



Our reference: FOIREQ20/00032

Ms Lisa Nagi

By email: [foi+request-5455-0fb67cb6@righttoknow.org.au](mailto:foi+request-5455-0fb67cb6@righttoknow.org.au)

## **Your Freedom of information request – FOIREQ20/00032**

Dear Ms Nagi,

I refer to your request for access to documents, made under the *Freedom of Information Act 1982* (Cth) (the FOI Act), dated 6 February 2020 and received by the Office of the Australian Information Commissioner (OAIC) on the same date.

I am an authorised officer under s 23(1) of the FOI Act to make decisions in relation to freedom of information (FOI) requests.

On 6 February 2020, you requested access to:

the data breach notifications submitted for 2019

On 27 February 2020, I wrote to you to advise you that I believed that a practical refusal reason, under s 24AA of the FOI Act existed, as the work involved in processing your request in its current form will substantially and unreasonably divert the resources of the OAIC from its other operations due to its size and broad scope. I explained that a failure to comply with this requirement is a ‘practical refusal’ reason under s 24AA(1)(a)(i) of the FOI Act.

You were given an opportunity to consult me to revise your request to remove the practical refusal reason and I asked you to state whether you wanted to revise your request, withdraw your request or whether you did not want to revise your request.

On 28 February 2020, you responded, and you revised the scope of your request to the following:

the time from of September 1, 2019 - December 31, 2019

On 11 March 2020, the OAIC advised you that although you had revised the scope of your request a practical refusal still existed. This is because the OAIC received approximately 360 data breach notifications under the Notifiable Data Breach Scheme between 1 September 2019 and 31 December 2019. Further, as the

information you are seeking relates to a number of third parties those third parties will need to be consulted under s 27 of the FOI Act.

On 12 March 2020, you advised the OAIC that you were willing to revise the scope of your request to the following:

Data breach notifications sent in February of 2020

On 17 March 2020, I advised you that the term 'Data Breach Notifications' apply to two categories of data breaches: Voluntary Data Breach notifications and Eligible Data Breach notifications which are subject to the Notifiable Data Breach provisions in the *Privacy Act 1988* (Cth) (Privacy Act).

In February 2020, the OAIC received 84 Eligible Data Breach notifications and 20 Voluntary Data Breach notifications. This equates to 104 notifications received in February 2020. Working on the premise that you seek access to the Eligible Data Breach notifications only, processing your request will take approximately 147 hours or four (4) working weeks. This will still be considered an unreasonable diversion of resources.

I asked if you would like to proceed with your request you would need to reduce the scope further to remove the practical refusal reason. I asked you to provide a response by 20 March 2020.

To date I have not received a response to my 17 March 2020 email. As such, I have taken your request as withdrawn.

### **Request consultation process**

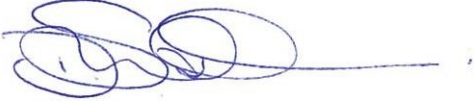
A request is taken to be withdrawn under s 24AB(7) of the FOI Act if the applicant does not consult the contact person during the consultation period in accordance with the notice or:

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

Because no response was received by the end of the consultation period, this matter

has been treated as withdrawn.

Yours sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**Delaney Smith**  
Legal Services Officer

27 March 2020