



18 April 2019

Ms K Hepworth

BY EMAIL: foi+request-5367-8051bf05@righttoknow.org.au

In reply please quote:

FOI Request: FA 19/04/00641

File Number: OBJ2019/22973

Dear Ms Hepworth

I refer to your email dated 9 April 2019 in which you request access to documents held by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to tell you that I intend to refuse your request on the basis that a practical refusal reason exists. However, before I make a final decision to do this, you have an opportunity to revise your request to remove the practical refusal reason. This is called a '*request consultation process*'. You have 14 days to respond to this notice in one of the ways set out below.

Scope of Request

You have requested access to the following:

The number of "Notices of Proposed Movement of Persons in Custody" (Notice) provided to a prescribed air service since 1st July 2017. Please disaggregate the information according to the following:

- 1) *reason for the proposed movement*
- 2) *the name of the prescribed air service*
- 3) *whether the airline requested further information*
- 4) *whether the movement was accepted or declined and*

Please note that I am not seeking the personal information of any individual named in the Notice.

Power to refuse request

Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

Practical refusal

A *practical refusal reason* exists if either (or both) of the following applies:

- (a) the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations
- (b) the request does not satisfy the requirement in section 15(2)(b) of the FOI Act, which requires you to provide such information concerning the document you are seeking access to, to enable the Department to be able to identify it.

Reasons for practical refusal

Under section 17 of the FOI Act, the Department is able to produce data relating to the number of voluntary and involuntary removals that have occurred since 2015/16. It is noted that for every removal, a "Notice of Proposed Movement of Persons in Custody" must be provided to the relevant air service provider prior to the removal occurring.

The Department is not able to produce data from its computer systems under section 17 of the FOI Act which would include details such as the reason for the proposed movement, the name of the air service provider, whether the airline request further information and whether the movement was accepted or declined.

In order for the Department to be able to process the numbered points of your request, it would be necessary for every individual removal file to be assessed and relevant documents identified within each of those files. An initial assessment of the number of files that would have to be reviewed indicates that it would take the Department approximately **100 hours** to search and retrieve any documents relevant to the numbered parts of your request.

As such, in the first instance, I am of the view that a search for documents that would be captured by your request would result in a substantial and unreasonable diversion of the resources of the Department.

Once any relevant documents had been identified and retrieved, they would have to be assessed by a decision maker and a decision on whether to grant, refuse or defer access to those documents.

I estimate that in excess of an additional **200 hours** would be required to undertake that decision making process. This would include an examination of the documents, making edited copies of the documents, and notifying you of the decision on your request.

I consider that this diversion of resources would result in a significant drain on the business area that would be required to undertake both the search and retrieval process and the decision making process.

As such, I am satisfied that in order to process your request the Department would be required to divert substantial resources to it and that this diversion of resources would result in an adverse effect on the ability of the Department to carry its normal operational functions and activities.

Request Consultation Process

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

By way of example, only, you may wish to consider reducing the scope of your request to the statistics for voluntary and involuntary removals that have occurred since the 2015/16 financial year.

Under section 24AB of the FOI Act, you have 14 days to respond to this notice in writing and advise me whether:

- you wish to make a revised request;
- indicate that you do not wish to revise your request; or
- withdraw your request.

If you do not do one of the three things listed above during the consultation period (14 days) or you do not consult the contact person listed below during this period, your request will be taken to have been withdrawn in accordance with section 24AB(7) of the FOI Act.

Contact

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact Alison Smith at foi@homeaffairs.gov.au.



Alison Smith
Assistant Director | Freedom of Information Section
FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs