



**Australian Government**  
**Department of Immigration and Border Protection**

19 November 2014

**In reply please quote:**

FOI Request FA 14/10/00419  
File Number ADF20148/36668

Ms Alessandra Melville  
Right to Know

Sent via email: [foi+request-779-95c6ba48@righttoknow.org.au](mailto:foi+request-779-95c6ba48@righttoknow.org.au)

Dear Ms Melville,

**Freedom of Information request – Decision on request - Access**

This letter refers to an access request received under the *Freedom of Information Act 1982* (the Act) received on 9 October 2014.

You requested access to the following information:

*I am wanting to obtain documents regarding the number of admissions to health clinics due to mental health issues of asylum seekers residing on Christmas Island from 2013-2014*

**Decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

My decision is to refuse access under section 24A(1) of the FOI Act. A statement of reasons for my decision is below.

**FREEDOM OF INFORMATION ACT 1982 (FOI Act)**

**SECT 24A 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) *is in the agency's or Minister's possession but cannot be found; or*
    - (ii) *does not exist.*

**people** our business

*Document not received as required by contract*

- (2) *An agency may refuse a request for access to a document if:*
- (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and*
  - (b) the agency has not received the document; and*
  - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.*

In your request you sought access to (my emphasis in bold) the number of **admissions** to health clinics due to mental health issues of asylum seekers residing on Christmas Island from 2013 - 2014.

Section 24A(1) provides that an agency may refuse a request for access if all reasonable steps have been taken to find the document/s. I have taken the following actions in an attempt to locate/identify the document/s you have requested:

- Contacted the following business area:
  - *Health Capability and Scrutiny within the Infrastructure and Services Division.*

The business area has undertaken a search of the data holdings in systems which captures events in detention and consulted with International Health and Medical Services (IHMS) to locate/identify documents. The business area has advised that they have been unable to locate any documents in relation to **admissions** to health clinics with the details that you have provided. A visit to a mental health clinic at the Christmas Island detention centre is not an 'admission' as an 'admission' means admission to an acute care facility. There are no acute care facilities on Christmas Island.

I am satisfied the department has taken all reasonable steps to find the document/s and I am satisfied that the document/s do not exist.

As the document/s do not exist, I am refusing your request for access.

## **Review rights**

### Internal review

If you disagree with my decision, you have the right to apply for an internal review by the department my decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker and the department must make a review decision within 30 days.

Applications for review should be sent to:

Freedom of Information  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

Or by email to: [foi@immi.gov.au](mailto:foi@immi.gov.au)

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of my decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a review request to the OAIC, please see FOI fact sheet 12 '*Freedom of information – Your review rights*', available online at [www.oaic.gov.au](http://www.oaic.gov.au).

**How to make a complaint about the handling of this FOI request**

You may complain to the Australian Information Commissioner if you have concerns about how the department has handled your request under the FOI Act. Information about how to submit a complaint is also available at [www.oaic.gov.au](http://www.oaic.gov.au).

**Contacting the FOI Section**

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Shannon Bevan  
Authorised decision maker  
FOI and Privacy Policy Section  
Parliamentary and Executive Coordination Branch  
Department of Immigration and Border Protection  
Telephone 02 6264 4667  
Email [foi@immi.gov.au](mailto:foi@immi.gov.au)

**Attachments:**

- ✓ Extract from relevant legislation

## Extract of relevant legislation

### 6C Requirement for Commonwealth contracts

- (1) This section applies to an agency if a service is, or is to be, provided under a Commonwealth contract in connection with the performance of the functions or the exercise of the powers of the agency.
- (2) The agency must take contractual measures to ensure that the agency receives a document if:
  - (a) the document is created by, or is in the possession of:
    - (i) a contracted service provider for the Commonwealth contract; or
    - (ii) a subcontractor for the Commonwealth contract; and
  - (b) the document relates to the performance of the Commonwealth contract (and not to the entry into that contract); and
  - (c) the agency receives a request for access to the document.

### 23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

### 24A 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) is in the agency's or Minister's possession but cannot be found; or
    - (ii) does not exist.

#### *Document not received as required by contract*

- (2) An agency may refuse a request for access to a document if:
  - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
  - (b) the agency has not received the document; and
  - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.