



Our reference: FOIREQ24/00651

Nosey Rosey

By email: foi+request-12576-0f5b6ef2@righttoknow.org.au

Freedom of Information Request – FOIREQ24/00651

Dear Nosey Rosey,

I refer to your request for access to documents made under the *Freedom of Information Act 1982* (Cth) (the FOI Act). Your Freedom of Information (FOI request) was received by the Office of the Australian Commissioner (OAIC) on 14 December 2024.

I am writing to inform you of my decision. I have made the decision to refuse your request on the basis that documents cannot be found or do not exist.

In accordance with s 26(1)(a) of the FOI Act, the reasons for my decision and findings on the material questions of fact are provided below.

Background

Scope of your initial FOI request

Your FOI request sought access to the following information:

“...I seek access to any and all documents, records, data, and supporting material held by [Name of Agency] concerning the sharing of personal information originating from the Department of Veterans’ Affairs (DVA) over the last ten years. This includes any data transfers from or to the DVA, whether they were one-off exchanges or ongoing, systematic transfers of DVA client information, including personal, medical, financial, or service-related details concerning veterans or their dependents.”

I am interested in obtaining a comprehensive understanding of what DVA client information [Authority name] has received or accessed and for what purposes. Specifically, I request:

All records of data sharing arrangements between DVA and [Authority name], including but not limited to memoranda of understanding, service-level agreements, emails, letters, meeting minutes, file transfer logs, internal reports, and instructions that outline what data was shared, when it was shared, and the format or system used for the transfer.

Any policies, procedures, guidelines, or frameworks that govern how [Authority name] requests, obtains, stores, handles, or uses DVA client information. This includes documents that detail the criteria for approving access to such data, any consent or authorization processes, security controls, and retention or destruction policies.

Copies of any ethics committee approvals, privacy impact assessments, internal review board decisions, or other documents that reflect deliberations or authorizations for obtaining DVA client information. This includes records that show the agency considered the ethical, legal, or privacy implications of receiving or using DVA client data.

Documents that outline the intended uses or practical applications of the DVA client data, such as project proposals, business cases, internal strategy papers, or briefings that explain why [Authority name] sought access to this information, how it was intended to be integrated into the agency's operations, and any expected outcomes or benefits.

A representative sample (in a suitably de-identified or redacted form) of the data or data fields received, so long as providing this sample does not breach any exemption under the FOI Act. The purpose is to understand the nature and granularity of the information shared, without disclosing identifiable personal details.

If the only data [Authority name] received pertains solely to data linked to the Centrelink Confirmation eServices (CCeS) arrangements as described at <https://www.servicessaustralia.gov.au/centrelink-confirmation-eservices-cces>, and there were no other forms of DVA data shared, then no CCeS-related data needs to be provided under this request.”

On 18 December 2024, we requested that you clarify points of your request, and on 30 December 2024, you responded and stated the following:

“Exclusivity to DVA

My request pertains specifically to documents relating to data sharing or transfers involving the Department of Veterans’ Affairs (DVA) and the OAIC. It does not include general information that applies broadly to other agencies.

Particular Client Information

The request does not seek access to any specific individual client information. Instead, it focuses on systematic or broad data-sharing arrangements and governance frameworks involving DVA client information.

Data Fields

The reference to "data fields" in my request relates to a de-identified or redacted sample of the types of data shared between DVA and the OAIC. Examples might include categories such as name, service status, medical details, or financial information if applicable to shared datasets.

Timeframe

The timeframe for my request is the last ten years (14 December 2014 to 14 December 2024). I am not limiting this to current policies or procedures.

Specific Documents

While I do not have specific documents in mind, I am seeking any relevant:

MOUs or agreements governing data sharing with DVA, Policies or guidelines for managing DVA client information, Privacy or impact assessments related to such data, and Internal reports or evaluations outlining the purpose or implications of receiving DVA client data.

Exclusions

I confirm that the following may be excluded to streamline processing: Duplicate documents or earlier parts of email chains captured in later correspondence, Individual-level complaint records or files.”

Your revised FOI request

On 9 January 2025, we advised you that we believed a practical refusal reason existed in relation to the scope of your request. We advised that this was because we considered that the work involved in processing your request would substantially and unreasonably divert the resources of the OAIC from its usual operations. This was due to the size and scope of the request, and that we could not sufficiently identify the documents that you were requesting.

On 15 January 2025, the following revised scope for your FOI request was proposed to you:

“Any documentation, policies and procedures outlining formal and systemic data-sharing arrangements exclusively between the OAIC and the DVA over the last 10 years.”

On 19 January 2025, you responded to our correspondence and agreed to proceed with this revised FOI request.

Request timeframe

Your request was made on 14 December 2024. This means that a decision on your initial request was due on 13 January 2025.

On 9 January 2025, we consulted with you under s 24AB of the FOI act. During this time, the due date for the decision was paused. As the consultation period ended on 19 January 2025, a decision on your request is due to be decided by 23 January 2025.

Decision and reasons for decision

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests on behalf of the OAIC.

I have made the decision to refuse your request on the basis that documents cannot be found or do not exist.

Material taken into account

In making my decision, I have had regard to the following:

- your FOI request dated 14 December 2024, your comments dated 30 December 2024, and the subsequent revised scope of your FOI request agreed on 19 January 2025.
- the FOI Act, in particular, sections 3, 11, 11A, 15, 26, and 24A of the FOI Act.
- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act to which regard must be had in performing a function or exercising a power under the FOI Act (FOI Guidelines)
- consultation with line areas and staff of the OAIC in relation to your FOI request

Documents cannot be found, do not exist or have not been received – Section 24A of the FOI Act

Section 24A(1) of the FOI Act provides that an agency may refuse a request for access to documents requested under the FOI Act if all reasonable steps have been taken to find the document, and the agency is satisfied that the document cannot be found, or that the documents do not exist.

I have made the decision to refuse your request under s 24A of the FOI Act on the basis that all reasonable steps have been taken to find the documents you have requested, and no documents could be found.

The FOI Act requires that all reasonable steps have been taken to locate documents within scope of an FOI request. I have detailed the relevant searches undertaken by the OAIC below.

Searches Undertaken

In response to your request, the following line areas and staff of the OAIC conducted reasonable searches for documents relevant to your request:

- the Compliance Branch

- the Information Management Branch, and
- the Enabling Services Branch

Searches were conducted across the OAIC's various document storage systems including:

- the OAIC's case management system – Resolve
- the OAIC's document holding system – Content Manager
- the OAIC's email system, and
- general computer files

The following search terms were used when undertaking electronic records searches:

“DVA”

“Department of Veterans Affairs”

“DVA agreement”

“Department of Veterans Affairs Agreement”

“DVA” and “Data”

“DVA and “Agreement”

The line areas provided the following information as to why documents could not be found, or do not exist:

“We're not aware of any such agreements and don't believe the compliance team would have any more visibility of such an agreement than any other team in the agency. We haven't done any formal assessment programs of the DVA...”

“Reviewed files in Resolve (document type “Legal”, “Guidance”, search terms “DVA”, Department of Veterans Affairs”) and was unable to locate any documents that referred to data sharing arrangements with DVA.”

“I understand the FOI request is seeking a data sharing agreement between the OAIC and DVA. The privacy policy is an overarching policy that applies to all individuals and entities that engage with OAIC. In this regard, DVA would be subject to the privacy policy”

Having consulted with the relevant line areas and having undertaken a review of the records of the various search and retrieval efforts, I am satisfied that a reasonable search has been undertaken in response to your request and that no relevant documents could be found.

As noted by OAIC staff, DVA would be subject to the OAIC's privacy policy¹ and the *Privacy Act 1988* when engaging with the OAIC and providing information and data. This privacy policy also outlines how the OAIC will handle information obtained from the DVA and other agencies. The OAIC has not identified any other agreements that would fall within the scope of your request.

Conclusion

Based on the terms of your request and searches undertaken, I am satisfied that all reasonable steps have been taken to find documents that fall within the scope of your request and am satisfied that the documents do not exist.

I have made the decision to refuse your request for access to documents under s 24A(1)(b)(ii) of the FOI Act, on the basis that no documents exist.

Please see the following page for information about your review rights in relation to this FOI request.

Yours sincerely,

Lachlan Smith-Marks

Governance, Risk and Compliance Officer (FOI and Privacy)

¹ [Privacy policy | OAIC](#).

If you disagree with my decision

Internal review

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Applications for internal reviews can be submitted to:

Office of the Australian Information Commissioner
GPO Box 5228
SYDNEY NSW 2001

Alternatively, you can submit your application by email to foi@oaic.gov.au, or by fax on 02 9284 9666.

Further review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Reviews Tribunal (ART).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, and the Information Commissioner is satisfied that in the interests of administration of the Act it is desirable that my decision be considered by the ART, the Information Commissioner may decide not to undertake an IC review.

Section 57A of the FOI Act provides that, before you can apply to the ART for review of an FOI decision, you must first have applied for IC review.

Applications for IC review can be submitted online at:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

Alternatively, you can submit your application to:

Office of the Australian Information Commissioner
GPO Box 5228
SYDNEY NSW 2001

Or by email to foidr@oaic.gov.au, or by fax on 02 9284 9666.

Accessing your information

If you would like access to the information that we hold about you, please contact foi@oaic.gov.au. More information is available on the Access our information page on our website.