



12 November 2018

Our reference: LEX 40217

Ms Melissa Sweet

Only by email: foi+request-4889-a1b4b44f@righttoknow.org.au

Dear Ms Sweet

Decision on your Freedom of Information Request

I refer to your request, dated 13 October 2018 and received by the Department of Human Services (**department**) on the same day, for access to documents under the *Freedom of Information Act 1982* (**FOI Act**) made in the following terms:

Could you please send through a copy of the latest contract and related reports, including workplans, between the Department and the Hunter New England Central Coast Primary Health Network.

My decision

I have decided to refuse your request for access under section 24A of the FOI Act on the basis that all reasonable steps have been taken to locate the documents you have requested and I am satisfied that they cannot be located or do not exist. Please see **Attachment A** for the reasons behind my decision.

You can ask for a review of our decision

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the department, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for reviews of decisions. See **Attachment B** for more information about how to arrange a review.

Further assistance

If you have any questions please email FOI.Legal.Team@humanservices.gov.au.

Yours sincerely

Ellen

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



Attachment A

REASONS FOR DECISION

What you requested

Could you please send through a copy of the latest contract and related reports, including workplans, between the Department and the Hunter New England Central Coast Primary Health Network.

What I took into account

In reaching my decision I took into account:

- your original request dated 13 October 2018
- consultations with departmental officers about:
 - the nature of the documents;
 - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**); and
- the FOI Act.

Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

Section 24A of the FOI Act

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

In looking to the scope of documents described in your FOI request, the department consulted with various medicare related branch areas within the department. Initial investigations indicated that the documents requested are not related to the functions of the department and would be more appropriately addressed by the Department of Health.

However, after consultation with the Department of Health, the department was unable to transfer your requests, as we understand that you have also made FOI requests to the Department of Health in similar terms.

After taking all reasonable steps to identify the documents described in your request, the department has determined that the documents cannot be located or do not exist.

In coming to this decision, the department conducted consultations with various medicare related branch areas within the department, specifically;

- The information in your request is not related to the work of the Health Support & Performance Branch or the Health Service Delivery Division. This division indicated that it was not aware of the department being involved in any contractual arrangements with the Hunter New England Central Coast Primary Health Network.
- The Health Programmes Division conducted searches of all drives and mailboxes in the Provider Eligibility and Accreditation Section of the Medicare and Veterans Branch. This division did not identify any documents matching the description in your request. Additionally, the Health Programmes Division noted that it was unaware of any contractual relations between the department and the Hunter New England Central Coast Primary Health Network.

On the basis of these consultations, I am satisfied that the department does not have contractual relations with the the Hunter New England Central Coast Primary Health Network. Consequently, the department has been unable to locate 'a copy of the latest contract and related reports, including workplans, between the Department and the Hunter New England Central Coast Primary Health Network.'

As such, in accordance with section 24A of the FOI Act I am satisfied that:

1. all reasonable steps have been taken to find the documents; and
2. the documents cannot be located or do not exist.



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a freedom of information (FOI) decision

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of an FOI decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in the Department of Human Services (the **department**); and/or
2. the Australian Information Commissioner.

Note 1: There are no fees for these reviews.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

Note 2: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the department within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: www.oaic.gov.au
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au

Note 3: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Department of Human Services' decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the department's decision.

Complaints to the Australian Information Commissioner and Commonwealth Ombudsman

Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act, There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.