



4 December 2018

Our reference: 1811001

Richard Smith  
Richard Smith [foi+request-4932-568e008c@righttoknow.org.au](mailto:foi+request-4932-568e008c@righttoknow.org.au)

Dear Mr Smith,

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

- a) Documents relating to any investigations, reviews or routine checks undertaken by ADHA (or suppliers or subcontractors of ADHA) to determine if any breaches in security have occurred for any electronic records held, maintained or overseen by the ADHA in the years of 2015, 2016, 2017 and 2018; and*
- b) Documents relating to the procedures currently in use by the ADHA which outline the methods by which the application of updates, upgrades and "patches", both routine and ad-hoc to all hardware used by the ADHA to maintain electronic records are correctly applied and assured; and*
- c) Documents relating to the procedures currently in use by the ADHA which outline the methods by which the application of updates, upgrades and "patches", both routine and ad-hoc to all software used by the ADHA to maintain electronic records are correctly applied and assured; and*
- d) Documents relating to the procedures in use in 2016 by the ADHA which outline the methods by which the application of updates, upgrades and "patches", both routine and ad-hoc to all hardware used by the ADHA to maintain electronic records are correctly applied and assured; and*
- e) Documents relating to the procedures in use in 2016 by the ADHA which outline the methods by which the application of updates, upgrades and "patches", both routine and ad-hoc to all software used by the ADHA to maintain electronic records are correctly applied and assured.*

I, Bettina McMahon, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

Section 15 of the FOI Act gives a right to access documents held by the Australian Digital Health Agency (the Agency). Such a request must provide information about those documents sufficient to enable a responsible officer of the Agency to identify them (section 15(2)(b)).

I am writing to tell you that I believe that you have not provided enough information about the documents you are seeking to allow officers of this Agency to identify them. This is called a 'practical refusal reason' (section 24AA).

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a 'request consultation process' as set in section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways described below.

### **Request consultation process**

You now have an opportunity to revise your request to enable it to proceed.

Revising your request means providing more information about the documents you wish to access. For example, by providing more specific information about exactly what documents you are interest in, we will be able to identify the documents that interest you.

It may assist you to know that the Agency does not know what type of documents you are seeking.

In relation to point a, the Agency was established in early 2016 and commenced operations on 1 July 2016. The Agency is the system operator of the My Health Record (MHR) system as defined in the *My Health Records Act 2012*. These functions were taken over from the Department of Health. You have asked about breaches in security for electronic records from 2015-2018. As 2015 would be referring to the time when work was undertaken by the Department of Health prior to the establishment of the Agency, this enquiry would have to be referred to that Department. You would be required to either lodge a separate FOI request for this component of your inquiry with the Department of Health. Information about submitting an application form can be found at <http://www.health.gov.au/internet/main/publishing.nsf/content/foi-about>. Alternatively, we could request a partial transfer of this data on your behalf. Please advise your preference.

In relation to points b to e, can you please be more specific if you are referring to all electronic **health** records, or all electronic records held by the Agency?

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request
- make a revised request
- tell us that you do not wish to revise your request.

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. (Please note that the time taken to consult you about the scope of your request is not included in the 30 day time limit for processing your request.)

If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

#### **Contact officer**

If you would like to revise your request or have any questions, the contact officer for your request is Cecilia who can be telephone on (02) 6223 0780 or email at [foi@digitalhealth.gov.au](mailto:foi@digitalhealth.gov.au).

Yours sincerely



Bettina McMahon

Chief Operating Officer