communication between your position and the Senior Responsible Officer or with the Executive Management Board on progress. There obviously has been some, given Tony s 47E(c) & (d)'s comments to the July PMB that the EMB had commented on RaCER's progress and proposed timeline. I consider that any communication associated with both the establishment and subsequent progress of RaCER at this level would also fall within the FoI request.

From a project perspective, I have compiled foundation documents and PMB papers and will review these over the next few days for sensitivity and client confidentiality. I propose to either annotate where inserts have been deleted (this is the case in the business requirements document where excel spreadsheets included client details) and strike through and highlight any other sensitive matter. As this FoI relates to a project in your purview, I consider that you or a delegate should make the final decision on redaction in project papers. As such, I will forward documents to you by start of business Monday (8/10) for your area's action. Attached are screen shots of foundation documents and PMB folders.

This project is likely to absorb about ten hours of my time, which, at this juncture of RaCER releases, is somewhat untimely.

Regards

Maarten s 47E(c) & (d)
 Business Analyst - RaCER
 Departmental Management Information System (DMIS) Development and Support Section
 Data, Informatics and Research Branch
 External Stakeholder and Government Relations Division
 Email: maarten.s 47E(c) & (d)@dva.gov.au
 Tel: s 47E(c) & (d) (do not use as I am "hot desking" or working from home)
 Mob: s 47E(c) & (d) (preferred)

In the office on Tuesday and Thursday

From: INFORMATION.LAW
Sent: Thursday, 4 October 2018 8:52 AM
To: s 47E(c) & (d) Maarten
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maaten,

Thank you for the below and also the other email that I saw this morning. We have already highlighted the potential misconception and the email I sent you yesterday is the response the applicant sent through. We also already have a copy of the July 17 EMB minutes as the same FOI applicant for this matter had already requested EMB minutes from the 16/17 Financial Year. In that decision, we refused access to all minutes.

We will wait to hear back from you regarding the documents you have and also any additional ones that arise, noting that the applicant is restricting the request to be for 50 or less documents (within the terms specified below).

Thank you for your assistance. I do apologise for any inconvenience this task may be causing, as I understand you have other urgent priorities regarding RaCER at the moment. Unfortunately, the applicant did not agree to our request for an extension of time (advising we did not provide sufficient justification that more time was required). However, if we can demonstrate that the request is either voluminous or complex, we could seek an extension of time by up to 30 additional days through the OAIC. To do so, we will need some words to justify that it is in fact complex and/or voluminous (which can include reviewing and assessing documents). Perhaps we will be in a better position to know if this is needed once the other documents are identified. I suggest holding off assessment and advising us of your proposed redactions and sensitivities until all documents are identified. Based on the volume of material, we can look at obtaining the extension of time which should then give you more time to scatter this task so that it does not adversely impact on your other priorities.

If you have any questions please do not hesitate to contact me.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) desk S6.11.3

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 5:28 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Leia

I think that makes the project more manageable. As mentioned, I have compiled the documentation. I will review the documentation for sensitivity. I should have this to you by Monday.

I am concerned that Julie has a misconception of what RaCER is and the stage of development. We are in the process of release 3.0, there are two more major stages in Feb and March next year. So it is a work in progress.

s 22

From: INFORMATION.LAW
Sent: Friday, 12 October 2018 3:21 PM
To: 'foi+request-4803-7dcd2b85@righttoknow.org.au'
Subject: RE: FOI 24465 - Request to revise scope of the request [DLM=For-Official-Use-Only]

Good afternoon Julie,

FOI 24465 - Notice of extension request

Further to the below and previous emails, we would like to inform you that we will be seeking an extension of time in accordance with section 15AB with the Office of the Australian Information Commissioner (OAIC) to process your request. For your information, the Department will seek an extension of 30 days, but will aim to finalise the request prior to that timeframe if possible.

As you aware, earlier this month the Department identified a high number of documents relevant to your request and the Department engaged with you to see if the scope could be revised. You asked for a list of those documents to be provided so that you can refine to a maximum of 50 documents. The Department is in the process of putting the list together, but will need more time to consult with you on the final scope and to then assess those documents for release.

It has taken time to source documents subject to your FOI as your request came at a time that is crucial to the RaCER project and resources had to be subsequently diverted to undertake relevant searches.

The terms of our request will be based on the above. As part of this process, your name and email will be provided to the OAIC.

Kind Regards,

Information Law Section | Legal Services and General Counsel Branch Legal Assurance and Governance Division
Department of Veterans' Affairs
E: information.law@dva.gov.au | W: www.dva.gov.au

-----Original Message-----

From: Julie [<mailto:foi+request-4803-7dcd2b85@righttoknow.org.au>]
Sent: Wednesday, 10 October 2018 5:56 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: Re: FOI 24465 - Request to revise scope of the request [DLM=For-Official-Use-Only]

Dear INFORMATION.LAW,

Have you secretly applied for a s 15AB extension here too? If so, please stop being unethical, and provide me with a copy, so that I can exercise my right to be heard before any decision is made.

Yours sincerely,

Julie

-----Original Message-----

Good afternoon Julie,

FOI 24465 - Request to revise the scope of your request

We have received advice from the relevant business area that there are in excess of 100 documents potentially within scope of your request, with most of those documents relating to emails across the SES. As such, we would like to know if you would be willing to revise the scope of your request to the key documents which have been identified as:

- the RaCER business requirements;
- occasional 'newsletters' to business (three to date); and
- meeting minutes and papers, which include the above (14 meetings to date).

The business area wanted to note that there may be a misconception that RaCER is a "new claims performance management system"; with advice being that it is rather a "performance reporting system". As such RaCER provides data for performance management rather than take on the role itself.

We would be grateful if you could advise whether you agree to the revised scope.

Kind Regards,

Information Law Team
Department of Veterans' Affairs
E: [email address] | W: www.dva.gov.au

Please use this email address for all replies to this request:
foi+request-4803-7dcd2b85@righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

From: INFORMATION.LAW
Sent: Monday, 17 September 2018 2:18 PM
To: 'foi+request-4803-7dcd2b85@righttoknow.org.au'
Cc: INFORMATION.LAW
Subject: Acknowledgement of FOI Request – FOI 24465 [DLM=For-Official-Use-Only]

Dear Julie,

Acknowledgement of FOI Request – FOI 24465

I refer to your request to access information held by our Department under the *Freedom of Information Act 1982* (FOI Act). The Department received your request on 12 September 2018. In accordance with section 15(5)(b) of the FOI Act, the Department has 30 days to process your request. As such, a decision on your request is due by 12 October 2018.

If you have any questions about your FOI matter, please contact us using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

In all communications please quote reference **FOI 24465**.

Kind Regards,

Information Law Team

Department of Veterans' Affairs
GPO Box 9998 Canberra ACT 2601
E: informationlaw@dva.gov.au



From: INFORMATION.LAW
Sent: Monday, 17 September 2018 2:29 PM
To: CLIENTS.BENEFITS.DIV.COORD
Cc: INFORMATION.LAW
Subject: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Attachments: Document Schedule where more than 10 documents are identified.docx

Good afternoon,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

On 12 September 2018, the Department received a request for documents under the *Freedom of Information Act 1982* (FOI Act) from Julie via Right to Know. A decision on this request is due by the Department no later than COB 12 October 2018. Details of the FOI request are below.

Requested action

As it is the responsibility of line areas to conduct searches for potentially relevant documents, we would be grateful if you could undertake searches for relevant documents and provide them to Information Law at informationlaw@dva.gov.au by **COB 25 September 2018**.

Please note that line areas are required to provide relevant documents to Information Law even if the line area is of the view that the documents should not be released. When responding, please advise of any concerns or sensitives you have about releasing the information in the table below.

If you believe the searches would best sit within a different line area please let us know as soon as possible so this request can be forwarded on for action.

Details of the FOI request & request input by line area

We would appreciate you completing the yellow portions of the below table and return it when responding to this request.

FOI applicant and details of the FOI request	
Applicant name:	Julie
UIN:	N/A
Julie has sought access to: <i>"....It occurred to me that understanding a bit more about RACER, DVA's new claims performance management system would assist me to better understand DVA's new veteran centric policies, especially given it is a system introduced as part of those 'reform' policies.</i> <i>I therefore seek under FOI any document sent or received by any DVA SES level officer (just to reduce the scope, as otherwise it might unreasonably catch too many documents about inane and irrelevant things), whether by email or other method of passing, about RACER, from today back until 12 September 2017.</i> <i>If that exceeds more than 50 documents, please exclude any document which also mentions or refers to anything not about RACER, and if that still exceeds 50 documents, can you please compile a list of</i>	

said documents (with page count for each document) and I will tell you which ones I want from the list (up to a total of 50)...."

Action/information required	Details/response
<p>Time spent on this request</p> <p>DVA is required to report annually on the time spent by all DVA staff responding to FOI matters. To assist capturing this information please advise how much time was spent by staff to respond to this search request.</p>	<p><i>(e.g. APS6 spent 2 hours to search and provide documents to Information Law)</i></p>
<p>Searches undertaken</p> <p>Please indicate which systems were searched to identify relevant documents and the results of those searches.</p> <p>*Systems include Y-drive, outlook, TRIM, PDMS, VIEW, hard copies and any other systems your line area has access.</p>	<p><i>(e.g. Search of TRIM identified relevant documents (details below). Further searches were undertaken in outlook and no documents could be found)</i></p>
<p>Documents identified</p> <p>Please advise total number of documents identified that fall within scope of the request detailed above.</p> <p>Where documents total more than 10, please use the attached table to insert details of those documents. If this applies, in the column to the right, please indicate the source of the documents only (e.g. TRIM file 123ABC etc).</p> <p>*Please remember to attach all relevant documents when responding to this request.</p>	<p><i>(e.g.</i></p> <ul style="list-style-type: none"> <i>• TRIM file 123ABC – 10 documents – emails</i> <i>• Y-drive – Folder 456DEF – 5 documents – draft and finalised letters)</i>
<p>Sensitivities or concerns about releasing the documents</p> <p>Please advise Information Law of any concerns you have about releasing the document(s) under the FOI Act. Where concerns are raised, we would appreciate some context to support your concerns.</p> <p>Line areas are the subject matter experts in their respective areas. The Information Law team may need to rely on line areas to assist forming justifications to refuse access to documents. This may include seeking more information about the context in which documents were received, created or provided to other individuals or organisations. Based on the information you provide, the Information Law team will be better placed to determine whether justifications exist under the FOI Act to refuse access to the document(s).</p>	<p><i>(e.g The paper dated 1/1/2020 contains legal advice. It was drafted for the sole purpose of responding to a claim in the AAT) OR (e.g. The information in document X is not usually released to the public because XYZ..... If this information were released it could cause harm because/reveal information that is ...etc)</i></p>

If you have any concerns please call or email the Information Law team to discuss the request and/or documents further.	
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We appreciate your assistance with this request. If you have any questions please do not hesitate to contact us to discuss.

Kind Regards,

Information Law Team

Amy b 47 c(1) & (2)

Information Access Assistant

Information Law | Legal Services & Assurance Branch

Department of Veterans' Affairs

Gnabra House – 21 Genge Street Canberra City ACT 2601 | GPO Box 9998 Canberra ACT 2601

E: informationlaw@dva.gov.au

Please note I work part-time: Monday, Wednesday & Thursday.



From: s 47E(c) & (d) Sue on behalf of CLIENTS.BENEFITS.DIV.COORD
Sent: Thursday, 20 September 2018 12:09 PM
To: s 47E(c) & (d) Maarten
Cc: INFORMATION.LAW
Subject: FW: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Attachments: Document Schedule where more than 10 documents are identified.docx

Hi Maarten

I discussed this request with Michelle Glanville, A/g AS Business Improvement and Support Branch, who advised that this FOI request should be referred to you to consider and action.

Can you please confirm that you will take carriage of this request.

Thanks

Sue

Sue s 47E(c) & (d)
A/g Director Division Coordination Unit
Clients' Benefits Division
Department of Veterans' Affairs (DVA)
T. s 47E(c) & (d) (Ext: s 47E(c) & (d))

From: INFORMATION.LAW
Sent: Monday, 17 September 2018 2:29 PM
To: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>
Cc: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good afternoon,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

On 12 September 2018, the Department received a request for documents under the *Freedom of Information Act 1982* (FOI Act) from Julie via Right to Know. A decision on this request is due by the Department no later than COB 12 October 2018. Details of the FOI request are below.

Requested action

As it is the responsibility of line areas to conduct searches for potentially relevant documents, we would be grateful if you could undertake searches for relevant documents and provide them to Information Law at informationlaw@dva.gov.au by **COB 25 September 2018**.

Please note that line areas are required to provide relevant documents to Information Law even if the line area is of the view that the documents should not be released. When responding, please advise of any concerns or sensitives you have about releasing the information in the table below.

From: INFORMATION.LAW
Sent: Wednesday, 26 September 2018 9:57 AM
To: s 47E(c) & (d) Maarten
Cc: CLIENTS.BENEFITS.DIV.COORD
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Good morning,

Re: Search request for documents related to FOI 24465 JULIE (Right to Know)

I am sending through a follow up email to find out how you are going in locating documents in response to the below search request for this FOI matter?

Please feel free to contact me if you have any questions.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) | desk S6.11.3

From: s 47E(c) & (d) Sue On Behalf Of CLIENTS.BENEFITS.DIV.COORD
Sent: Thursday, 20 September 2018 12:09 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Subject: FW: Search request for documents related to FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten

I discussed this request with Michelle Glanville, A/g AS Business Improvement and Support Branch, who advised that this FOI request should be referred to you to consider and action.

Can you please confirm that you will take carriage of this request.

Thanks

Sue
Sue s 47E(c) & (d)
A/g Director Division Coordination Unit
Clients' Benefits Division
Department of Veterans' Affairs (DVA)
T. s 47E(c) & (d) (Ext: s 47E(c) & (d))

From: INFORMATION.LAW
Sent: Monday, 17 September 2018 2:29 PM
To: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>

From: INFORMATION.LAW
Sent: Thursday, 27 September 2018 5:03 PM
To: 'foi+request-4803-7dcd2b85@righttoknow.org.au'
Cc: INFORMATION.LAW
Subject: FOI 24465 Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act) [DLM=For-Official-Use-Only]

Dear Julie,

Request for Extension of time under s15AA of the *Freedom of Information Act 1982* (FOI Act)

FOI 24465

A decision is due on your request by 12 October 2018.

Unfortunately, the Department will be unable to finalise your request by this date due to a large competing case load. While it is our goal to process your request as soon as practicable, we would be grateful if you would agree to a 30 day extension of time to process your request under section 15AA of the FOI Act. If you are agreeable to the extension, the revised due date for the decision will be 11 November 2018.

Please advise whether you agree to the extension of time by 5 October 2018.

If you agree to an extension, we will advise the Office of the Australian Information Commissioner (OAIC) of the extension. As part of this, the Department will provide your name and email address in case the OAIC needs to contact you in about your FOI request.

If you have any questions about your FOI matter, please contact us using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

Kind regards,

Information Law Team

Information Law | Legal Services & Assurance Branch
Department of Veterans' Affairs
Gnabra House – 21 Genge Street Canberra City ACT 2601 | GPO Box 9998 Canberra ACT 2601
E: informationlaw@dva.gov.au



s 22

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 12:13 PM
To: INFORMATION.LAW
Cc: CLIENTS.BENEFITS.DIV.COORD
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

My apologies, I do not recall seeing this message previously. I will look into this now.

Regards

Maarten s 47E(c) & (d)
Business Analyst - RaCER
Departmental Management Information System (DMIS) Development and Support Section
Data, Informatics and Research Branch
External Stakeholder and Government Relations Division
Email: maarten.s 47E(c) & (d)@dva.gov.au
Tel: s 47E(c) & (d) (do not use as I am "hot desking" or working from home)
Mob: s 47E(c) & (d) (preferred)

In the office on Tuesday and Thursday

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 12:08 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>
Subject: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]
Importance: High

Good morning Maarten,

Just following up on the below emails. Grateful if you could advise the status of your response to this FOI search request please.

Thank you.

Kind Regards,

Leia
Assistant Director
Information Law | Legal Services & Assurance | Canberra
ext s 47E(c) & (d) | desk S6.11.3

From: INFORMATION.LAW
Sent: Wednesday, 26 September 2018 9:57 AM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>

s 22

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 12:54 PM
To: s 47E(c) & (d) Maarten
Cc: CLIENTS.BENEFITS.DIV.COORD; s 47E(c) & (d) David
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten,

I will raise the possibility with the applicant, how many documents would that encompass?

If the applicant does not agree, I could seek an extension of time to process the request through the Office of the Australian Information Commissioner (for a further 30 days), but will need a little more information to illustrate how voluminous and/or complex the task is. I will also need to know whether there are likely to be any sensitivities with releasing the information. We will be unable to refuse the request on a diversion of resources issue unless the work involved well exceeds 40 hours.

If at all possible, I could present a list of the available documents to the applicant as she has indicated she could revise the scope by specifically identifying which ones from the list she would like access to.

Happy to discuss.

Kind Regards,
Leia

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 12:48 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>
Cc: CLIENTS.BENEFITS.DIV.COORD <CLIENTS.BENEFITS.DIV.COORD@dva.gov.au>; s 47E(c) & (d) David <David.s 47E(c) & (d)@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi
This is going to be a big job which we are not resourced to provide. The RaCER DVA team comprises a part time business lead (myself) and full time IBM Cognos report writer and technical support (both contractors and on a limited budget).

I estimate this request will require at least 30 hours to fully obtain all information – contractor cost to department of \$4,500, plus diversion of scarce resources at a crucial period of time in the project.

Can we negotiate with Julie to receive a briefing and provide key business requirements documents which is much more likely to meet her information needs, rather than FoI.

Regards

Maarten

s 22

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 2:45 PM
To: INFORMATION.LAW
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Thanks Leia

I have compiled all documentation in the three dot points. I will review for sensitivity once you have a response from Julie.

Cheers

Maarten

From: INFORMATION.LAW
Sent: Wednesday, 3 October 2018 2:37 PM
To: s 47E(c) & (d) Maarten <Maarten.s 47E(c) & (d)@dva.gov.au>
Subject: RE: ***follow up on search request*** FOI 24465 JULIE (Right to Know) - Please provide by 25 Sept 2018 (or advise if this should be forwarded to another area to respond) [DLM=For-Official-Use-Only]

Hi Maarten,

Thank you. I will send Julie an email providing that clarification below and also ask if she is willing to revise the scope to the key documents being:

- the RaCER business requirements;
- occasional 'newsletters' to business (three to date); and
- meeting minutes and papers, which include the above (14 meetings to date).

Our previous FOI decisions have been to refuse access to executive board minutes, but we haven't necessarily looked at papers tabled etc. As such, we would be relying on you to provide enough information surrounding the sensitive and determine if that material were to be released. We can discuss this, if the scope is revised.

We will also advise here that to identify and assess surrounding SES material will require an assessment in excess of 100 documents and could result in a diversion of resources decision.

We will let you know if she revises the request.

Thank you,

Kind Regards,
Leia

From: s 47E(c) & (d) Maarten
Sent: Wednesday, 3 October 2018 1:11 PM
To: INFORMATION.LAW <INFORMATION.LAW@dva.gov.au>