



# AFP

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Our Ref: LEX 3435

28 February 2025

NoseyRosey

By email: [foi+request-12581-9cb4e17f@righttoknow.org.au](mailto:foi+request-12581-9cb4e17f@righttoknow.org.au)

Dear Nosey,

## Freedom of Information request – refuse access to documents – diversion of resources

I refer to your request dated 18 December 2024, seeking access to the following documents under the *Freedom of Information Act 1982* (the Act):

### Request

*I am seeking documents held by the AFP relating to the sharing of personal information originating from the Department of Veterans' Affairs (DVA) over the last ten years.*

*I request any and all documents, records, data, and supporting material held by the AFP concerning the sharing of personal information that the AFP has received from, or provided to, the DVA. This includes any arrangements, whether one-off data exchanges or ongoing systematic transfers of DVA client information, including personal, medical, financial, or service-related details about veterans or their dependents. In particular, I am seeking copies of memoranda of understanding, service-level agreements, internal correspondence, meeting minutes, file transfer logs, policy documents, reports, and any other records that detail the nature, purpose, and scope of information sharing between the AFP and the DVA.*

*If the AFP holds policies, procedures, or guidelines that govern how it requests, receives, stores, handles, or uses data originating from the DVA, I request access to those documents as well. Furthermore, if there have been any privacy impact assessments, ethics approvals, or internal reviews that relate to the AFP's use or handling of DVA-sourced information, I respectfully request access to those records. Additionally, if the AFP has any documents describing the intended uses, underlying rationale, or anticipated outcomes of accessing DVA client information, please include these in the scope of the request. If practicable, I also seek a suitably de-identified sample of the data fields to understand the nature and scope of the data shared.*

*If the AFP does not hold information beyond what is related solely to Centrelink Confirmation eServices (CCeS) arrangements, and there are no other forms of DVA data shared, then it is not necessary to provide the CCeS-related data. Otherwise, please include any relevant data or documentation within the scope of this request.*

On 7 January 2025, the AFP sent you an email advising that initial enquiries with business areas had raised concerns on the broad nature of the scope of the request and their ability to conduct searches for information over a 10 year time frame. It was noted that an extremely large amount of results would be generated from internal correspondence searches alone and sought clarification on the information

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Freedom of Information

/ GPO Box 401 Canberra City ACT 2601

/ Email: [foi@afp.gov.au](mailto:foi@afp.gov.au)

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sought in relation to the topic of personal information along with your agreement to revise the scope of your request.

The same day your email response confirmed that you were seeking *“high-level documentation, including memoranda of understanding, service-level agreements, and policies that govern these data-sharing arrangements,* however you did not agree to revising the wording of your request to only this wording.

On 9 January 2025, the AFP sent you a further email acknowledging the clarification of documentation sought and seeking consent to therefore revise the wording of the request in the following suggested terms *“all current memoranda of understanding, service-level agreements, policies, procedures or guidelines that govern how the AFP requests, receives, stores, handles or uses personal information originating from the DVA”*. It was advised that alternative wording could be suggested if this was not agreeable.

On 10 January 2025, your email response posed questions asking the AFP to confirm whether there is or has been large scale data sharing between the two departments before you would consider revising the scope of your request.

The same day the AFP sent you a further email advising that it was unable to answer such questions via the FOI process.

On 10 January 2025, the AFP notified you of its intention to refuse your request for a practical refusal reason which existed under section 24AA(1)(a)(i) of the Act, on the basis that processing your request would constitute a substantial and unreasonable diversion of the AFP’s resources from its other operations. You were invited to revise your request.

On 11 January 2025, you responded via email confirming that you did not wish to revise your request and requested that it be processed in its original form.

## **Authorised decision-maker**

I am authorised to make this decision in accordance with arrangements approved by the Commissioner of Police under section 23 of the Act.

## **Decision**

I have decided to refuse your request for access to documents under section 24(1) of the Act. In making my decision, I have had regard to the following material:

1. your request (and any revised request);
2. the outcome of the AFP’s preliminary searches in relation to your request;
3. the AFP’s notice advising you of its intention to refuse your request for a practical refusal reason;
4. the Act; and
5. the Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 (the FOI Guidelines).

## **Reasons**

Section 24(1) of the Act provides that if an agency is satisfied when dealing with a request for a document that a practical refusal reason exists in relation to the request, the agency:

1. must undertake a request consultation process (see section 24AB of the Act); and
2. if, after the request consultation process, the agency is satisfied that the practical refusal reason still exists- the agency may refuse to give access to the document in accordance with the request.

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For the purposes of section 24 of the Act, a practical refusal reason exists in relation to a request for a document if the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations (section 24AA(1)(a)(i) of the Act).

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the Act:

1. identifying, locating or collating the documents within the filing system of the agency;
2. deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
  - (i) examining the document; or
  - (ii) consulting with any person or body in relation to the request;
3. making a copy, or an edited copy, of the document;
4. notifying any interim or final decision on the request.

Other matters may be relevant in deciding if a practical refusal reason exists such as the staffing resources available to an agency for FOI processing, whether the processing can only be undertaken by one or more specialist officers in an agency who have competing responsibilities, the impact that processing may have on other work in an agency including FOI processing, and whether there is a significant public interest in the documents requested.

Section 24AB(9) of the Act provides that an agency is only obliged to undertake a request consultation process once for any particular request.

## **Work involved in processing your request**

Following receipt of your request, the AFP undertook preliminary searches in the form of an ICT email audit for internal correspondence relating to the Department of Veteran Affairs (DVA) and identified at least 272,084 documents that would need to be reviewed for relevance to your request. In the event the AFP were to continue to process your request, a decision would need to be made on access to the documents captured by your request. A sample of 100 documents in varying sizes were assessed to determine if they fell within scope of your request. Based on this sample, there was a total of 4 documents found that fell within scope, totalling 37 pages. Therefore, I estimate the total combined page number of documents captured by your request to be 100,671 pages. The time taken to assess this 100-document sample for relevance, extraction of the emails from the audit software and converting to pdf took approximately 30 minutes.

It was estimated that the time taken to just review the documents for relevance would equal approximately 1360 hours. It is estimated that, having regard to the content of the documents reviewed, the decision maker would require on average three minutes to review and assess each page for relevant exemptions, taking approximately 5,033 hours in total to assess the documents. I therefore calculate it would take at least 6,393 hours to completely assess the documents potentially identified as being relevant to your request.

This estimated processing time doesn't take into account any time needed to prepare an index, prepare documents for potential release, and prepare a decision on access for the decision maker's signing.

I note that there are many other document types requested within the request scope that would also require searches to be performed across multiple business areas.

I am satisfied that the AFP would be required to divert significant resources from its current operations to assess the documents, and to make a decision on access to those documents. This diversion would result in a significant drain on the resources of the areas within the AFP that would be required to process this request.

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In reaching this view, I have had regard to the public interest in providing access to documents but consider the public interest in providing access is outweighed by the competing public interest in the AFP performing its ordinary functions without substantial interference, including the processing of other FOI requests. For the reasons given above, I consider that processing the request would be a substantial and unreasonable diversion of the AFP's resources from its other operations.

## Review by the Australian Information Commissioner

Under section 54L of the Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online: [IC Review](#)

Post: Director of FOI Dispute Resolution  
Office of the Australian Information Commissioner  
GPO Box 5288  
SYDNEY NSW 2001

## COMPLAINT RIGHTS

You may also make a complaint to the Australian Information Commissioner about the AFP's actions in relation to your request. Making a complaint about the way the AFP handled an FOI request is a separate process to seeking review of this decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foicomplaint>

Regards,



Lauren Bird  
A/Deputy General Counsel  
Commercial, Governance and Information Branch  
Chief Counsel Portfolio

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