



Australian Government
Department of Social Services

Our ref: FOI 2122-016

24 September 2021

Michelle O'Brien

By email: foi+request-7722-cf32b6d4@righttoknow.org.au

Freedom of Information request FOI 2122-016

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (the FOI Act).

Your Request

On 23 August 2021, you sent us an email stating as follows:

"Please provide any documentation such as but not limited to policy's, procedures, memos, emails that refer to how Myalgic Encephalomyelitis (ME) also known as Chronic fatigue Syndrome (CFS) or Chronic Fatigue is evaluated against the eligibility criteria for the Disability Support Pension and assists in guidance for representatives of the department to make a determination of if the condition has been "fully treated and stabilised".

Please also release the numbers of people diagnosed with ME/CFS who are on the DSP for ME/CFS or another condition but also have me/cfs listed."

On 25 August 2021, you sent us a follow up email, confirming that your earlier email of 23 August 2021 was an access request made pursuant to the FOI Act. You also provided the following clarifications to your earlier request.

"I am looking for any documents in the last 24 months that related to ME/CFS that are memmos, policys, procedures, emails, advice sought on how the condition is assessed for the DSP."

On 26 August 2021, we sent you an email, requesting for further details (see below) to enable us to narrow down the scope of our search, and identify the requested records. You wrote to us on the same day with the following information (*your response is in italics*).

- a specific date range for the records requested

“the last 24 months from todays date”

Based on the clarification provided we have taken the period to be between 26 August 2019 and 26 August 2021.

- are the records personal to you or are they of a general nature

“the records requested are general in nature and not to be of any persons specific record”

- what the acronyms referred to mean

“Myalgic Encephalomyelitis (ME)

Chronic fatigue Syndrome (CFS)

Disablity Support Pension (DSP)

Chronic Fatigue (CF)”

On 1 September 2021, the department acknowledged your request.

As the department officially accepted your access request under the FOI Act on 25 August 2021, a decision in relation to your request has been fixed to be due by 25 September 2021.

My Decision

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the Department of Social Services (the department).

Before making my decision in relation to your FOI request, I took all reasonable steps to locate the documents to which you seek access. This included making inquiries of staff likely to be able to identify relevant documents and arranging for comprehensive searches of relevant departmental electronic and hard copy holdings.

My decision and the reasons for that decision are set out below.

In making my decision, I have taken the following material into account:

- the terms of your request;
- consultations with departmental officers within the Carer and Disability Payments Branch as to the information held by the department and searches for documents undertaken by them;

- the provisions of the FOI Act; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

I have identified a one-page document which falls within the scope of your request. I have decided to grant access in full to this document.

In relation to your access request that reads, “*any documentation such as but not limited to policy’s, procedures, memos, emails that refer to how Myalgic Encephalomyelitis (ME) also known as Chronic fatigue Syndrome (CFS) or Chronic Fatigue is evaluated against the eligibility criteria for the Disability Support Pension*”, I have identified that the department does not hold any documents within the scope of your request.

On the basis that the documents to which you have requested access do not exist, I have decided to refuse access pursuant to section 24A of the FOI Act. Relevantly, section 24A of the FOI Act provides as follows:

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) ...
 - (ii) does not exist.

Additional Information

Your review rights under the FOI Act are set out in the attachment to this letter.

If you wish to discuss this decision, the FOI case officer for this matter is Claire, who can be reached at foi@dss.gov.au.

Yours sincerely

M. Blair
Assistant Director
Freedom of Information
Government and Executive Services Branch

24 September 2021