



18 January 2019

Our reference: LEX 41827

Emily Robinson
Right to Know

By email only: foi+request-5206-6c37fbc9@righttoknow.org.au

Dear Ms Robinson

Your Freedom of Information (FOI) request – Consultation

I refer to your revised request, dated and received by the Department of Human Services (**department**) on 11 January 2019, for access under the *Freedom of Information Act 1982* (**FOI Act**) in the following terms:

- Centrelink staff training packages, policies, guidelines, directives, and procedures that are not publicly available and used in conjunction with the operational blueprint 'Circumstances affecting capacity to comply with compulsory requirements (001-10050000)';
 - these documents may include documents by the department for internal use and provided to the department by another department.
- Centrelink documents (staff training packages, policies, guidelines, directives, and procedures) that are not publicly available and use the term 'vulnerability indicators' applicable to customers and/or staff in 2010, 2011, 2012 and 2013;
- Centrelink documents (staff training packages, policies, guidelines, directives, and procedures) that are not publicly available and describe the process that staff should follow when identifying customers who are vulnerable, in 2010, 2011, 2012 and 2013;
- Centrelink documents that are used by staff to provide support to 'vulnerable' customers;
- Centrelink documents that are used by staff to manage any risk presented by a 'vulnerable' customer, either to themselves or others.
- Centrelink documents that are used by staff to review 'vulnerability indicators'.

Note: I am seeking documents that were used at any point during the time period of 2010 - 2013.

Further consultation – a practical refusal risk remains

I note that you previously revised your request following an earlier consultation under section 24AB of the FOI Act. However, after further investigation with internal business areas, I consider that a practical refusal reason remains in relation to the identification of documents.

Your revised request does not provide sufficient information as is reasonably necessary to enable the department to identify the documents that you are requesting.

Please revise your request to give me more specific details about the documents you are requesting.

For a more detailed explanation of what this means, see **Attachment A**.

As mentioned in the last consultation letter, if you decide not to revise your request in order to resolve the issues raised above, I will have to refuse your request on the basis that one or more practical refusal reason still exists.

How to send us a 'revised request'

Before I make a final decision on your request, you can submit a revised request.

Within the next 14 days (**consultation period**) you must do one of the following, in writing:

- withdraw the request;
- make a revised request; or
- tell me that you do not want to revise your request.

If you do not do one of these three things during this second consultation period, your request will be deemed to have been withdrawn by operation of the FOI Act.

See **Attachment A** for relevant sections of the FOI Act.

We have 30 days to notify you of our decision on your request, however, the time taken to consult with you is not included in this 30 day time period.

Contact officer

I am the contact officer for your request. During the consultation period you are welcome to ask for my help in revising your request. You can contact me:

- in writing to the address at the top of this letter; or
- via email to FOI.LEGAL.TEAM@humanservices.gov.au

Note: When you contact us please quote the reference number **FOI LEX 41827**.

Further assistance

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

Yours sincerely

Ellen

Authorised FOI Decision Maker

Freedom of Information Team

Employment Law and Freedom of Information Branch | Legal Services Division

Department of Human Services



Attachment A

Your request

Following the first consultation letter, on 11 January 2019, you revised your request to the following documents:

- Centrelink staff training packages, policies, guidelines, directives, and procedures that are not publicly available and used in conjunction with the operational blueprint 'Circumstances affecting capacity to comply with compulsory requirements (001-10050000)';
 - these documents may include documents by the department for internal use and provided to the department by another department.
- Centrelink documents (staff training packages, policies, guidelines, directives, and procedures) that are not publicly available and use the term 'vulnerability indicators' applicable to customers and/or staff in 2010, 2011, 2012 and 2013;
- Centrelink documents (staff training packages, policies, guidelines, directives, and procedures) that are not publicly available and describe the process that staff should follow when identifying customers who are vulnerable, in 2010, 2011, 2012 and 2013;
- Centrelink documents that are used by staff to provide support to 'vulnerable' customers;
- Centrelink documents that are used by staff to manage any risk presented by a 'vulnerable' customer, either to themselves or others.
- Centrelink documents that are used by staff to review 'vulnerability indicators'.

Note: I am seeking documents that were used at any point during the time period of 2010 - 2013.

On 11 January 2019, the department wrote to you to confirm their understanding of your revised request and the term 'vulnerable'. The department's email provided:

The meaning of 'vulnerable'

To assist the FOI team in processing your request, could you also please identify what definition you are using when you refer to 'vulnerable'. In particular, please identify whether you are using the term vulnerable in the same way as used in the Guide to Social Security Law or in some other way.

The Guide to Social Security Law uses the term 'vulnerable' to describe the following:

- 'vulnerable claimant' to describe a number of people in a number of different 'vulnerable circumstances', see here: <http://guides.dss.gov.au/guide-social-security-law/8/1/1/60>; and
- 'indicators of vulnerability' to describe that someone is vulnerable when someone is dealing with financial hardship, financial exploitation, failing to undertake

reasonable self-care or currently homeless, or at risk of homelessness, see here: <http://guides.dss.gov.au/guide-social-security-law/11/4/2/20>.

Please confirm the meaning of ‘vulnerable’ in the context of your request.

On 11 January 2019, you responded to the department’s email and advised:

I confirm that your understanding of my request as described in your response is my intended revised request.

I confirm that the term “vulnerable” is used in this context as appears in the Guide to Social Security Law per the links you provided in your response.

What I took into account

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

I appreciate that you have already provided a revised request following an earlier consultation under section 24AB of the FOI Act. However, as your request is currently framed, it does not contain information concerning the documents requested which is reasonably necessary to enable a responsible officer of the department to identify the documents requested.

Following further consultations with relevant departmental business areas, I consider that certain terms in your request remains too unclear to process.

The following terms are unclear:

- ‘vulnerable’; and
- ‘vulnerability indicators’.

The term ‘vulnerable’ remains too broad, even when specified to be in the context as appears in the Guide to Social Security Law. The definition and application of ‘vulnerable’ varies between departmental areas and in relation to different payments. For example, the term ‘vulnerable’ when applied in relation to income management measures will be different to when the term ‘vulnerable’ is applied to a customer by a departmental social worker.

Similarly, ‘vulnerability indicators’ is ambiguous in the social security context and requires additional information. This term has specific technical meanings within different business areas. For example, in relation to Jobseekers, ‘vulnerability indicators’ refer to circumstances affecting a jobseeker’s capacity to comply with their mutual obligation requirements. A jobseeker who has a vulnerability indicator recorded in relation to their mutual obligation requirements will not necessarily, or automatically, have a vulnerability indicator recorded for other purposes.

As these terms hold specific meanings in different contexts, I am unable to identify and conduct searches for the documents you are requesting.

Having regard to the above, I am satisfied that you have not provided such information concerning the documents as is reasonably necessary to enable a responsible officer to identify the documents you are seeking access to.

Assistance to revise your request

You may wish to consider, for a second time, to revise the scope of your request to address the issues raised above by providing:

- additional information to specify the payment or circumstances that you are seeking these documents for;
- additional information to specify what you mean by 'vulnerable' and 'vulnerability indicators'.

Please note that, even if you provide the department with specific information that allows us to identify the documents you are seeking, the request may still give rise to a practical refusal reason if the revised scope remains too broad. You will need to take this into consideration when revising the scope of your request.

The department does not undertake 'part processing' of an FOI request, meaning that, even if some parts of your request were clear, the department cannot process any aspect of your request if part of it remains unclear.

Further assistance

Please consider relooking at the resources below that are publicly available. These resources were provided to you in the consultation letter dated 11 January 2019.

The department's operational blueprint website and the Department's Social Security Guide to Social Policy Law (**Guide**) may assist you in identifying the documents that you are seeking.

Operational Blueprints

Operational Blueprints outline how departmental staff determine and deliver health, social and welfare payments and services on behalf of the Australian Government. You can search the publicly available Operational Blueprints here:

<http://operational.humanservices.gov.au/public/home.html>.

I have listed a number of Operational Blueprints to assist you to identify what type of vulnerability documents you are seeking in your request:

- <http://operational.humanservices.gov.au/public/Pages/job-seekers/001-10050000-01.html>
- <http://operational.humanservices.gov.au/public/Pages/payment-delivery/103-01080040-05.html>
- <http://operational.humanservices.gov.au/public/Pages/compliance-and-reviews/110-06090050-01.html>
- <http://operational.humanservices.gov.au/public/Pages/job-seekers/001-02020040-01.html>

The Department of Social Service's Guide to Social Policy Law

If you have not already considered the Department of Social Security's Guide to Social Policy Law (**Guide**). This Guide does provide information about different types of vulnerability

indicators for welfare recipients. The Guide is available to access here:
<http://guides.dss.gov.au/guide-social-security-law>.

Relevant sections of the *Freedom of Information Act 1982*

Section 15(2)(b) of the FOI Act provides that a request must provide such information as is reasonably necessary to enable a responsible officer to identify the documents sought

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to an FOI request if the request does not satisfy the requirements of section 15(2)(b) of the FOI Act.

Section 24AB(6) provides that the applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:

- withdraw the request,
- make a revised request, or
- indicate that the applicant does not wish to revise the request.

Section 24AB(7) of the FOI Act provides that the request is taken to have been withdrawn at the end of the consultation period if:

- the applicant does not consult the contact person during the consultation period in accordance with the notice, or
- the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.