



22 January 2025

Our ref: 2025/666

Nosey Rosey

BY EMAIL ONLY: foi+request-12585-f77aba85@righttoknow.org.au

To whom it may concern

RE: FREEDOM OF INFORMATION REQUEST – INTERNAL REVIEW

I refer to your application for internal review.

Background

On 14 December 2024, you made an application that sought access to documents under the *Freedom of Information Act 1982* (the FOI Act). The request sought 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.

...

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.

...

On 2 January 2025, a delegate of the Australia Maritime Safety Authority made a decision to resolve the application under subsection 24A(1) of the FOI Act ("the **Decision**") on the basis that the requested documents do not exist.

Internal Review Application

On the same day you made an application for internal review of the Decision, you sought internal review on the following grounds:

The basis of my application stems from information provided by the Department of Veterans' Affairs (DVA), which confirms the existence of the documents and Memoranda of Understanding (MOUs) relevant to my request. According to section 24A(1), an agency may only refuse access if, after taking all reasonable steps to locate the documents, the agency is satisfied that the documents cannot be found or do not exist. Given the DVA's confirmation, I question whether the search conducted by AMSA meets the standard of reasonableness required by the FOI Act.

Under section 15(5)(b), agencies are required to deal with requests efficiently and fairly. A reasonable and thorough search under the FOI Act should include inquiries with all relevant business areas or officers within AMSA that could possess, or have knowledge of, the documents requested. Section 15(1)(a) further obliges agencies to ensure that all documents falling within the scope of a request are identified and assessed. In light of the DVA's confirmation, it is imperative that AMSA reviews its internal processes to ensure that searches have been adequately conducted.

Additionally, section 3(2)(b) of the FOI Act highlights that the purpose of the legislation is to promote transparency and accountability. The requested documents concern arrangements for sharing sensitive personal information relating to veterans and their dependents, a matter of public interest. The importance of transparency in this context necessitates a careful and exhaustive search for the requested documents to uphold the spirit of the FOI Act.

The confirmation provided by DVA demonstrates that AMSA is a relevant party to these data-sharing arrangements, and the documents should be held within the agency. I request that AMSA complies with section 15(3), which requires an agency to provide access to documents within its possession unless a valid exemption applies. The refusal based on section 24A(1) cannot be sustained if documents exist, as it contradicts the DVA's confirmation.

Relevant material

In reaching my decision, I referred to the following:

- the terms of your request
- the document relevant to the request
- the FOI Act

- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act
- advice from AMSA officers with responsibility for matters relating to the documents to which you sought access, and
- advice from AMSA's in-house legal team.

Decision

I am authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests. I am writing to notify you of my internal review decision.

Under subsection 24A(1) of the FOI Act, I resolve the application on the basis that the requested documents do not exist.

I have received advice from relevant business areas and am satisfied that thorough searches have been undertaken to locate documents falling within the scope of your request. For your information, searches of AMSA's record management systems were undertaken by the Information and Records Team and the People and Property Branch. No documents falling within the scope of your request were found.

I am also advised that AMSA's Freedom of Information Team made enquiries with the Department of Veterans' Affairs to identify the documents you are seeking access to and no documents were able to be located as a result.

Review Rights

You are entitled to seek review of this decision. **Attachment A** sets out your rights to apply for review if you are dissatisfied with my decision.

Further information

If you have any queries about this notice, please do not hesitate to contact AMSA's FOI team at FreedomofInformation@amsa.gov.au.

Yours sincerely

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Anke
Delegate
Australian Maritime Safety Authority

Attachment A - Review rights

Review by the Australian Information Commissioner

Under section 54L of the FOI 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:

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

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Complaints to the Australian Information Commissioner

You may make a complaint to the Australian Information Commissioner about action taken by AMSA in relation to your request. Information about making a complaint, and a complaint form can be found at:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

If you are not able to use the complaint form, a complaint to the Australian Information Commissioner should be made in writing and set out the grounds on which it is considered that action taken in relation to the request should be investigated and identify AMSA as the relevant agency. This can be sent by:

email: foidr@oaic.gov.au

mail: Director of FOI Dispute Resolution, GPO Box 5218, Sydney NSW

Any enquiries to the Australian Information Commissioner can be directed to:

Phone: 1300 363 992 (local call charge)

Email: enquiries@oaic.gov.au