



## Administrative Appeals Tribunal

FOI ref: 2020/0016

2 March 2020

Mr John Smith

Email: [foi+request-6163-98f1799f@righttoknow.org.au](mailto:foi+request-6163-98f1799f@righttoknow.org.au)

Dear Mr Smith,

### **Freedom of Information Request no. 2020/0016**

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

On 17 February 2020, you submitted five separate requests for access to documents relating to the use of labour hire staff at the Administrative Appeals Tribunal (AAT).

### **Section 24 of the FOI Act – Multiple requests**

Section 24(2) of the FOI Act provides that an agency may treat two or more requests as a single request if the agency is satisfied that:

- (a) the requests relate to the same document or documents; or
- (b) the requests relate to documents, the subject matter of which is substantially the same.

Paragraph 3.123 of the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC) explains that the most common circumstance in which requests may be combined under s 24(2) is multiple requests from a single applicant. In addition, the Guidelines state that multiple requests can only be combined as a single request under s 24(2) if there is a clear connection between the subject matter of the requested documents.

I have considered the nature of the documents requested on 17 February 2020 in the context of s 24(2). The common thread in your requests is regarding labour hire staff and procedures at the AAT and I consider there to be a clear connection between the subject matter (labour hire) in each of the five separate FOI requests. I am therefore satisfied that the requests relate to documents, the subject matter of which is substantially the same. Consequently, I have combined your five requests into one single request under s 24(2) of the FOI Act.

### **Section 24AB – Request consultation process**

I am writing to clarify your request and advise that I intend to refuse your request on the basis that it does not adequately identify the documents you seek and that the work

involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations. This is called a 'practical refusal reason' under section 24AA(1)(b) of the FOI Act.

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 out under s 24AB of the FOI Act.

You have 14 days to respond to this notice in one of the ways set out below.

### **Why I intent to refuse your request**

In your request, you sought:

1. A copy of all contracts between the labour hire providers 'Launch Recruitment' and the AAT, in the possession of either the AAT or 'Launch Recruitment'.
2. A copy of any of the AAT's policies & procedures, regarding the use of labour hire firms, and labour hire arrangements.
3. Any documents in possession of the AAT that detail the amount being spent by the AAT on the procurement of labour hire staff.
4. Any documents in possession of the AAT that detail the number of labour hire staff that have worked at the AAT.
5. Any email correspondence between the AAT and any of its labour hire agencies that discuss the contracts of employees of labour hire agencies; who have/will, perform work at/on behalf of, the AAT.
6. Copies of any staff emails in either the month of December 2019, or January 2020; that mention section 6 of the Public Service Act.
7. Copies of any staff emails in either the month of December 2019, or January 2020; that mention the public service code of conduct.
8. Copies of any emails between the AAT and any of its labour hire providers that mention the APS code of conduct.
9. A copy of all contracts between any labour hire provider and the AAT, in the possession of either the AAT or the respective labour hire provider.

All parts of your request listed above fail to provide enough detail for an officer of the AAT to identify the documents that you seek. The lack of detail makes processing your FOI request in its current form an unreasonable diversion of the AATs resources from its other operations.

In particular, your request does not specify a date range for the documents requested. In July 2015, the AAT amalgamated with the Migration and Refugee Tribunals (MRT-RRT) and the Social Security Appeals Tribunal (SSAT). As you have not specified a time period we are required to search for documents since 1 July 2015. Refining the time

period can assist us to find documents that are more relevant to you and also assists us process your request more efficiently.

### ***Parts 3 and 4 of your FOI request***

At part 3 and 4, you have requested access to documents that detail the amount being spent by the AAT on the procurement of labour hire staff as well as documents that detail the number of labour hire staff that have worked at the AAT. Both of these requests in their current form would substantially and unreasonably divert the resources of the AAT for the reasons set out below.

The AAT's Procurement section has advised that there have been approximately 551 individuals engaged under labour hire arrangements since 2016. This means that there are likely to be over 551 documents which contain details of the amount the AAT has spent on procurement of labour hire (i.e. contracts).

In addition to these 551 documents which contain financial details, our preliminary searches indicate that the information you have requested is also located in monthly & quarterly reports, spreadsheets and the AAT's Finance database. From previous experience, and from examining these reports, spreadsheets and databases, I estimate it would take an officer approximately 11 hours to search and collate the documents. This includes 2 hours to examine all reports since amalgamation and assess whether or not they are within the scope of the request, including collating the documents; 3 hours to examine all spreadsheets, including collating the documents; 6 hours to search the AAT's Finance database and collate the documents.

Following a sampling exercise of 30 documents (from the 551 documents), I have found that it takes 10 minutes per individual contract to identify whether or not the document falls within the scope of your request, including collating those documents into a manageable form. It would therefore take an officer approximately 92 hours to search, locate and collate the documents.

In addition, the *actual time* taken to date for the Procurement staff members to search and locate documents within the filing system is 5 hours.

Therefore I estimate that it would take 108 hours to identify and collate the documents relating to parts 3 and 4 of your request.

### ***Parts 5-8 of your FOI request***

Parts 5-8 of your FOI request do not specify individual staff names, rather you request copies of *any* staff emails. According to the AAT's 2018-19 Annual Report, there are over 714 staff working at the AAT. As you have not specified individual AAT officers, processing your request in its current form means that an FOI officer would need to search 714 staff mailboxes for an unknown period of time. From previous experience processing requests of this nature, searching for the documents alone can often take months. This is because we are required to search the emails of staff that have left the Tribunal and for any deleted or archived emails of current and former staff. The AAT's backup storage system contains these deleted and archived emails.

A search of the backup storage system requires monthly backup copies of the mail server to be restored one copy at a time.

As your request does not specify a time period, we would also be required to search all emails for all staff since amalgamation in July 2015.

Given the Tribunal's backup storage system and equipment are required for ongoing routine operations, the IT Infrastructure team estimates that a maximum of two restores can be completed per working week. Assigning additional staffing resources to process this request would not overcome the administrative processing time required to retrieve and search backup copies of the mailbox due to the ongoing use of the system and equipment.

### ***Part 9 of your FOI request***

At part 9 of your request, you have asked for a 'copy of all contracts between any labour hire provider and the AAT, in the possession of either the AAT or the respective labour hire provider'.

As mentioned above, there have been approximately 551 individuals engaged under labour hire arrangements since 2016. With each Labour Hire engagement there are, on average, three documents which make up the contract. Consequently there are approximately 1653 documents that may fall within the scope of this part of your request.

I have calculated the estimated time an AAT officer would spend searching, collating, making a decision and preparing documents for release for a subset of 30 documents. I have found that it takes 5 minutes to assess each document and collate them into a manageable form. It would therefore take an AAT officer approximately 137 hours to search, identify and collate these documents.

### ***Other processing activities***

Once all these activities relating to searching, identifying, and collating the documents is complete, the usual processing work must also be undertaken, including review of each document, consultation where necessary, consideration of exemptions, writing the decision and preparing the material for release. I also note the documents contain the personal details of individuals and will require redactions. As we do not know how many documents are within the scope of your request, we cannot estimate this additional processing time at this stage.

### ***What you should do***

You now have an opportunity to revise your request to enable it to proceed. Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access.

Within 14 days after the day you receive this notice, you must do one of the following, in writing:

- withdraw your request
- revise your request
- tell me that you do not wish to revise your request

During the 14 day period, you are welcome to contact me for assistance with revising your request.

If you do not contact me or provide written notice within the 14 day period, your FOI request will be taken to have been withdrawn under section 24AB(7) of the FOI Act. The 30 day statutory timeframe for processing your FOI request is suspended from the date you receive this letter, and will resume on the day you revise your request or indicate that you do not wish to revise your request.

Please note, as this request does not concern your personal information, there may be a processing charge. If this occurs we will send you an estimate letter before commencing processing.

If you have any questions, please contact me on (02) 9276 5449 or at [foi@aat.gov.au](mailto:foi@aat.gov.au).

Yours sincerely,

[Signed]

**Skye M**  
Authorised FOI Officer (APS 6)