

Our reference: CP18/02858
Your reference: ADHA FOI 1807018

FOI officer
The Australian Digital Health Agency
Sent by email: foi@digitalhealth.gov.au

Freedom of Information complaint – preliminary inquiries

Dear Sir/Madam

Ms Verity Pane has made an FOI complaint about the Australian Digital Health Agency (the ADHA) under the *Freedom of Information Act 1982* (the FOI Act). A copy of the complaint is attached.

I am conducting preliminary inquiries into the allegation under s 72 of the FOI Act. The purpose of these inquiries is to determine whether the Information Commissioner will open a formal investigation into the complaint.

Complainant's allegations

Ms Pane complains that the ADHA extended the timeframe under s 15(5)(b) without a valid basis.

Information sought by the Office

To assist with my inquiries, I would appreciate a response to Ms Pane's allegations **by 16 October**. In particular, please provide further information about the consultation conducted with third parties. Including:

- the details of the third parties consulted
- the basis on which the ADHA considered that consultation was required with the parties.

Once I have received and reviewed the response to my preliminary inquiries, I will contact you regarding the next steps of process.

Yours sincerely



Carl English

Assistant Review and Investigation Officer
Freedom of Information Dispute Resolution
4 October 2018

From: FOIDR
To: "xxx@xxxxxxxxxxxxxxx.xxx.xx"
Subject: CP18/02858 - Preliminary inquiries [SEC=UNCLASSIFIED]
Date: Tuesday, 9 October 2018 10:00:00 AM
Attachments: [Preliminary Inquiries - Re Complaint by Verity Pane.pdf](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Our reference: CP18/02858
Your reference: ADHA FOI 1807018

FOI officer

The Australian Digital Health Agency
Sent by email: ~~xxx~~

Freedom of Information complaint – preliminary inquiries

Dear Sir/Madam

Please find correspondence in relation to a complaint by Ms Verity Pane attached.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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Australian Government
Office of the Australian Information Commissioner

Our reference: CP18/02858

Your reference: ADHA FOI 1807018

FOI officer
The Australian Digital Health Agency
Sent by email: foi@digitalhealth.gov.au

Freedom of Information complaint – preliminary inquiries

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- the details of the third parties consulted
- the basis on which the ADHA considered that consultation was required with the parties.

Once I have received and reviewed the response to my preliminary inquiries, I will contact you regarding the next steps of process.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. English'.

Carl English
Assistant Review and Investigation Officer
Freedom of Information Dispute Resolution
9 October 2018

From: FOI
To: [FOIDR](#)
Cc: [FOI](#)
Subject: Complaint matters raised by Verity Pane
Date: Wednesday, 10 October 2018 3:36:23 PM
Attachments: [image003.jpg](#)

TO: Office of the Australian Information Commissioner
Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
- 2) On 21/09/2018 ADHA sent the applicant a decision in relation to FOI.1807018.
- 3) On 13/09/2018 the OAIC MR.18/02632 advised ADHA FOI.1809004 that Ms Pane had lodged a complaint about the handling of FOI.1807018.
- 4) The ADHA reply to MR.18/02632 is awaiting clearance within days.
- 5) The ADHA reply to MR.18/02632 will cover the matter raised in CP.18/02858 which derives from ADHA FOI.1807018.

Kind regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
Phone 02 6151 8653
Email xxx@xxxxxxxxxxxxx.xxx.xx
Web www.digitalhealth.gov.au

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From: [FOIDR](#)
To: "FOI"
Subject: RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]
Date: Thursday, 11 October 2018 2:36 00 PM
Attachments: [image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)

Dear John

Thank you for your email. I have noted your advice about the processing of these requests.

I have listed the current matters the about which the OAIC notified the ADHA, and for which responses are required.

Our reference	Your reference	Stage	Date ADHA not fied by OAIC	Action required by ADHA	Date action (was) required
CP18/02632	NA	Preliminary Inquiries	12 September 2018	Response to Pls.	26 September 2018
MR18/00692	TBC	Preliminary Inquiries	19 September 2018	Response to Pls/finalise request	26 September 2018
CP18/02858	1807018	Preliminary Inquiries	9 October 2018	Response to Pls	16 October 2018

I hope this assists.

Kind regards



Carl English | Assistant Review Officer
 Freedom of Information Dispute Resolution
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 +61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 10 October 2018 3:35 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: Complaint matters raised by Verity Pane

TO: Office of the Australian Information Commissioner
 Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
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Freedom of Information Officer (FOI)
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CP18/02858Yue, Vivian
13-Nov-2018 10:24 AM**Title**

Pane, Verity | ADHA - The Australian Digital Health Agency

Receipt Details

File Type:	FOI	Received Date:	26-Sep-2018 12:00 AM
Case Type:	To be Determined	Received By:	English, Carl
How Received:		Registered Date:	28-Sep-2018 2:18 PM
Owned By:	Triage - FOI	Registered By:	Triage - FOI

Case Details

Stage:	Triage
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	Pane, Verity
Case Respondent:	ADHA - The Australian Digital Health Agency
Privacy Case Type:	Primary
Assessor Note:	PIs due 16/10/18
Retention Class:	OAIC RA 61986 (D2)

Case Parties - 2

Complainant Client:	Pane, Verity
Respondent Client:	ADHA - The Australian Digital Health Agency

Summary

PIs due 16/10/18

Actions - 9 (5 Open, 4 Completed)

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	English, Carl	02-Oct-2018	28-Sep-2018
Move to Triage basket (FC REG)	English, Carl	01-Oct-2018	28-Sep-2018
Allocate to Triage Officer (FC TR)	Triage - FOI	01-Oct-2018	09-Oct-2018, English, Carl
Prepare Letter (Ad-Hoc)	Triage - FOI	11-Oct-2018	09-Oct-2018, English, Carl
Conduct Triage (FC TR)	Triage - FOI	10-Oct-2018	
Phone call - Respondent or Rep	Yue, Vivian	09-Nov-2018	

I called John on 02 6151 8653. I was advised that John has left the office since his last communication with us. There is a new officer who is attempting to understand the matters and there appears to be some confusion about the which reference number is associated with which matter and what remains outstanding. Noel (the new officer) will return my call and provide a date when a response will be

provided. I understand that Noel will return the call by COB 9/11/2018. Vivian, will follow this matter up on Monday if there is no contact by 9/11/18 with a response to the PI's. SW

File Note **Yue, Vivian** **09-Nov-2018**

Thanks Vivian This complaint is cross referenced to a review. Please follow up on the PI's as you complete the s 54Z notices. SW

Phone call - Respondent or Rep **Triage - FOI** **09-Nov-2018**

Kylie from Digital Health called me to advise that she is going through the material and will not be able to have a response back to the office by COB today. She has asked advised that she will respond by close of business 9/11/18. SW

Phone message - Respondent or Rep **English, Carl** **12-Nov-2018**

He will be in a position on Monday to provide a response to CP18/02858 PI's. He will communicate further with the agency next week when he is clear about what has happened during the processing period. SW

Documents - 6

Title	Date Added	By
s 70 FOI Act Referral - ADHA FOI 1807018 - agency self granted extension outside of s 26A 27 and 27A - ultra vires .msg	28-Sep-2018 2:18 PM	English, Carl
Preliminary Inquiries - Re Complaint by Verity Pane.docx	09-Oct-2018 9:02 AM	English, Carl
CP18/02858 - Preliminary inquiries [SEC=UNCLASSIFIED]	09-Oct-2018 10:00 AM	English, Carl
Complaint matters raised by Verity Pane	10-Oct-2018 3:34 PM	English, Carl
RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]	11-Oct-2018 2:36 PM	English, Carl
URGENT: Follow up with Sandra re Verity Pane cases [SEC=OFFICIAL]	08-Nov-2018 3:22 PM	Wavamunno, Sandra

Cross References - 1

Case	Comments
MR18/00724	

From: FOIDR
To: "xxxx@xxxxxxxxxxxxxx.xxx.xx"
Subject: MR18/00692 - IC review application [SEC=UNCLASSIFIED]
Date: Wednesday, 19 September 2018 9:36:00 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Application for IC review under s 54L\(2\)\(a\) - Australian Digital Health Agency.msg](#)

Our reference: MR18/00692

The FOI Contact Officer

Australian Digital Health Agency
Sent by email: xxx@xxxxxxxxxxxxxx.xxx.xx

Notice of request for IC review and Preliminary Inquiries under s 54V

Dear Sir/Madam

Ms Verity Pane has requested that the Information Commissioner review of a deemed decision by the Australian Digital Health Agency (the ADHA) of 12 August 2018, to refuse access to documents under the *Freedom of Information Act 1982* (Cth).

I attach a copy of the application for review.

Preliminary Inquiries (s 54V)

I note it appears that Ms Pane's FOI request is deemed to have been refused pursuant to s 15AC. However, the ADHA retains an obligation to provide Ms Pane with a substantive decision as soon as practicable.

Pursuant to s 54V, to assist the OAIC in progressing Ms Pane's IC review please provide:

- An explanation with regards to the present status of Ms Pane's request
- If the request is not yet finalised - an estimated date for its completion.
- If the ADHA has provided a statement of reasons to the applicant, please forward a copy to the OAIC.

Please provide a response to this email by close of business **26 September 2018**.

Yours sincerely



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: [Verity Pane](#)
To: [Enquiries](#)
Subject: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency
Date: Thursday, 13 September 2018 5:40:08 PM

Dear OAIC,

Strangely, despite referring the Australian Digital Health Agency (ADHA) to the OAIC earlier under s 70, for breaches of s 15(5)(a), the OAIC has failed to encourage the ADHA to meet its statutory obligations under the FOI Act, and now we have a new breach by the ADHA under s 15(5)(b), which has caused a Deemed Refusal to occur on the following FOI on Right to Know

https://www.righttoknow.org.au/request/foi_application_s_17_for_travel#outgoing-9426

As the OAIC has demonstrated it can response to s 15AB applications via Right to Know, in order to keep everything in the one place, I seek the OAIC to do likewise for this IC Review for s 15(5)(b) breach and direct all future correspondence on this matter via the above supplied Right to Know page.

I would also direct the OAIC to comply with its own Directive issued under section 55(2) (e)(i) of the Freedom of Information Act 1982, entitled 'Direction as to certain procedures to be followed in IC reviews', which in the other IC Review I have with you, you have failed to adhere to.

<https://www.oaic.gov.au/freedom-of-information/ic-review-procedure-direction/direction-as-to-certain-procedures-to-be-followed-in-ic-reviews>

Regards

Verity Pane

From: xxxx@xxxxxxxxxxxxxx.xx
To: FOIDR
Subject: [Request ID :##43948##] New Request Logged
Date: Wednesday, 19 September 2018 9:37:51 AM

Dear FOIDR,

Thank you for your enquiry titled: MR18/00692 - IC review application [SEC=UNCLASSIFIED].

Your request has been created with ID 43948. An Australian Digital Health Agency representative will be in contact with you shortly.

If you have any questions or require further information please don't hesitate to contact us at xxxx@xxxxxxxxxxxxxx.xx or on **1300 901 001**.

Kind regards,

Digital Health Help Centre
Australian Digital Health Agency
Level 25, 56 Pitt St
Sydney NSW 2000
Phone: 1300 901 001
Fax: 1300 909 115
help@digitalhealth.gov.au
www.digitalhealth.gov.au

Any personal information you provide to the Agency will be used by the Agency to assist us with responding to your enquiry. If we cannot resolve your enquiry, we may need to pass your information on to the Department of Human Services or Department of Health. If you do not wish your enquiry to be transferred to another entity, please let us know. For more information on the ways the Agency handle your personal information, how you can access and seek correction of the information, how privacy complaints can be made and how the Agency deals with such complaints, please see the [Agency Privacy Policy](#).

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From: Verity Pane

Delivered August 13, 2018

Dear Australian Digital Health Agency [[email address](#)] ,

I apply under FOI, specifically s 17, for a summary compilation from the Australian Digital Health Agency's (hereafter referred to as ADHA) financial information system records, of all official travel, official gift and official entertainment expenditure for both FY16/17 and FY17/18 (identified by FY), for all key management personnel (as defined by AASB 124) of ADHA, which as per previous election by ADHA, includes all ADHA board members, the CEO, and all EGMs (including ADHA Chief Medical Advisor).

The ADHA is a statutory agency under the Public Service Act 1999 and is a corporate Commonwealth entity in the General Government Sector under the Health portfolio. As such, it is required to be accountable and transparent in its use of Commonwealth resources that are derived from the taxpayer.

As at 30 June 2017, the Agency employed 247 staff, but only 15 persons are considered 'key management personnel'.

For the summary compilation, the CEO position is to have its expenditure information listed but the ADHA may report all other key management personnel expenditure as a group.

!Official travel is to be broken down as follows:

* Flights

Tier 1 flight expenditure - All First Class flight expenditure

Tier 2 flight expenditure - All Business Class flight expenditure

Tier 3 flight expenditure - All Economy Class flight expenditure

Where mixed classes of flight exist on the same expenditure, it is to be reported at the highest class of flight booking that occurred.

Any reunion travel or spouse accompanying travel at Commonwealth expense is to be separately identified, identifying the position that was granted that travel, and the tier it was booked at.

* Accommodation

Accommodation expenditure can be listed as a total, with the number of total nights of paid accommodation provided that it covered.

Any 'unavoidable' higher cost accommodation claims, that exceeded the specified upper limit of the Remuneration Authority tier applicable or limits set by the ADHA travel entitlements policy, is to be listed individually, identified by the position that claimed it.

Any reunion or separate spouse accompanying travel at Commonwealth expense is to be separately identified, identifying the position that was granted that travel, and the tier it was booked at.

* Car Hire/Taxi/Booked Car With Driver(BCWD)/Own Means

Car Hire/Taxi/Booked Car With Driver/Own Means expenditure can be listed as a total, split into the various categories. Car Hire and Taxi are self explanatory. BCWD is all limousine and chauffeur driven car services that aren't hailable taxis (BCWD requires booking, and cannot be hailed from the street). Own means is where an officer drives their own private vehicle and receives a payment at Commonwealth expense for this.

* Meals/Meals Allowance

All F&B expenditure and/or allowances received, which can be listed as a total along with the number of meals it covered.

Any 'additional meal' claims, as defined by the Remuneration Tribunal, are to be listed separately.

Any meal claim that exceeded the specified upper limit of the Remuneration Authority tier applicable or limits set by the ADHA travel entitlements policy, is to be listed individually, identified by the position that claimed it.

*Incidentals Allowance

All incidentals allowances paid and/or reimbursed may be reported as a total

!Official gifts

All official gifts expenditure is to be listed individually, with the position that gifted the gift identified

!Official entertainment

All official entertainment expenditure is to be listed individually, with the number of people who were entertained at Commonwealth expense identified for each expenditure

It is important that taxpayers can rely on Commonwealth officials to use Commonwealth resources prudently and ethically, especially given the sensitivity over travel expenditure, official gifts, and official entertainment.

It is also noted that in previous roles, current members of ADHA key management personnel were criticised for being profligate with government resources, and therefore transparency here will address these lessons were learnt and have not been repeated.

As every Commonwealth controlled entity is required to maintain well recorded and reliably details financial records, especially for travel expenditure, official hospitality and official gifts, the time required to compile the required information from the ADHA's financial

information management systems is minimal, especially given it is only for ADHA's key management personnel.

I do not consent for this FOI to be referred to another agency, and I require the response to be provided here via RtK, in either Excel spreadsheet or PDF format.

Yours faithfully,

Verity Pane

[Link to this](#)

From: Verity Pane

Delivered August 29, 2018

Dear Australian Digital Health Agency,

As your agency appears to have some difficulty with understanding it's obligations under the Freedom of Information Act, I thought a friendly reminder that your agency has a statutory obligation under s 15(5)(a) to acknowledge this FOI no later than today.

An agency has a statutory obligation to acknowledge that an FOI request has been received as soon as practicable, and no later than 14 days after receiving a request (s 15(5)(a)).

Yours faithfully,

Verity Pane

[Link to this](#)

From: Verity Pane

Delivered August 31, 2018

Dear Australian Digital Health Agency,

A reminder that you are in breach of s 15(5)(a), having failed to acknowledge this FOI within 14 day's of receipt.

I have confirmed that ADHA did receive these emails but, for reasons known only to ADHA, appears to be stonewalling instead.

I will notify the OAIC under s 70, of the breach.

Yours faithfully,

Verity Pane

[Link to this](#)

From: Verity Pane

Delivered September 13, 2018

Dear Australian Digital Health Agency,

This FOI, having been received by the Australian Digital Health Agency (ADHA) on 13 August 2018, fell due for decision under s 15(5)(b) on Wednesday 12 September 2018, which has not been made and is now a deemed refusal response.

DEEMED REFUSAL

The obligation on an agency or minister to notify an applicant that a request has been received, and to make and notify a decision on the request within the statutory timeframe, commences upon receipt of a request that meets the formal requirements in ss 15(2),(2A).

Your agency has failed to do so.

An agency or minister must, as soon as practicable, and within 14 days of receiving a request, take all reasonable steps to enable the applicant to be notified that the request has been received (s 15(5)(a)). This requirement will be met by sending a notice of receipt to the contact address provided by the applicant. The 14-day timeframe commences on the day after the request is received by or on behalf of an agency or minister's office.

That FOI acknowledgement fell due on 29 August 2018, and despite a reminder on the day it was due, and follow up reminders after it wasn't provided, the ADHA continued to breach s 15(5)(a) of the FOI Act.

Similarly, an agency or minister must, as soon as practicable, and no later than 30 days after receiving a request, take all reasonable steps to enable the applicant to be notified of a decision on the request (s 15(5)(b)). Section 15(5)(b) provides that the 30-day processing period commences on the day after the day the agency or minister is taken to have received a request that meets the formal requirements of s 15(2), (2A).

In the absence of any valid notification of a statutory ground that extended that processing period, the statutory date for decision therefore expired on Wednesday 12 September 2018, and the ADHA breached s 15(5)(b).

A 'deemed refusal' occurs if the time for making a decision on a request for access to a document has expired and an applicant has not been given a notice of decision. If this occurs, the principal officer of the agency or the minister is taken to have personally made a decision refusing to give access to the document on the last day of the 'initial decision' period (s 15AC). A notice of the deemed decision is taken to have been given on the last day of the decision period.

The consequence of a deemed refusal is that an applicant may apply for IC review (s 54L(2)(a)). An applicant or third party can also apply for IC review of a deemed affirmation of a decision on internal review (ss 54L(2)(b), 54M(2)(b)). In addition, once the time has expired and there is a deemed decision, the agency or minister cannot impose a charge for access.

Where an access refusal decision is deemed to have been made before a substantive decision is made, the agency or minister continues to have an obligation to provide a statement of reasons on the FOI request. This obligation to provide a statement of reasons on the FOI request continues until any IC review of the deemed decision is finalised. The competing view — that a decision maker is functus officio if a deemed decision arises — would have the consequence that an applicant's right of access under the FOI Act would be impeded through delay on an agency's part and could only be revived by an application for IC review. This result would be contrary to the objectives and requirements of the FOI Act.

Yours faithfully,

Verity Pane

[Link to this](#)

From: Verity Pane

Delivered September 13, 2018

Dear Australian Digital Health Agency, [cc OAIC]

Please be advised of the following IC Review made this afternoon, following your ongoing failure to address your multiple breaches of your statutory obligations under the Freedom of Information Act 1982.

Yours faithfully,

Verity Pane

From: Verity Pane

Sent: Thursday, 13 September 2018 5:40 PM

To: [\[email address\]](#)

Subject: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency

Dear OAIC,

Strangely, despite referring the Australian Digital Health Agency (ADHA) to the OAIC earlier under s 70, for breaches of s 15(5)(a), the OAIC has failed to encourage the ADHA to meet its statutory obligations under the FOI Act, and now we have a new breach by the

ADHA under s 15(5)(b), which has caused a Deemed Refusal to occur on the following FOI on Right to Know <https://www.righttoknow.org.au/request/f...>

As the OAIC has demonstrated it can respond to s 15AB applications via Right to Know, in order to keep everything in the one place, I seek the OAIC to do likewise for this IC Review for s 15(5)(b) breach and direct all future correspondence on this matter via the above supplied Right to Know page.

I would also direct the OAIC to comply with its own Directive issued under section 55(2)(e)(i) of the Freedom of Information Act 1982, entitled 'Direction as to certain procedures to be followed in IC reviews', which in the other IC Review I have with you, you have failed to adhere to.

<https://www.oaic.gov.au/freedom-of-infor...>

Regards

Verity Pane

Vivian Yue

From: FOIDR
To: Verity Pane
Subject: RE: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency

Our reference: MR18/00692

Ms Verity Pane

Sent by email **s 22**

Your IC review application about an FOI decision by the Australian Digital Health Agency

Dear Ms Pane

Thank you for your correspondence seeking to lodge an IC review application with the [Office of the Australian Information Commissioner](#) (the OAIC) about the Australian Digital Health Agency (the ADHA).

The OAIC has initiated preliminary inquiries with the ADHA about the deemed refusal of your request, we will contact you once the ADHA responds to advise the next steps. I note that the OAIC is also conducting inquiries in relation to your FOI complaint.

- Your IC review application will be shared with the ADHA as part of the IC review process unless you have specifically requested otherwise.
- If your circumstances change, or your request has been resolved directly with the ADHA, please advise us by email as soon as practicable.
- Information about the way we handle your personal information is available in our [privacy policy](#)

Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email foidr@oaic.gov.au and quote the reference number at the top of this email.

From: Verity Pane **s 22**

Sent: Thursday, 13 September 2018 5:40 PM

To: Enquiries <enquiries@oaic.gov.au>

Subject: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency

Dear OAIC,

Strangely, despite referring the Australian Digital Health Agency (ADHA) to the OAIC earlier under s 70, for breaches of s 15(5)(a), the OAIC has failed to encourage the ADHA to meet its statutory obligations under the FOI Act, and now we have a new breach by the ADHA under s 15(5)(b), which has caused a Deemed Refusal to occur on the following FOI on Right to Know https://www.righttoknow.org.au/request/foi_application_s_17_for_travel#outgoing-9426

As the OAIC has demonstrated it can respond to s 15AB applications via Right to Know, in order to keep

everything in the one place, I seek the OAIC to do likewise for this IC Review for s 15(5)(b) breach and direct all future correspondence on this matter via the above supplied Right to Know page.

I would also direct the OAIC to comply with its own Directive issued under section 55(2)(e)(i) of the Freedom of Information Act 1982, entitled 'Direction as to certain procedures to be followed in IC reviews', which in the other IC Review I have with you, you have failed to adhere to.

<https://www.oaic.gov.au/freedom-of-information/ic-review-procedure-direction/direction-as-to-certain-procedures-to-be-followed-in-ic-reviews>

Regards

Verity Pane

From: [FOIDR](#)
To: ["Verity Pane"](#)
Subject: RE: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency [SEC=UNCLASSIFIED]
Date: Wednesday, 19 September 2018 4:00:00 PM
Attachments: [image001.jpg](#)
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[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Our reference: MR18/00692

Ms Verity Pane

Sent by email: s 22

Your IC review application about an FOI decision by the Australian Digital Health Agency

Dear Ms Pane

Thank you for your correspondence seeking to lodge an IC review application with the [Office of the Australian Information Commissioner](#) (the OAIC) about the Australian Digital Health Agency (the ADHA).

The OAIC has initiated preliminary inquiries with the ADHA about the deemed refusal of your request, we will contact you once the ADHA responds to advise the next steps. I note that the OAIC is also conducting inquiries in relation to your FOI complaint.

- Your IC review application will be shared with the ADHA as part of the IC review process unless you have specifically requested otherwise.
- If your circumstances change, or your request has been resolved directly with the ADHA, please advise us by email as soon as practicable.
- Information about the way we handle your personal information is available in our [privacy policy](#)


Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email xxxxx@xxxx.xxx.xx and quote the reference number at the top of this email.

Kind regards



Megan McKenna | Assistant Review Officer
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 8231 4292 | xxxxx.xxxxxxx@xxxx.xxx.xx



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cid:image001.png@01D44B63.38E193A0



From: Verity Pane s 22
Sent: Thursday, 13 September 2018 5:40 PM
To: Enquiries <enquiries@oaic.gov.au>
Subject: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency

Dear OAIC,

Strangely, despite referring the Australian Digital Health Agency (ADHA) to the OAIC earlier under s 70, for breaches of s 15(5)(a), the OAIC has failed to encourage the ADHA to meet its statutory obligations under the FOI Act, and now we have a new breach by the ADHA under s 15(5)(b), which has caused a Deemed Refusal to occur on the following FOI on Right to Know

https://www.righttoknow.org.au/request/foi_application_s_17_for_travel#outgoing-9426

As the OAIC has demonstrated it can response to s 15AB applications via Right to Know, in order to keep everything in the one place, I seek the OAIC to do likewise for this IC Review for s 15(5)(b) breach and direct all future correspondence on this matter via the above supplied Right to Know page.

I would also direct the OAIC to comply with its own Directive issued under section 55(2) (e)(i) of the Freedom of Information Act 1982, entitled 'Direction as to certain procedures to be followed in IC reviews', which in the other IC Review I have with you, you have failed to adhere to.

<https://www.oaic.gov.au/freedom-of-information/ic-review-procedure-direction/direction-as-to-certain-procedures-to-be-followed-in-ic-reviews>

Regards

Verity Pane

From: FOIDR
To: "xxx@xxxxxxxxxxxxxxx.xxx.xx"
Subject: MR18/00692 - IC review matter [SEC=UNCLASSIFIED]
Date: Friday, 5 October 2018 11:19:00 AM
Attachments: [Request ID ##43948## New Request Logged.msg](#)
[MR1800692 - IC review application SECUNCLASSIFIED.msg](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi John

Thank you for your call.

Please find the relevant emails attached. As discussed if you could provide an update by **9 October 2018**, I would appreciate it.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: xxxx@xxxxxxxxxxxxx.xxx.xx
To: [FOIDR](#)
Subject: [Request ID :##43948##] New Request Logged
Date: Wednesday, 19 September 2018 9:37:51 AM

Dear FOIDR,

Thank you for your enquiry titled: MR18/00692 - IC review application [SEC=UNCLASSIFIED].

Your request has been created with ID 43948. An Australian Digital Health Agency representative will be in contact with you shortly.

If you have any questions or require further information please don't hesitate to contact us at xxxx@xxxxxxxxxxxxx.xxx.xx or on **1300 901 001**.

Kind regards,

Digital Health Help Centre
Australian Digital Health Agency
Level 25, 56 Pitt St
Sydney NSW 2000
Phone: 1300 901 001
Fax: 1300 909 115
help@digitalhealth.gov.au
www.digitalhealth.gov.au

Any personal information you provide to the Agency will be used by the Agency to assist us with responding to your enquiry. If we cannot resolve your enquiry, we may need to pass your information on to the Department of Human Services or Department of Health. If you do not wish your enquiry to be transferred to another entity, please let us know. For more information on the ways the Agency handle your personal information, how you can access and seek correction of the information, how privacy complaints can be made and how the Agency deals with such complaints, please see the [Agency Privacy Policy](#).

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From: FOIDR
To: "xxxx@xxxxxxxxxxxxxxx.xxx.xx"
Subject: MR18/00692 - IC review application [SEC=UNCLASSIFIED]
Date: Wednesday, 19 September 2018 9:36:00 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Application for IC review under s 54L\(2\)\(a\) - Australian Digital Health Agency.msg](#)

Our reference: MR18/00692

The FOI Contact Officer

Australian Digital Health Agency
Sent by email: xxx@xxxxxxxxxxxxxxx.xxx.xx

Notice of request for IC review and Preliminary Inquiries under s 54V

Dear Sir/Madam

Ms Verity Pane has requested that the Information Commissioner review of a deemed decision by the Australian Digital Health Agency (the ADHA) of 12 August 2018, to refuse access to documents under the *Freedom of Information Act 1982* (Cth).

I attach a copy of the application for review.

Preliminary Inquiries (s 54V)

I note it appears that Ms Pane's FOI request is deemed to have been refused pursuant to s 15AC. However, the ADHA retains an obligation to provide Ms Pane with a substantive decision as soon as practicable.

Pursuant to s 54V, to assist the OAI in progressing Ms Pane's IC review please provide:

- An explanation with regards to the present status of Ms Pane's request
- If the request is not yet finalised - an estimated date for its completion.
- If the ADHA has provided a statement of reasons to the applicant, please forward a copy to the OAI.

Please provide a response to this email by close of business **26 September 2018**.

Yours sincerely



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI
To: [FOIDR](#)
Cc: [FOI](#)
Subject: Complaint matters raised by Verity Pane
Date: Wednesday, 10 October 2018 3:36:23 PM
Attachments: [image003.jpg](#)

TO: Office of the Australian Information Commissioner
Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
- 2) On 21/09/2018 ADHA sent the applicant a decision in relation to FOI.1807018.
- 3) On 13/09/2018 the OAIC MR.18/02632 advised ADHA FOI.1809004 that Ms Pane had lodged a complaint about the handling of FOI.1807018.
- 4) The ADHA reply to MR.18/02632 is awaiting clearance within days.
- 5) The ADHA reply to MR.18/02632 will cover the matter raised in CP.18/02858 which derives from ADHA FOI.1807018.

Kind regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
Phone 02 6151 8653
Email xxx@xxxxxxxxxxxxx.xxx.xx
Web www.digitalhealth.gov.au

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From: [FOIDR](#)
To: "FOI"
Subject: RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]
Date: Thursday, 11 October 2018 2:36 00 PM
Attachments: [image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)

Dear John

Thank you for your email. I have noted your advice about the processing of these requests.

I have listed the current matters the about which the OAIC notified the ADHA, and for which responses are required.

Our reference	Your reference	Stage	Date ADHA not fied by OAIC	Action required by ADHA	Date action (was) required
CP18/02632	NA	Preliminary Inquiries	12 September 2018	Response to Pls.	26 September 2018
MR18/00692	TBC	Preliminary Inquiries	19 September 2018	Response to Pls/finalise request	26 September 2018
CP18/02858	1807018	Preliminary Inquiries	9 October 2018	Response to Pls	16 October 2018

I hope this assists.

Kind regards



Carl English | Assistant Review Officer
 Freedom of Information Dispute Resolution
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 +61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au
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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 10 October 2018 3:35 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: Complaint matters raised by Verity Pane

TO: Office of the Australian Information Commissioner
 Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
- 2) On 21/09/2018 ADHA sent the applicant a decision in relation to FOI.1807018.
- 3) On 13/09/2018 the OAIC MR.18/02632 advised ADHA FOI.1809004 that Ms Pane had lodged a complaint about the handling of FOI.1807018.
- 4) The ADHA reply to MR.18/02632 is awaiting clearance within days.
- 5) The ADHA reply to MR.18/02632 will cover the matter raised in CP.18/02858 which derives from ADHA FOI.1807018.

Kind regards

John Gillam
 Freedom of Information Officer (FOI)
 Governance and Performance Reporting Services
 Governance, Reporting and Secretariat Services Branch
 Organisational Capability and Change Management Division

Australian Digital Health Agency
 Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
 Phone 02 6151 8653
 Email foi@digitalhealth.gov.au
 Web www.digitalhealth.gov.au

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From: FOI
To: [FOIDR](#)
Cc: [FOI](#)
Subject: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]
Date: Wednesday, 17 October 2018 3:06:22 PM
Attachments: [image002.jpg](#)

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

Dear Carl

I refer to our discussion at the end of last week about an FOI application from Verity Pane (and subsequent complaint she made to the OAIC) about ADHA executive expenses:

I have circulated the senior executives of ADHA with the request and we are now in the document discovery phase.

My expectation is that we will have the following two documents available by 2 November 2018:

- 1) Response to OAIC MR18/00692
- 2) Statement of Reasons for Verity Pane.

Regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
Phone 02 6151 8653
Email xxx@xxxxxxxxxxxxx.xxx.xx
Web www.digitalhealth.gov.au

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From: FOIDR
To: "FOI"
Subject: RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]
Date: Wednesday, 17 October 2018 4:46:00 PM
Attachments: [image001.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Dear Mr Gillam

Thank you for your advice.

I have noted that we expect the request to be finalised by 2 November 2018.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 17 October 2018 3:06 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

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John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

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From: FOIDR
To: "FOI"
Subject: RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]
Date: Wednesday, 17 October 2018 4:47:00 PM
Attachments: [image001.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Dear Mr Gillam

Thank you for your advice.

I have noted that we expect the request to be finalised by 2 November 2018.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 17 October 2018 3:06 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

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From: FOIDR
To: "foi@digitalhealth.gov.au"
Subject: MR18/00692 - Complaint - Verity Pane [SEC=UNCLASSIFIED]
Date: Wednesday, 17 October 2018 4:49:00 PM
Attachments: [image001.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Dear Mr Gillam

Thank you for your advice.

I have noted that we expect the request to be finalised by 2 November 2018.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 17 October 2018 3:06 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

Dear Carl

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Regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

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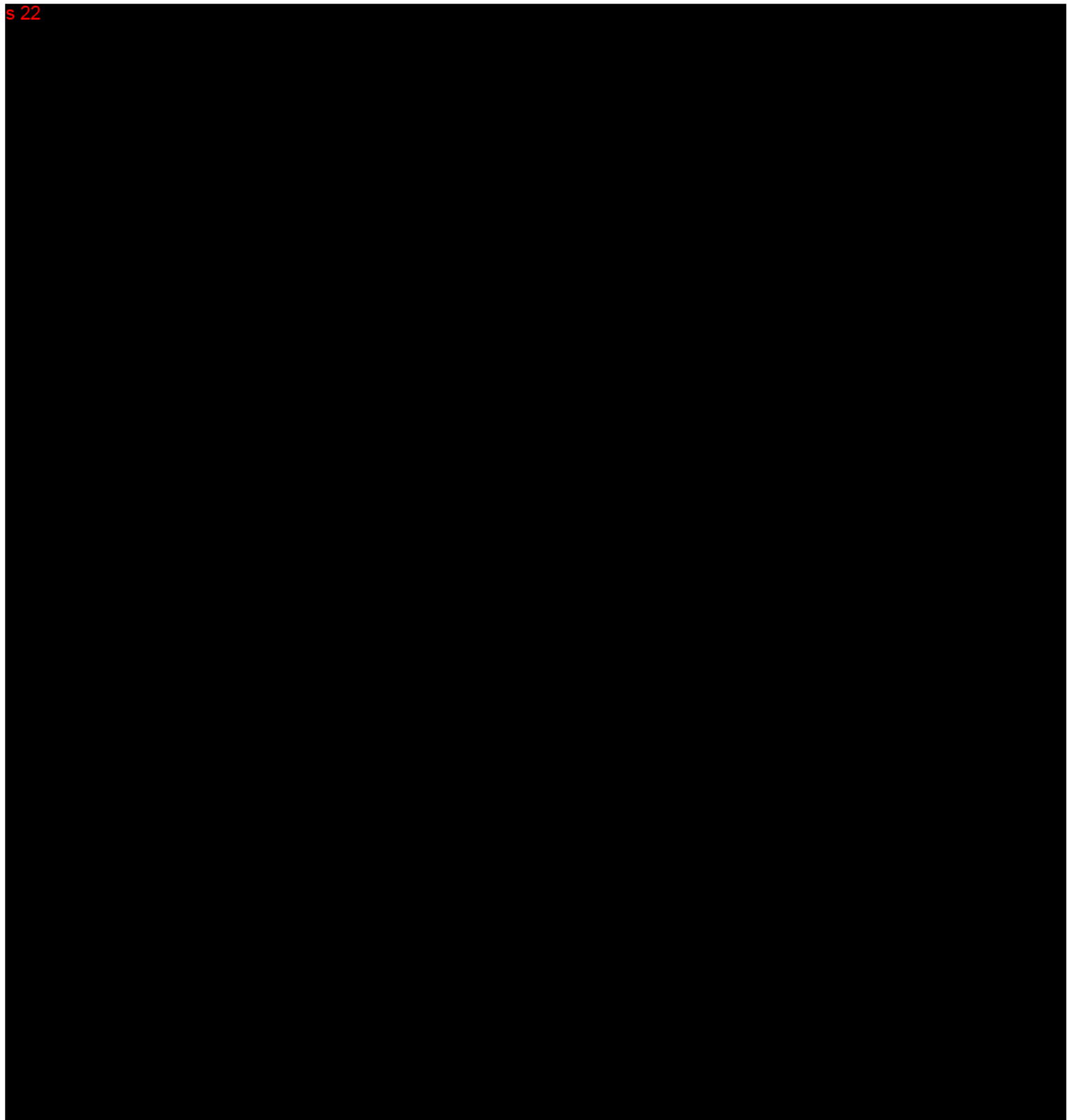
Megan McKenna

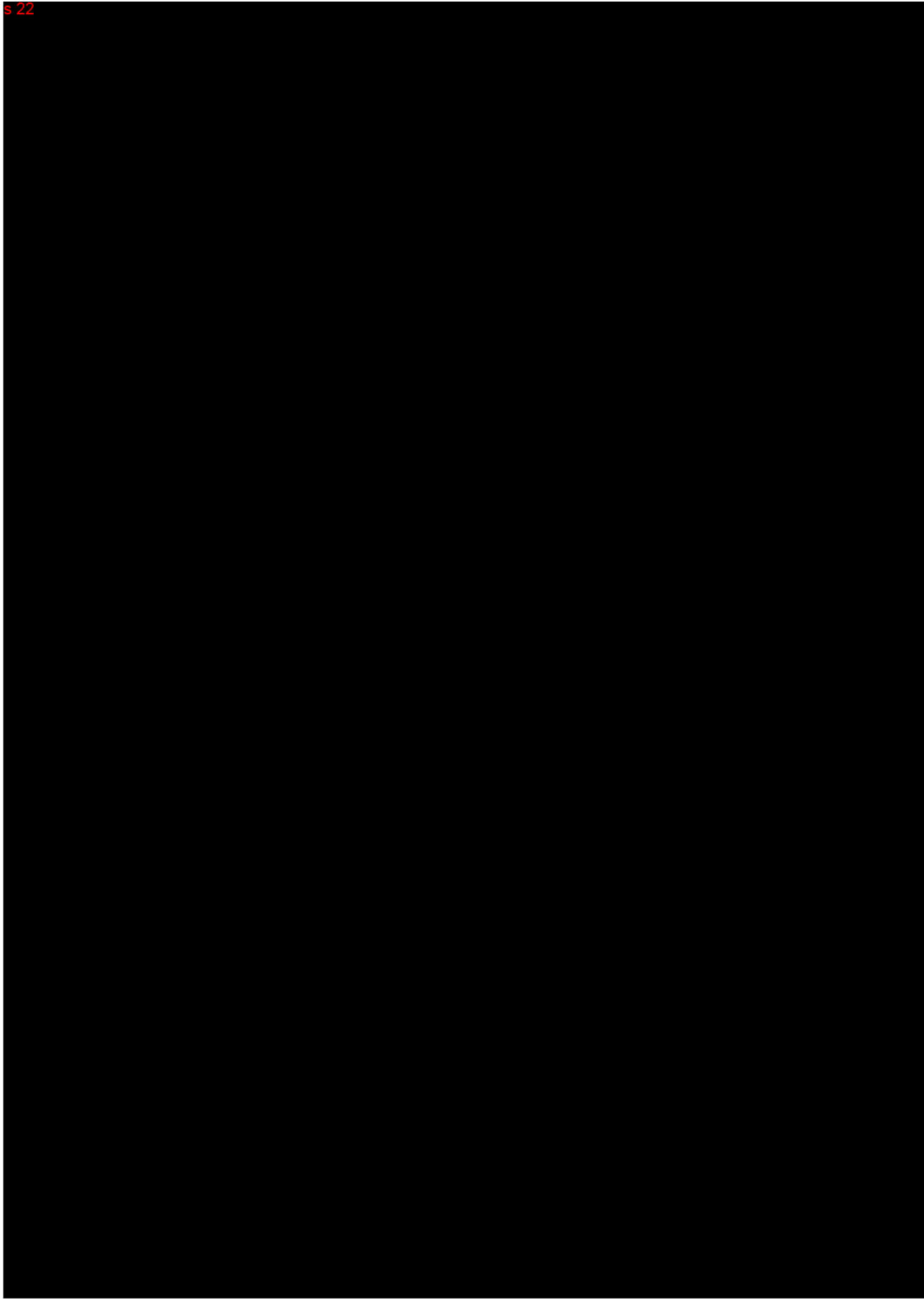
From: Microsoft Outlook
To: FOI
Sent: Tuesday, 16 October 2018 11:29 AM
Subject: Undeliverable: RE: Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]



Your message to foi@digitalhealth.gov.au couldn't be delivered.

s 22





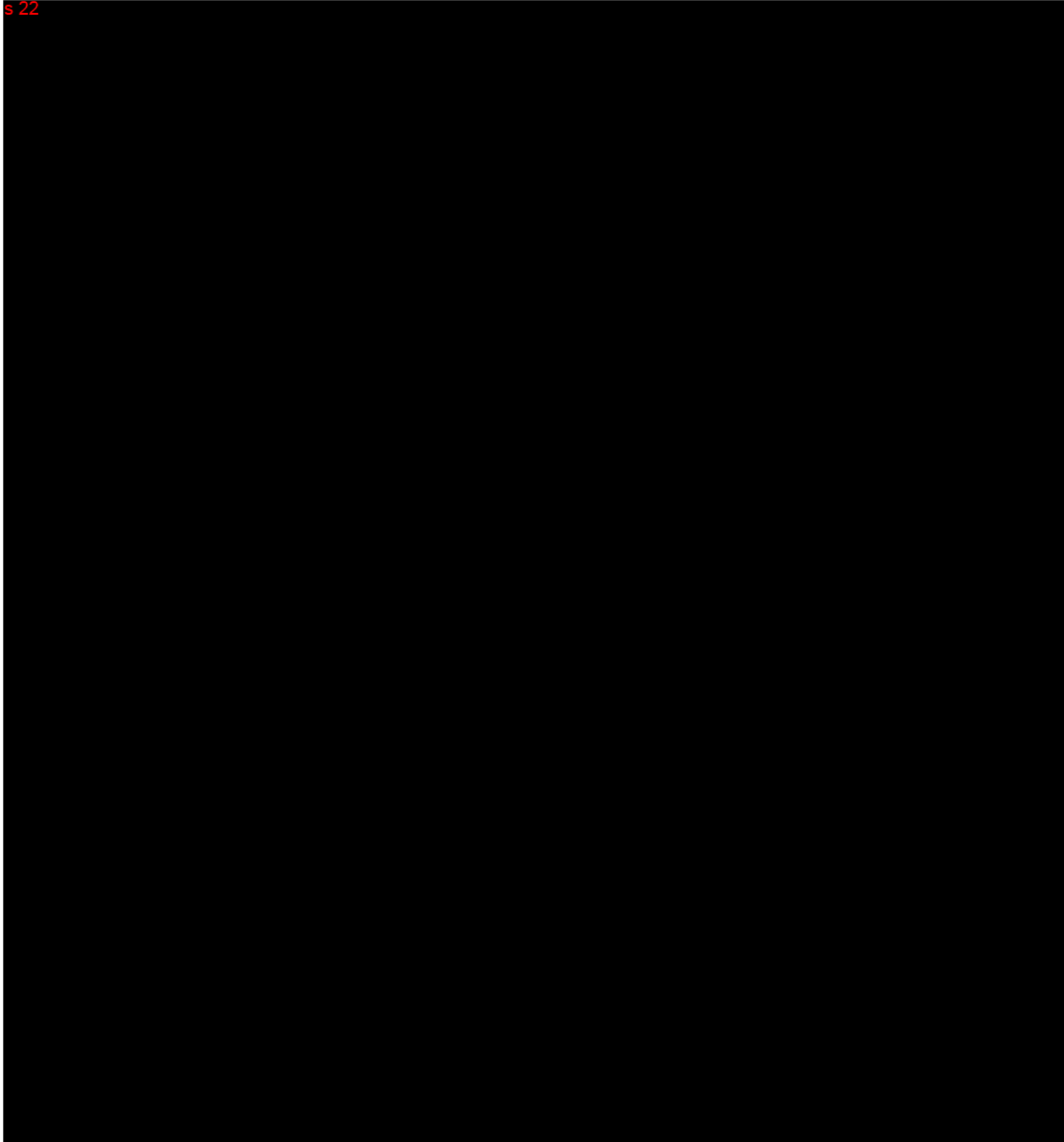
Megan McKenna

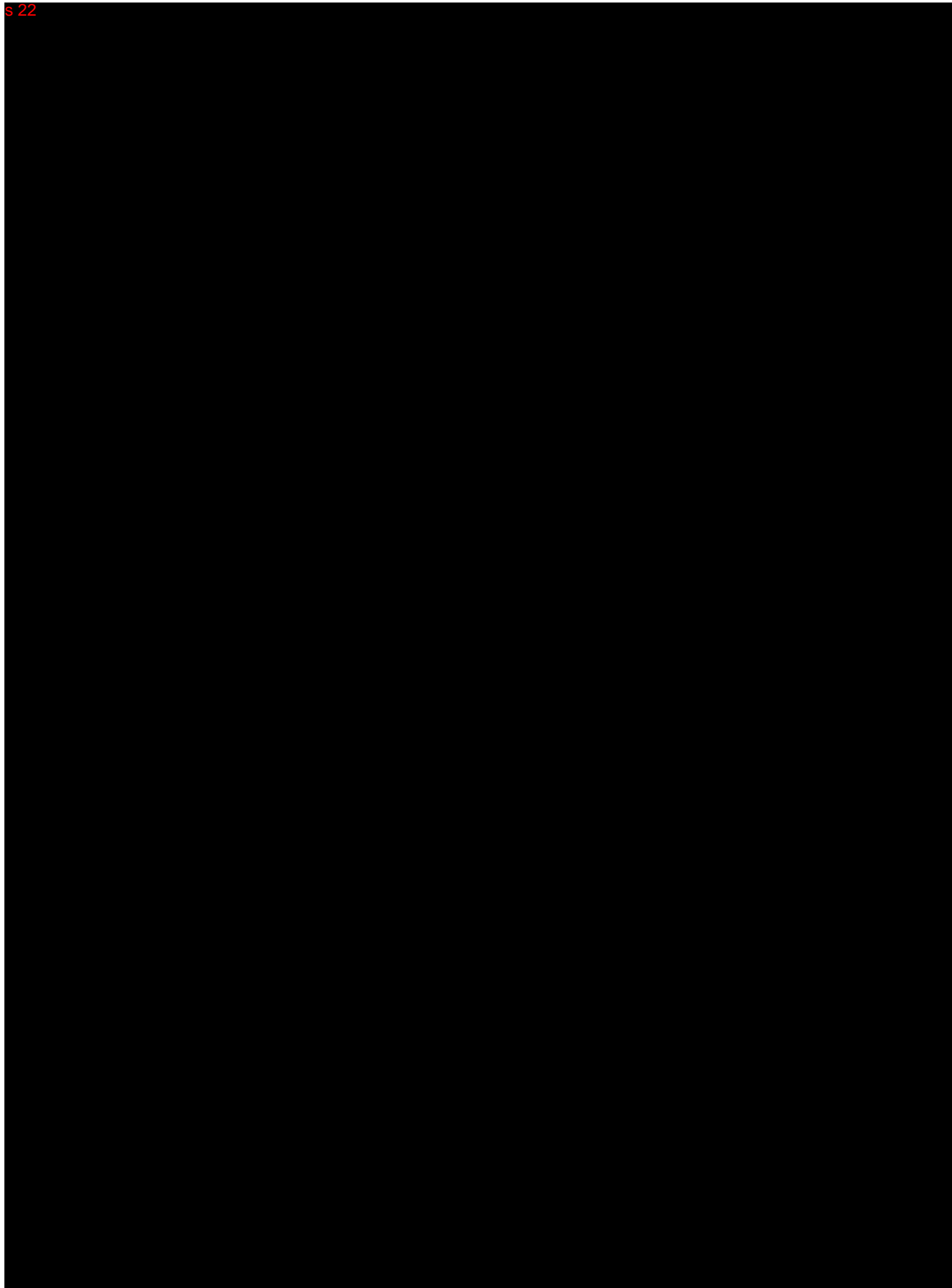
From: Microsoft Outlook
To: FOI
Sent: Wednesday, 17 October 2018 4:46 PM
Subject: Undeliverable: RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]



Your message to foi@digitalhealth.gov.au couldn't be delivered.

s 22





From: [Sean Giddings](#)
To: [FOIDR](#)
Cc: [FOI](#)
Subject: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]
Date: Friday, 2 November 2018 2:09:26 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

OFFICIAL

Dear Mr English

I note the agency was due to respond to you today regarding a Freedom of Information Complaint by Ms Verity Pane.

The agency has recently seen our FOI Officer, Mr John Gillham cease employment unexpectedly, as such I wanted to request a small extension to close of business Monday, 5 November 2018. This will allow us to finalise our response to your office.

Thank you in advance for your consideration of this matter.

Regards, Sean

Sean Giddings

Agency Security Adviser
A/g Director Governance and Performance Reporting

Australian Digital Health Agency
Scarborough House, Level 6, 1 Atlantic Street, Woden ACT 2606
Phone [+61 2 6151 8603](tel:+61261518603)
Mobile [+61 411 800 283](tel:+61411800283)
Email sean.giddings@digitalhealth.gov.au
Web www.digitalhealth.gov.au

The Australian Digital Health Agency acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders both past and present.

cid:image001.png@01D4193E.4F913490



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From: FOIDR
To: "Sean Giddings"
Cc: FOI
Subject: RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]
Date: Friday, 2 November 2018 5:52:00 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

OAIC reference: MR18/00692

Dear Mr Giddings

Thank you for your email.

On the basis of reasons provided, the OAIC is agreeable to an extension of time **to 5 November 2018**.

Kind regards



Vivian Yue | Review Officer
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9797 | vivian.yue@oaic.gov.au

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From: Sean Giddings <Sean.Giddings@digitalhealth.gov.au>
Sent: Friday, 2 November 2018 2:09 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]

OFFICIAL

Dear Mr English

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The agency has recently seen our FOI Officer, Mr John Gillham cease employment unexpectedly, as such I wanted to request a small extension to close of business Monday, 5 November 2018. This will allow us to finalise our response to your office.

Thank you in advance for your consideration of this matter.

Regards, Sean

Sean Giddings
Agency Security Adviser

A/g Director Governance and Performance Reporting

Australian Digital Health Agency

Scarborough House, Level 6, 1 Atlantic Street, Woden ACT 2606

Phone [+61 2 6151 8603](tel:+61261518603)

Mobile [+61 411 800 283](tel:+61411800283)

Email xxx.xxxxxxx@xxxxxxxxxxxxx.xxx.xx

Web www.digitalhealth.gov.au

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cid:image001.png@01D4193E.4F913490



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Megan McKenna

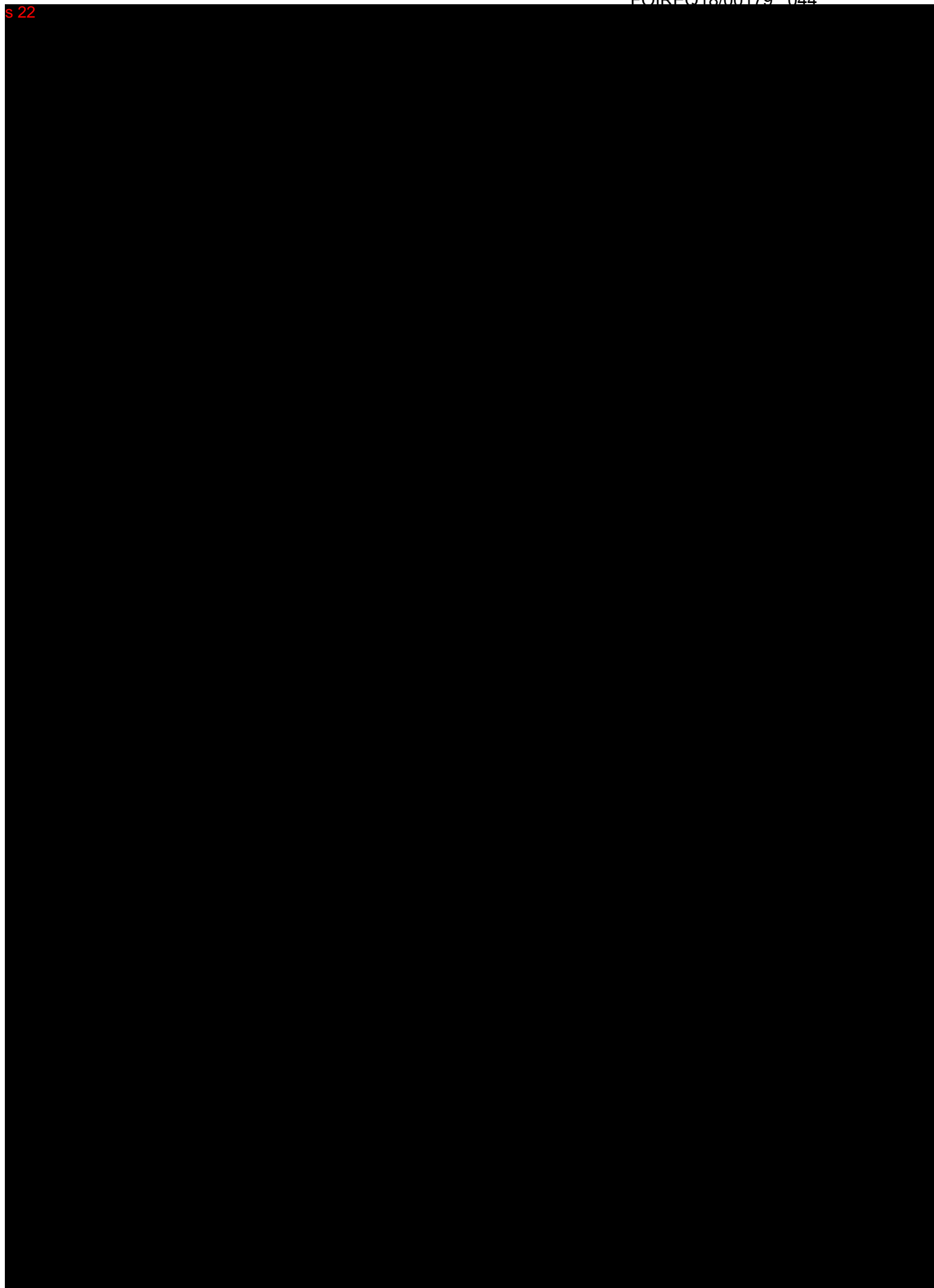
From: Microsoft Outlook
To: Sean Giddings; FOI
Sent: Friday, 2 November 2018 5:53 PM
Subject: Undeliverable: RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]

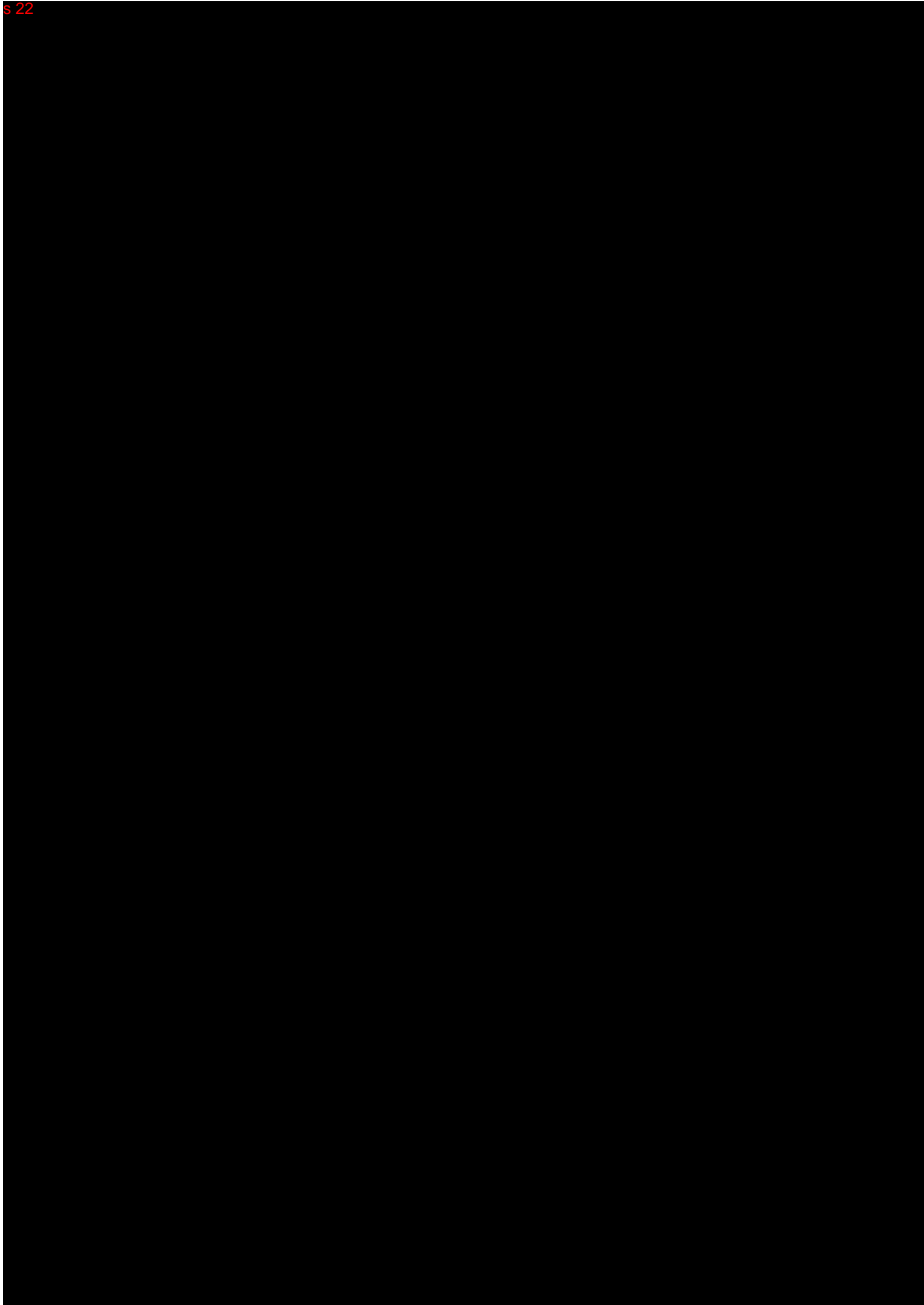


Your message couldn't be delivered to multiple recipients.

s 22

A large, solid black rectangular redaction box covers the majority of the page content below the error message.





From: Vivian Yue
To: ["Sean Giddings"](#)
Cc: ["FOI"](#)
Subject: MR18/00692: Extension of time request [SEC=OFFICIAL]
Date: Friday, 2 November 2018 5:55:00 PM
Attachments: [image007.jpg](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

OAIC reference: MR18/00692

Dear Mr Giddings

It appears my last correspondence was not delivered successfully. As such, I am resending to you my email below.

Kind regards



Vivian Yue | Review Officer
 Freedom of Information
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 +61 2 9284 9797 | xxxxxx.xxx@xxxx.xxx.xx



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From: FOIDR
Sent: Friday, 2 November 2018 5:52 PM
To: 'Sean Giddings' <xxxx.xxxxxxxx@xxxxxxxxxxxxxx.xxx.xx>
Cc: FOI <xxx@xxxxxxxxxxxxxx.xxx.xx>
Subject: RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]

OAIC reference: MR18/00692

Dear Mr Giddings

Thank you for your email.

On the basis of reasons provided, the OAIC is agreeable to an extension of time **to 5 November 2018.**

Kind regards



Vivian Yue | Review Officer
 Freedom of Information
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 +61 2 9284 9797 | xxxxxx.xxx@xxxx.xxx.xx



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From: Sean Giddings <xxxx.xxxxxxxx@xxxxxxxxxxxxx.xxx.xx>
Sent: Friday, 2 November 2018 2:09 PM
To: FOIDR <xxxxx@xxxx.xxx.xx>
Cc: FOI <xxx@xxxxxxxxxxxxx.xxx.x>
Subject: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]

OFFICIAL

Dear Mr English

I note the agency was due to respond to you today regarding a Freedom of Information Complaint by Ms Verity Pane.

The agency has recently seen our FOI Officer, Mr John Gillham cease employment unexpectedly, as such I wanted to request a small extension to close of business Monday, 5 November 2018. This will allow us to finalise our response to your office.

Thank you in advance for your consideration of this matter.

Regards, Sean

Sean Giddings

Agency Security Adviser
A/g Director Governance and Performance Reporting

Australian Digital Health Agency
Scarborough House, Level 6, 1 Atlantic Street, Woden ACT 2606
Phone [+61 2 6151 8603](tel:+61261518603)
Mobile [+61 411 800 283](tel:+61411800283)
Email xxxx.xxxxxxxx@xxxxxxxxxxxxx.xxx.xx
Web www.digitalhealth.gov.au

The Australian Digital Health Agency acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders both past and present.

cid:image001.png@01D4193E.4F913490



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Vivian Yue

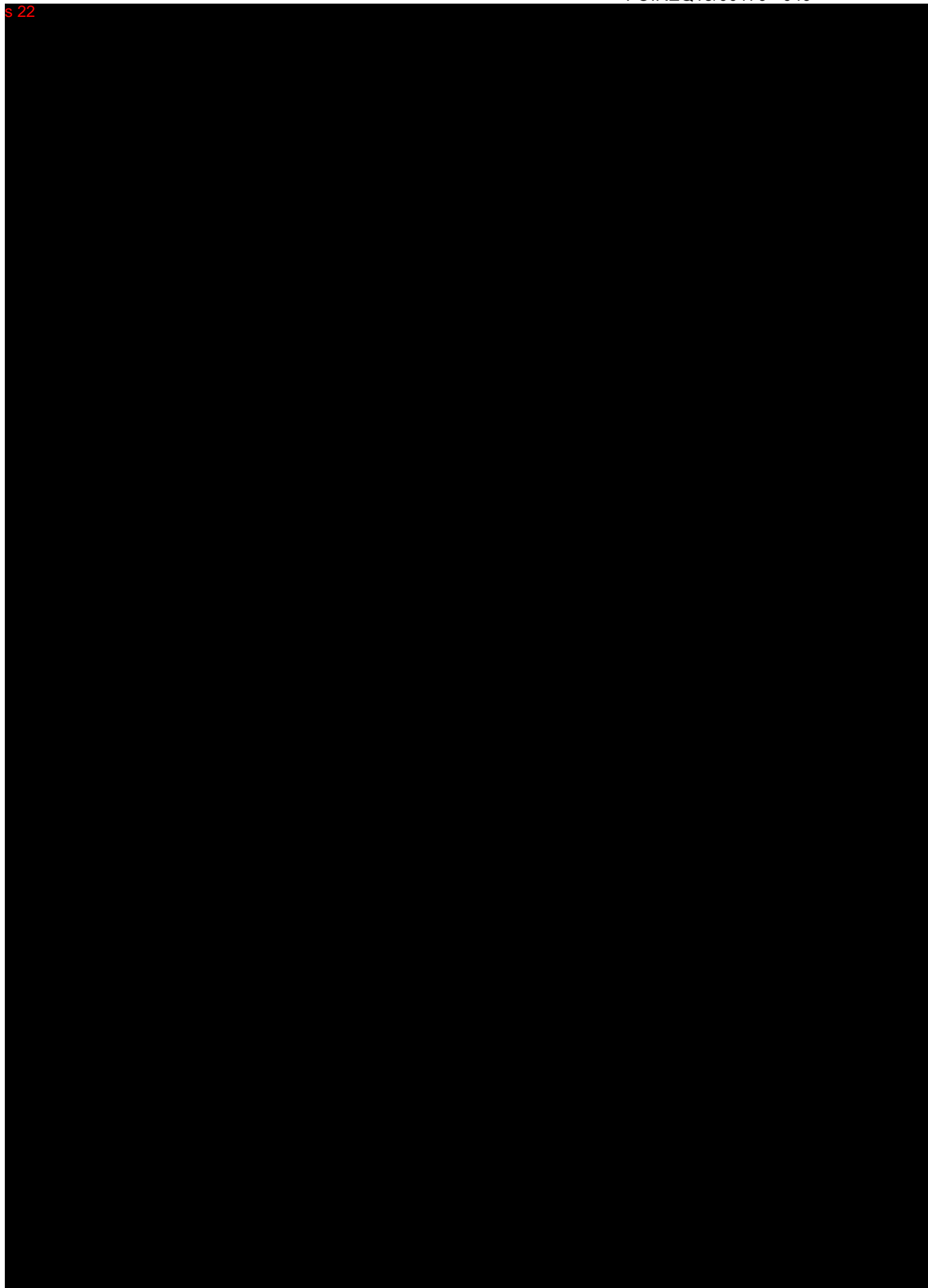
From: Microsoft Outlook
To: Sean Giddings; FOI
Sent: Friday, 2 November 2018 5:56 PM
Subject: Undeliverable: MR18/00692: Extension of time request [SEC=OFFICIAL]



Your message couldn't be delivered to multiple recipients.

s 22

A large black rectangular redaction box covering the majority of the page content below the error message.



MR18/00692McKenna, Megan
13-Nov-2018 10:29 AM**Title**

Pane, Verity | ADHA - The Australian Digital Health Agency

Receipt Details

File Type:	Access Refusal	Received Date:	14-Sep-2018 12:00 AM
Case Type:	To be Determined	Received By:	English, Carl
How Received:		Registered Date:	19-Sep-2018 9:27 AM
Owned By:	Allocation - Deemed Decisions - FOI	Registered By:	Allocation - Deemed Decisions - FOI

Case Details

Stage:	Triage
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	IC Review
Respondent Client Group:	Agency
Case PrimaryPerson:	Pane, Verity
Case Respondent:	ADHA - The Australian Digital Health Agency
Assessor Note:	decision due 5/11/18; 55E by 30/11 (call to determine correct delegate)
Retention Class:	OAIC RA 61986 (D2)

Case Parties - 2

Applicant Client:	Pane, Verity
Respondent Client:	ADHA - The Australian Digital Health Agency

SummaryFor contact with A use: [s 22](#)

Summary

request for the creation of a document under s 17 about all official travel, gift, and entertainment expenditure for FY 16/17 and 17/18.

Date requested 13/08/18

Deemed refused 12/08/18

Actions - 15 (4 Open, 11 Completed)

Action	Owner	Due	Completed
Record case details and attach docs (MR REG)	English, Carl	21-Sep-2018	19-Sep-2018
Send Acknowledgement Letter (MR REG)	English, Carl	21-Sep-2018	20-Sep-2018
Move to Triage basket (MR REG)	English, Carl	20-Sep-2018	19-Sep-2018
Allocate to Triage Officer (MR TR)	Triage - FOI	20-Sep-2018	19-Sep-2018, English, Carl
Conduct Triage (MR TR)	English, Carl	20-Sep-2018	19-Sep-2018: Further Info

Seek Further Information (MR TR)	Allocation - Deemed Decisions - FOI	09-Oct-2018	
PIs due 9/10/18			
Phone message - Respondent or Rep	Allocation - Deemed Decisions - FOI	08-Oct-2018	05-Oct-2018, English, Carl
left message for a return call.			
Phone call - Respondent or Rep	Allocation - Deemed Decisions - FOI	08-Oct-2018	05-Oct-2018, English, Carl
R returned call (John Gillam). Advised they had no record of PIs. Resent. R asked to have to tuesday to response. Granted.			
File Note	English, Carl	16-Oct-2018	16-Oct-2018
Hi Carl As discussed, please follow up with the Department. Re: Deemed decision. SW			
Phone call - Respondent or Rep	Allocation - Deemed Decisions - FOI	16-Oct-2018	17-Oct-2018, English, Carl
Phone call - Respondent or Rep	Allocation - Deemed Decisions - FOI	16-Oct-2018	17-Oct-2018, English, Carl
called R (John Gillam) asked for update. Advised that R was not sure, but that it had been brought to the attention of the decision makers. R promised an update within 2 days, inc. estimate for completion. I advised that we may issue a 55E notice as standard practice.			
Phone call - Respondent or Rep	Allocation - Deemed Decisions - FOI	07-Nov-2018	06-Nov-2018, Yue, Vivian
12.50pm - Tried to Kylee Paulinson No pick up, left VM wanting to discuss matter seeking EOT - left number for return call - VY --- 1.05pm - Left VM for Sean Giddings - asking for call back --- 1.07pm - Sean returned my call - He explained his colleague left suddenly, and they need more time to look at the matter. I explained we were having issues on Friday afternoon, appeared to be getting a lot of bounce backs from their inbox. I confirmed that we had actually approved the EOT - obviously based on Kylee's email more time is required. Could you please let us know by email how much more time is needed. I will resend the email of Friday again directly to Sean's email, if he could let me know that it's received and we can go from there. I also asked him to address of related correspondence to me, rather than Carl on these matters. - VY			
Phone call - Respondent or Rep	English, Carl	12-Nov-2018	
I took a call from Noel at Digital Health. He has just returned from leave following John's departure from the team. In relation to MR18/00692: Digital health is retrieving the documents and will be in a position to provide the IR decision in three weeks. He will be in a position on Monday to provide a response to CP18/02858 PI's. He will communicate further with the agency next week when he is clear about what has happened during the processing period. He advised that the original PI's email was not filed. I sent this to him again. Please consider s 55E as an option. SW			
Prepare Letter (Ad-Hoc)	Allocation - Deemed Decisions - FOI	14-Nov-2018	
Await Clearance - Assistant Director	Wavamunno, Sandra	20-Nov-2018	

55E for clearance

Documents - 31

Title	Date Added	By
Application for IC review under s 54L(2)(a) - Australian Digital Health Agency.msg	19-Sep-2018 9:34 AM	English, Carl
MR18/00692 - IC review application [SEC=UNCLASSIFIED]	19-Sep-2018 9:36 AM	English, Carl
Request ID function is not defined! New Request Logged	19-Sep-2018 9:37 AM	English, Carl
FOI request.docx	19-Sep-2018 9:38 AM	English, Carl
RE: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency	19-Sep-2018 9:50 AM	English, Carl
RE: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency [SEC=UNCLASSIFIED]	19-Sep-2018 4:00 PM	McKenna, Megan
Re: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency [SEC=UNCLASSIFIED]	19-Sep-2018 6:26 PM	English, Carl
Re: MR18/00692	05-Oct-2018 1:40 AM	McKenna, Megan
MR18/00692 - IC review matter [SEC=UNCLASSIFIED]	05-Oct-2018 11:19 AM	English, Carl
Complaint matters raised by Verity Pane	10-Oct-2018 3:34 PM	English, Carl
RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]	11-Oct-2018 2:36 PM	English, Carl
Re: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency [SEC=UNCLASSIFIED]	15-Oct-2018 10:28 AM	McKenna, Megan
MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]	17-Oct-2018 3:06 PM	English, Carl
RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]	17-Oct-2018 4:46 PM	English, Carl
RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]	17-Oct-2018 4:47 PM	English, Carl
MR18/00692 - Complaint - Verity Pane [SEC=UNCLASSIFIED]	17-Oct-2018 4:49 PM	English, Carl
Undeliverable: RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]	17-Oct-2018 4:49 PM	English, Carl
Undeliverable: RE: MR18/00692 - Complaint - Verity Pane (ADHA FOI.1808031) [SEC=OFFICIAL]	17-Oct-2018 4:49 PM	English, Carl
Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]	02-Nov-2018 2:09 PM	Yue, Vivian
Undeliverable: RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]	02-Nov-2018 5:53 PM	Yue, Vivian
Undeliverable: RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]	02-Nov-2018 5:56 PM	Yue, Vivian
Undeliverable: MR18/00692: Extension of time request [SEC=OFFICIAL]	02-Nov-2018 5:56 PM	Yue, Vivian
MR18/00692: Extension of time request [SEC=OFFICIAL]	02-Nov-2018 5:55 PM	Yue, Vivian
RE: Ms Verity Pane - Attn: Carl English [SEC=OFFICIAL]	02-Nov-2018 5:52 PM	Yue, Vivian
FOI.CONCONSULT.18001 - Verity Pane (FOI.1808031 -	05-Nov-2018 1:07 PM	Yue, Vivian

Expenses for exec staff) - OAIC complaint MR18/00692 [SEC=OFFICIAL]		
Re: MR18/00692: Extension of time request [SEC=UNCLASSIFIED]	06-Nov-2018 1:42 PM	Yue, Vivian
RE: MR18/00692: Extension of time request [SEC=UNCLASSIFIED]	06-Nov-2018 1:06 PM	Yue, Vivian
RE: MR18/00692: Extension of time request [SEC=UNCLASSIFIED] [SEC=OFFICIAL]	07-Nov-2018 8:08 AM	Yue, Vivian
RE: MR18/00692: Extension of time request [SEC=UNCLASSIFIED]	07-Nov-2018 9:39 AM	Yue, Vivian
MR18/00692: Application for IC review under s 54L(2)(a) - Australian Digital Health Agency [SEC=UNCLASSIFIED]	07-Nov-2018 12:00 AM	Yue, Vivian
draft 55E	12-Nov-2018 4:41 PM	English, Carl



21 September 2018

Ms Verity Pane

By email: s 22

Freedom of Information Act 1982

Statement of Reasons

Application number 1807018

Dear Ms Pane

I refer to your request for access to documents under the *Freedom of Information Act 1982* (FOI Act) for access to:

The number of opt outs for My Health Records received across the period (inclusive) Monday 16 July 2018 to Friday 27 July 2018.

FOI decision maker

I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on your FOI request.

Documents identified

I am satisfied that a diligent search has been undertaken and one document has been identified within the scope of your application.

Decision

I have decided to partially release the identified document (attached).

Additionally, to further assist you I have also decided to provide the following 'talking point' information which was tabled at the recent Senate inquiry, which – while outside your request – is related information that you may find useful:

- The Australian Digital Health Agency reported on 17 September 2018 that approximately 3% (approximately 900,000) of all the eligible recipients had elected to opt out from having a My Health Record created for them by the end of 2018.
- This is in line with forecast expectations that around 90% of Australians will have a My Health Record by the end of the year.
- There are no targets for the number of Australians who will have a record created for them, just to inform every Australia of their right to opt out.

- Australians can opt out online, over the phone (1800 723 471) or via paper forms (available at Australia Post outlets).
- The low opt out rate aligns with a very high national awareness, with over 87% of Australians being aware of My Health Record currently.
- The Inquiry also heard that over 181,000 Australians have opted in to having a My Health Record since 16 July 2018, in order to get the benefits of having a My Health Record right away.
- In the first week of the opt out period, more Australians opted in to get a My Health Record than in any other week in the history of the program.
- A final reconciliation will be undertaken after the opt out period ends on 15 November 2018, at which point the final opt out numbers will be known.
- Records are expected to be available for use for Australians after 14 December 2018.

Material taken into account

In making my decision, I had regard to:

- a) the terms of your application
- b) the nature of the information requested
- c) relevant provisions of the FOI Act
- d) the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for the decision

In determining whether to release the documents, I considered the Guidelines together with a range of factors that favour access as set out in section 11B(3) [public interest exemptions — factors favouring access] of the FOI Act. I had regard as to whether giving access to the applicant at this time would, on balance, be contrary to the public interest. Specifically, I considered if disclosure would:

- a) promote the objects of the FOI Act;
- b) inform debate on a matter of public importance; or
- c) promote effective oversight of public expenditure.

I found that full disclosure of the document extract may increase public awareness of the digital health programs [FOI Act, section 3(2)(a)] and increase discussion about the activities of the Australian Digital Health Agency [FOI Act, section 3(2)9(b)].

It is for these reasons that I find that the public interest is best served by full disclosure of the extract.

Your review rights

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

Under section 54 of the FOI Act, you may apply in writing to this Agency 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 a review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

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:

Online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
Email: enquiries@oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
In person: Level 3, 175 Pitt Street, Sydney NSW 2000

More information about an Information Commissioner review is available online at www.oaic.gov.au/freedom-of-information/foi-reviews.

Further information

If you have any questions, please contact the FOI Team by email foi@digitalhealth.gov.au or by phone on 02 6289 9932.

Yours sincerely



Bettina McMahon
Chief Operating Officer
Australian Digital Health Agency

From: [FOIDR](#)
To: s 22
Subject: MR18/00724 - Your IC review application about an FOI decision by the Australian Digital Health Agency [SEC=UNCLASSIFIED]
Date: Wednesday, 26 September 2018 3:50:00 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Our reference: MR18/00724

Agency reference: 1807018

Ms Verity Pane

By email: s 22

Dear Ms Pane

Your IC review application about an FOI decision by the Australian Digital Health Agency

Thank you for your correspondence seeking to lodge an IC review application with the [Office of the Australian Information Commissioner](#) (the OAIC) about the Australian Digital Health Agency (ADHA).

We have referred your correspondence to the OAIC's FOI team for consideration and assessment.

Please note:

- If you have submitted a request to the ADHA for internal review of its decision and it has not yet provided you with an internal review decision, please advise by return email.
- Your application will be assessed and you will be advised by an IC review officer of the next steps.
- Your IC review application will be shared with the ADHA as part of the IC review process unless you have specifically requested otherwise.
- If your circumstances change, or your request has been resolved directly with the ADHA, please advise us by email as soon as practicable.


Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email foidr@oaic.gov.au and quote the reference number at the top of this email.

Yours sincerely



Megan McKenna | Assistant Review Officer
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 8231 4292 | megan.mckenna@oaic.gov.au



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cid:image001.png@01D44B63.38E193A0



From: FOI
To: [FOIDR](#)
Cc: [FOI](#)
Subject: Complaint matters raised by Verity Pane
Date: Wednesday, 10 October 2018 3:36:23 PM
Attachments: [image003.jpg](#)

TO: Office of the Australian Information Commissioner
Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
- 2) On 21/09/2018 ADHA sent the applicant a decision in relation to FOI.1807018.
- 3) On 13/09/2018 the OAIC MR.18/02632 advised ADHA FOI.1809004 that Ms Pane had lodged a complaint about the handling of FOI.1807018.
- 4) The ADHA reply to MR.18/02632 is awaiting clearance within days.
- 5) The ADHA reply to MR.18/02632 will cover the matter raised in CP.18/02858 which derives from ADHA FOI.1807018.

Kind regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
Phone 02 6151 8653
Email xxx@xxxxxxxxxxxxx.xxx.xx
Web www.digitalhealth.gov.au

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From: FOIDR
To: "FOI"
Subject: RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]
Date: Thursday, 11 October 2018 2:36 00 PM
Attachments: [image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)

Dear John

Thank you for your email. I have noted your advice about the processing of these requests.

I have listed the current matters the about which the OAIC notified the ADHA, and for which responses are required.

Our reference	Your reference	Stage	Date ADHA not fied by OAIC	Action required by ADHA	Date action (was) required
CP18/02632	NA	Preliminary Inquiries	12 September 2018	Response to Pls.	26 September 2018
MR18/00692	TBC	Preliminary Inquiries	19 September 2018	Response to Pls/finalise request	26 September 2018
CP18/02858	1807018	Preliminary Inquiries	9 October 2018	Response to Pls	16 October 2018

I hope this assists.

Kind regards



Carl English | Assistant Review Officer
 Freedom of Information Dispute Resolution
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 +61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Wednesday, 10 October 2018 3:35 PM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: Complaint matters raised by Verity Pane

TO: Office of the Australian Information Commissioner
 Attention Mr Carl English

Dear Carl:

In reply to your follow-up on a number of matters raised by Verity Pane, I am able to advise the following:

- 1) On 27/07/2018 we received FOI 1807018 asking about the number of opt-outs from the My Health Record system in the period 16-27 July 2018. This involved an extension to process a third party matter.
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- 3) On 13/09/2018 the OAIC MR.18/02632 advised ADHA FOI.1809004 that Ms Pane had lodged a complaint about the handling of FOI.1807018.
- 4) The ADHA reply to MR.18/02632 is awaiting clearance within days.
- 5) The ADHA reply to MR.18/02632 will cover the matter raised in CP.18/02858 which derives from ADHA FOI.1807018.

Kind regards

John Gillam

Freedom of Information Officer (FOI)
 Governance and Performance Reporting Services
 Governance, Reporting and Secretariat Services Branch
 Organisational Capability and Change Management Division

Australian Digital Health Agency
 Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
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From: FOI
To: [FOIDR](#)
Cc: [FOI](#)
Subject: Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]
Date: Tuesday, 16 October 2018 10:18:14 AM
Attachments: [image002.jpg](#)
[FOI_1809004 - OAIC - Complaint Pane.pdf](#)
[FOI.1807018 - Pane - Opt-out - Signed Decision.pdf](#)

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

Dear Carl

Attached is the official response to your Preliminary Inquiries into CP18/02632.

There are two PDF documents:

- 1) The official response
- 2) Copy of the Statement of Reasons sent to Ms Pane in relation to her original FOI request.

Regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
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16 October 2018

Mr Carl English
 Assistant Review & Investigation Officer
 Freedom of Information Dispute Resolution
 Office of the Australian Information Commissioner
 By email: foidr@oaic.gov.au

Freedom of Information Complaint
Preliminary inquiries
OAIC reference CP18/02632
Our reference FOI 1809004

I refer to your letter of 12 September 2018 in which you advise that Ms Verity Pane has submitted a Freedom of Information (FOI) complaint about the Australian Digital Health Agency (ADHA) under the *FOI Act 1982* (the FOI Act).

You have asked for our response to this complaint.

The overall chronology of this application is as follows:

- 27/07/2018 Application received by ADHA.
- 26/08/2018 Application originally due for decision.
- 21/09/2018 Statement of Reasons emailed to applicant.
- 25/09/2018 Revised due date allowing for a 30-day consultation period.

Our response to the specific complaints is tabulated below.

Complaints	ADHA response
1. The ADHA failed to acknowledge her FOI request within 14 days of receipt	10 August 2018 application receipted. This was after considerable email correspondence about when and through whom the application lodged. [See the answer to question 4 below.] It was considered that there had been enough correspondence exchanged to constitute acknowledgment.

Complaints	ADHA response
<p>2. The ADHA did not identify the party it extended the statutory timeframe to consult with under s.15(6)</p>	<p>There is no necessity for ADHA to identify to the applicant the name of the third party consulted. [See the answer to question 3 below.]</p> <p>Ms Pane was advised by email on 24 August 2018 that the consultation was being undertaken.</p>
<p>3. The ADHA extended the timeframe under s.15(6) when there existed no necessity to consult with any party about the documents requested</p>	<p>The Department of Human Services (DHS) delivers My Health Record (MHR) functions under an agreement with ADHA, including Information Communication Technology infrastructure and provider registration and enquiry services. The agreement was signed on 30 June 2016 and sets out the agreed services and functions to be delivered by DHS on behalf of ADHA for the MHR. The Information Technology company that holds the contract with DHS is Accenture Australia Pty Ltd, ABN 61 096 995 649. They are the third party that we had intended to consult.</p> <p>Accenture has held the contract since 2011 for the design and integration of the MHR system.</p> <p>There are several important considerations when attempting to answer the question about opt outs for the period 18-27 July 2018:</p> <ul style="list-style-type: none"> • The disparate sources for the lodgement of an opt-out decision (ie, post offices, mail, online or personal delivery to various offices) • The leads and lags in receiving lodgement forms • The complication in determining whether we are talking about forms received in the first week or forms signed in the first week • The identification of whether people who opted out in the first week subsequently opted back in during the “opt out period” which finishes on 15 November 2018. <p>It is now realised that complete statistics for opt outs will not become available until the opt out period closes in mid-November 2018.</p>
<p>4. ADHA reset the received date of an FOI request to a later date without a statutory basis for doing so</p>	<p>27/07/2018 is the date the application was received. The complaint about resetting the date is not fully understood. Ms Pane submitted her application through Right to Know and they took some time to send it through to the ADHA preferred email address foi@digitalhealth.gov.au. Right to Know is not the email address specified by ADHA for making a valid FOI request to this agency. Ms Pane was advised of this by email on 10 August 2018.</p>

Ms Pane has now been sent a reply to her application. A copy is attached.

If you have any questions, please contact the FOI Team by email foi@digitalhealth.gov.au or by phone on 02 6151 8653.

Yours sincerely

A handwritten signature in blue ink, appearing to read "B McMahon". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Bettina McMahon
Chief Operating Officer
Australian Digital Health Agency



Australian Government
Australian Digital Health Agency

21 September 2018

Ms Verity Pane

By email: s 22

Freedom of Information Act 1982

Statement of Reasons

Application number 1807018

Dear Ms Pane

I refer to your request for access to documents under the *Freedom of Information Act 1982* (FOI Act) for access to:

The number of opt outs for My Health Records received across the period (inclusive) Monday 16 July 2018 to Friday 27 July 2018.

FOI decision maker

I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on your FOI request.

Documents identified

I am satisfied that a diligent search has been undertaken and one document has been identified within the scope of your application.

Decision

I have decided to partially release the identified document (attached).

Additionally, to further assist you I have also decided to provide the following 'talking point' information which was tabled at the recent Senate inquiry, which – while outside your request – is related information that you may find useful:

- The Australian Digital Health Agency reported on 17 September 2018 that approximately 3% (approximately 900,000) of all the eligible recipients had elected to opt out from having a My Health Record created for them by the end of 2018.
- This is in line with forecast expectations that around 90% of Australians will have a My Health Record by the end of the year.
- There are no targets for the number of Australians who will have a record created for them, just to inform every Australia of their right to opt out.

- Australians can opt out online, over the phone (1800 723 471) or via paper forms (available at Australia Post outlets).
- The low opt out rate aligns with a very high national awareness, with over 87% of Australians being aware of My Health Record currently.
- The Inquiry also heard that over 181,000 Australians have opted in to having a My Health Record since 16 July 2018, in order to get the benefits of having a My Health Record right away.
- In the first week of the opt out period, more Australians opted in to get a My Health Record than in any other week in the history of the program.
- A final reconciliation will be undertaken after the opt out period ends on 15 November 2018, at which point the final opt out numbers will be known.
- Records are expected to be available for use for Australians after 14 December 2018.

Material taken into account

In making my decision, I had regard to:

- a) the terms of your application
- b) the nature of the information requested
- c) relevant provisions of the FOI Act
- d) the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for the decision

In determining whether to release the documents, I considered the Guidelines together with a range of factors that favour access as set out in section 11B(3) [public interest exemptions — factors favouring access] of the FOI Act. I had regard as to whether giving access to the applicant at this time would, on balance, be contrary to the public interest. Specifically, I considered if disclosure would:

- a) promote the objects of the FOI Act;
- b) inform debate on a matter of public importance; or
- c) promote effective oversight of public expenditure.

I found that full disclosure of the document extract may increase public awareness of the digital health programs [FOI Act, section 3(2)(a)] and increase discussion about the activities of the Australian Digital Health Agency [FOI Act, section 3(2)(b)].

It is for these reasons that I find that the public interest is best served by full disclosure of the extract.

Your review rights

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

Under section 54 of the FOI Act, you may apply in writing to this Agency 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 a review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

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:

Online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
Email: enquiries@oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
In person: Level 3, 175 Pitt Street, Sydney NSW 2000

More information about an Information Commissioner review is available online at www.oaic.gov.au/freedom-of-information/foi-reviews.

Further information

If you have any questions, please contact the FOI Team by email foi@digitalhealth.gov.au or by phone on 02 6289 9932.

Yours sincerely



Bettina McMahon
Chief Operating Officer
Australian Digital Health Agency

From: FOIDR
To: "FOI"
Subject: RE: Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]
Date: Tuesday, 16 October 2018 11:26:00 AM
Attachments: [image001.jpg](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Dear Mr Gillam

Thank you for your email.

The Office of the Australian Information Commissioner (OAIC) is considering the agency's response. We will write to you if we need any further information.

Once Ms Pane's complaint and IC review have been assessed we will contact you to discuss the next steps.

Kind regards



Carl English | Assistant Review Officer
Freedom of Information Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9745 | +61 412 345 678 | carl.english@oaic.gov.au



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From: FOI <foi@digitalhealth.gov.au>
Sent: Tuesday, 16 October 2018 10:18 AM
To: FOIDR <foidr@oaic.gov.au>
Cc: FOI <foi@digitalhealth.gov.au>
Subject: Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]

OFFICIAL

Mr Carl English
Assistant Review Officer
Office of the Australian Information Commissioner
Sydney

Dear Carl

Attached is the official response to your Preliminary Inquiries into CP18/02632.

There are two PDF documents:

- 1) The official response
- 2) Copy of the Statement of Reasons sent to Ms Pane in relation to her original FOI request.

Regards

John Gillam

Freedom of Information Officer (FOI)
Governance and Performance Reporting Services
Governance, Reporting and Secretariat Services Branch
Organisational Capability and Change Management Division

Australian Digital Health Agency
Scarborough House, Level 7, 1 Atlantic Street, Woden ACT 2606
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MR18/00724

McKenna, Megan
13-Nov-2018 10:23 AM

Title

Pane, Verity | ADHA - The Australian Digital Health Agency

Receipt Details

File Type:	Access Refusal	Received Date:	26-Sep-2018 3:37 PM
Case Type:	Prepare Review	Received By:	McKenna, Megan
How Received:		Registered Date:	26-Sep-2018 3:37 PM
Owned By:	Allocation - Post Triage	Registered By:	Allocation - Post Triage

Case Details

Stage:	Allocation
How Received:	Email
Validation:	Valid
Sensitivity:	Media Interest
File Security:	UNCLASSIFIED
Agency Reference Number:	1807018
Primary Client Group:	Individual
Parent Case Entity Code:	IC Review
Respondent Client Group:	Agency
Case PrimaryPerson:	Pane, Verity
Case Respondent:	ADHA - The Australian Digital Health Agency
Assessor Note:	Searches and s 17; s 54Z due 30 Nov
Retention Class:	OAIC RA 61986 (D2)

Case Parties - 2

Applicant Client:	Pane, Verity
Respondent Client:	ADHA - The Australian Digital Health Agency

Summary

Summary
A sought access to the number of opt outs for My Health Records received across the period (inclusive) Monday 16 July 2018 to Friday 27 July 2018. A requested a document be created under s 17 1 document identified
Access provided.
A seeks review of ADHA's decision not to create a new document under s 17 and searches

Assessment: Commence review, send opening letters, request processing documentation including evidence of searches and and submissions. Move to Allocation - IC reviews. Review material and form view. RA

Actions - 10 (2 Open, 8 Completed)

Action	Owner	Due	Completed
Record case details and attach docs (MR REG)	McKenna, Megan	28-Sep-2018	26-Sep-2018
Send Acknowledgement Letter (MR REG)	McKenna, Megan	28-Sep-2018	26-Sep-2018
Move to Triage basket (MR REG)	McKenna, Megan	27-Sep-2018	26-Sep-2018

Allocate to Triage Officer (MR TR)	Triage - FOI	27-Sep-2018	26-Sep-2018, McKenna, Megan
Conduct Triage (MR TR)	McKenna, Megan	27-Sep-2018	26-Sep-2018: Mail Assessment
Decide Path (MR MA)	Mail Assessor - FOI	27-Sep-2018	29-Oct-2018, Ago, Rocelle: 54Z - Conduct Review
<p>Summary A sought access to the number of opt outs for My Health Records received across the period (inclusive) Monday 16 July 2018 to Friday 27 July 2018. A requested a document be created under s 17 1 document identified Access provided. A seeks review of ADHA's decision not to create a new document under s 17 and searches Assessment: Commence review, send opening letters, request processing documentation including evidence of searches and and submissions. Move to Allocation - IC reviews. Review material and form view. RA</p>			
Move to Allocation – Review (MR MA)	Mail Assessor - FOI	30-Oct-2018	29-Oct-2018, Ago, Rocelle
Allocate Review (MR RF)	Allocation - Post Triage	30-Oct-2018	
Prepare and send 54Z Letter (MR PR)	Allocation - Post Triage	16-Nov-2018	
File Note	Yue, Vivian	08-Nov-2018	13-Nov-2018, McKenna, Megan
<p>Hi Vivian Please progress s 54Z notice/opening to A this week. SW</p>			

Documents - 11

Title	Date Added	By
FOI 1807018 Pane Opt out.docx	26-Sep-2018 3:46 PM	McKenna, Megan
FW: IC Review Application - ADHA FOI 1807018 - Opt Out Numbers [SEC=UNCLASSIFIED]	26-Sep-2018 2:00 PM	McKenna, Megan
MR18/00724 - Your IC review application about an FOI decision by the Australian Digital Health Agency [SEC=UNCLASSIFIED]	26-Sep-2018 3:50 PM	McKenna, Megan
Complaint matters raised by Verity Pane	10-Oct-2018 3:34 PM	English, Carl
RE: Complaint matters raised by Verity Pane [SEC=UNCLASSIFIED]	11-Oct-2018 2:36 PM	English, Carl
Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]	16-Oct-2018 10:18 AM	English, Carl
FOI.1807018 - Pane - Opt-out - Signed Decision.pdf	16-Oct-2018 11:24 AM	English, Carl
RE: Freedom of Information compliant OAIC reference CP18/02632 – Verity Pane [SEC=OFFICIAL]	16-Oct-2018 11:26 AM	English, Carl
MR18 00724 - 54Z - Pane and ADHA.pdf	09-Nov-2018 5:04 PM	Yue, Vivian
MR18/00724 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]	09-Nov-2018 5:08 PM	Yue, Vivian
MR18/00724 - Your application for Information Commissioner review [SEC=UNCLASSIFIED]	09-Nov-2018 5:18 PM	Yue, Vivian

Cross References - 1

Case	Comments
CP18/02858	