



Australian Government

Comcare

5 November 2021

Our reference: 2021/10127

Tom Matias

By email: foi+request-8042-9bb281f8@righttoknow.org.au

Dear Mr Matias,

Notice of intention to refuse – request consultation process

I refer to your request to Comcare dated 31 October 2021, seeking access under the *Freedom of Information Act 1982* (the **FOI Act**) to:

...documents which have the following information:

"Dates of diagnoses and diagnosed condition, made by Assoc Prof Abdul Khalid from the date of his first decision made on behalf of Comcare to the date of this FOI request. For the claims relating to his appointment as a diagnosing doctor, if the claim was initially rejected or accepted; if the claim was asked to be reconsidered and the outcome of the reconsideration; the number of claims where his diagnosis was used to reject and reaffirm Comcare's decision that went to the AAT; of these cases which were heard by AAT, what the AAT outcome was"

I am not seeking any personal or sensitive information, only information that is statistical in nature that I have not been able to source from published data.

Notice of intention to refuse

I am writing to provide you with a notice of an intention to refuse access to the documents you have requested because a practical refusal reason exists under section 24(1) of the FOI Act. I am inviting you to revise the scope of your request to remove the practical refusal reason. I am issuing this notice under section 24AB(2) of the FOI Act.

Practical refusal reason – identification of documents

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists where the request does not satisfy the requirement in paragraph 15(2)(b). This section outlines the requirements relating to the identification of documents, specifically that the request must provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it.

Reasons why your request is unclear

- You refer to '*... the date of his [Assoc Prof Abdul Khalid's] first decision made on behalf of Comcare...*' Legally qualified medical practitioners (**LQMP**) are engaged to undertake an Independent Medical Examination (**IME**) under section 57 of the *Safety, Rehabilitation and Compensation Act 1988 (SRC Act)*. LQMPs undertake IMEs within their medical speciality, and provide Comcare with an impartial report regarding their opinion on elements of a claim such as diagnosis, causality, treatment and prognosis. Decisions on claims are made exclusively by Comcare delegates (claims managers), and not by LQMPs. Therefore, it is unclear what "decision" you are referring to. Please clarify this point.
- You also refer to '*Dates of diagnoses and diagnosed condition*'. Please clarify whether this means you only seek data where Associate Professor Khalid was the first medical professional to diagnose a condition or whether you seek data for situations where a claimant has a condition diagnosed by another medical professional and Associate Professor Khalid made a different diagnosis.
- You have requested '*...the number of claims where his diagnosis was used to reject and reaffirm Comcare's decision that went to the AAT*'. I do not understand what you are seeking data in relation to. Please advise whether you are seeking data where Associate Professor Khalid was a LQMP in a claim and a claimant sought review of a reconsideration decision at the AAT.
- You refer to '*...[Assoc Prof Abdul Khalid's] appointment as a diagnosing doctor...*' It is unclear whether you are referring to times that Associate Professor Khalid has been engaged by Comcare to undertake an IME, or whether you are referring to times where Associate Professor Khalid has provided a medical opinion as the treating doctor of a Comcare claimant, or both. Please clarify this part of your request.
- You will also need to specify the data you already hold as we cannot determine which published data you have accessed.

Assistance to revise the scope of your request

Please note that even if you do modify your request, it is possible that a practical refusal reason may still exist or Comcare may need further time to process your revised request – this will depend upon the terms of your final request.

As far as is reasonably practicable, we are happy to provide you with further information to assist you in making your request in such a form that removes the practical refusal ground.

We would be happy for you to discuss this via phone, I can be reached on 1300 366 979.

What should you do?

Please note that you have **14 days** from the day after you receive this notice to either:

- withdraw the request;

- make a revised request; or
- indicate that you do not wish to revise the request.

If you do not respond in one of these ways within 14 days the request will be taken to have been withdrawn pursuant to section 24AB(7) of the FOI Act. If you indicate you do not wish to revise your request, I will proceed to make a decision on whether to refuse the request.

If you need more time to respond, please contact me within the consultation period to discuss your need for an extension of time.

Please note that under section 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed above. Your response is due by **19 November 2021**.

Contacts

Should you require clarification of any matter discussed in this letter, please contact me by email to foi@comcare.gov.au.

Yours sincerely

Sam

Statutory Oversight Officer