



## Administrative Appeals Tribunal

FOI ref: 2020/0016

18 March 2020

Mr John Smith

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

Dear Mr Smith,

### **Request consultation Process (s24AB) - Freedom of Information Request no. 2020/0016**

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

On 2 March 2020, I advised you of the Tribunal's intention to refuse your FOI request under s 24AA of the FOI Act and provided you with an opportunity to revise your request. On 3 March 2020, I received your response to this request consultation process.

I note that in your email of 3 March 2020, you disagree with the AAT combining your requests and treating them as a single request under s 24(2) of the FOI Act. The AAT does not agree with your contention because the subject matter of the individual requests is substantially the same. There is no obligation under the FOI Act for an agency to consult individuals regarding the consolidation of multiple requests. Therefore, we will continue to treat your five individual requests as one FOI request.

In your email you have also refined your FOI request. Although you have narrowed your request, there are still parts of your request that cannot be processed in its current form due to the amount of work involved in processing, which would substantively and unreasonably divert the resources of the AAT. According to the OAIC Guidelines, an agency cannot undertake a consultation process in relation to *all* of the requested documents and then, if the applicant does not withdraw or revise the request, unilaterally decide to give access under the FOI Act to some of the requested documents and refuse access to others on practical refusal grounds. What this means is, because your request still includes documents that are unable to be processed on practical refusal grounds, I must refuse your whole request.

Before I do this, I have set out below the parts of your request that I believe would substantively and unreasonably divert the resources of the AAT and provide you with an opportunity to narrow these parts further. If these parts cannot be narrowed, your request is likely to be refused under s 24AA of the FOI Act.

I refer to the following parts of your request:

**3. Any documents in possession of the AAT that detail the amount being spent by the AAT on the procurement of labour hire staff.**

**Please narrow this request to only include documents that are monthly & quarterly reports, spreadsheets, or on an AAT database**

Although this part of your request has been narrowed substantially, searching the AAT's databases for documents that may fall within the scope of your request is a complex and resource intensive task. This is because our finance database reports on labour hire procurements processed through purchase orders and payment claims. The data since amalgamation (1 July 2015) is voluminous and identifies persons to whom payments have been made. Due to the amount of sensitive personal information, each individual would need to be consulted under s 27A of the FOI Act.

We suggest that, if your request was narrowed to include a specific time period, i.e. for the 2019 calendar year, it would remove the difficulties associated with dealing with the request. The AAT could produce a report generated from our finance database which identifies the labour hire providers and the financial payments but not the individual contractors. This would then remove the need to consult a substantial number of employees under s 27A. There would still be a need to consult the providers, however the number of consultations would be dramatically reduced.

**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**

**Please narrow this request to only include email correspondence between a staff member of the AAT and a labour hire provider; in the month of October 2019**

Although you have narrowed the scope of this request to include only emails in the month of October 2019, the work involved in processing this request remains a substantial burden on AAT staff. This is because you have not specified the particular AAT staff members, so we would still need to consult over 714 individuals.

We suggest that you narrow the scope of this part of your request for emails to and from a small number of specific staff members and labour hire agencies. We also suggest refining your request to exclude both deleted and archived emails.

**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.**

**Please narrow this request to only include emails in either the month of December 2019, or January 2020; that contain the exact term "public service act" (not case sensitive). Please also narrow the request to only include the emails of officers within the MRD division.**

Similar to part 5 of your request, although you have narrowed your request to only include emails in the month of December 2019 and January 2020 and to include the emails of officers who work in the Migration and Refugee Division (MRD), this request is too broad for the following reasons:

- Tribunal officers in the MRD make up approximately one third of staff at the AAT. The Tribunal has over 714 staff, so there would be over 200 staff members. This means an FOI officer would need to search the mailboxes of over 200 staff;
- As the mailboxes contain the personal information of individual employees, we would need to consult over 200 staff, including those who have left the Tribunal;
- The wording of your request still requires us to retrieve deleted and archived emails for a two month period of time.

To enable your request to proceed, we suggest that you refine your request for emails to and from a small number of specific MRD employees. We also suggest refining your request to exclude both deleted and archived emails.

***8. Copies of any emails between the AAT and any of its labour hire providers that mention the APS code of conduct.***

***Please narrow this request to exclude deleted or archived emails.***

Part 8 of your request is too broad for the following reasons:

- You do not specify which AAT employees. The AAT has over 714 employees;
- Consultation with 714 individuals will be necessary pursuant to s 27A of the FOI Act.

To enable your request to proceed, we suggest that you refine your request to include only emails to and from a small number of specific AAT employees and specific labour hire providers.

***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.***

***Please narrow this request to only include contracts entered into between the months of September 2019 and October 2019.***

Part 9 of your request remains too broad for a Tribunal officer to process in its current form. This is because you have requested access to a copy of all contracts between any labour hire provider and the AAT. We suggest narrowing your request to specify particular labour hire providers so that we can search for the relevant contracts more easily.

Please note, if your request is refined so as to enable the AAT to process it, the AAT may impose a processing charge as the request does not concern your personal information. If this occurs we will send you an estimate letter before commencing processing.

Yours sincerely,

[Signed]

**Skye M**

Authorised FOI Officer (APS 6)