

FOI 25-35

20 December 2024

Nosey Rosey

By email: foi+request-12587-cf20053a@righttoknow.org.au

Sydney

1 Martin Place (Level 12), NSW 2000
GPO Box 9836, Sydney NSW 2001
Australian Prudential Regulation Authority
02 9210 3000 | apra.gov.au

Dear Nosey Rosey,

NOTICE OF DECISION MADE UNDER SECTION 23 OF THE FREEDOM OF INFORMATION ACT 1982 (CTH) (FOI ACT) WITH REASONS FOR DECISION PROVIDED UNDER SECTION 26

Applicant: Nosey Rosey

Decision-maker: Justine (Person Number 102870), an authorised officer of the Australian Prudential Regulation Authority (**APRA**) for the purposes of subsection 23(1) of the FOI Act.

FOI request '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'.

(FOI request)

My decision: Refuse access to the relevant document(s) based on the reasons outlined in this Notice of Decision.

MATERIAL FACTS

1. On 14 December 2024, you made the FOI request by email under the FOI Act.

EVIDENCE AND MATERIAL RELIED ON

2. In making my decision, I have relied on the following evidence and material:
 - (a) the Applicant's request received by APRA on 14 December 2024;
 - (b) internal APRA email correspondence dated 17 December 2024;
 - (c) file note written by the FOI Officer dated 17 December 2024;
 - (d) relevant sections of the FOI Act; and
 - (e) guidelines issued by the Office of the Australian Information Commissioner to date (**FOI Guidelines**).
3. APRA has conducted all reasonable searches of its records in order to identify the documents relevant to your FOI request (**relevant documents**).

REASONS

4. I have decided to refuse access to the relevant document(s). My reason for the refusal is as follows.

Documents cannot be found, do not exist or have not been received

5. APRA is an independent statutory authority that supervises institutions across banking, insurance and superannuation.
6. APRA has taken all reasonable steps to locate the documents relevant to the request and I have concluded that the documents do not exist. Accordingly, I refuse the FOI request for access to the documents under section 24A of the FOI Act.
7. An extract of section 24A of the FOI Act is attached to these reasons.

RIGHTS OF REVIEW

Application for Internal Review of decision

8. Under section 54 of the FOI Act, you have the right to apply for an internal review of the decision if you disagree with my decision. If you make an application for review, another officer of APRA will be appointed to conduct the review and make a fresh decision on the merits of the case.
9. Under section 54B of the FOI Act, you must apply in writing for a review of the decision within 30 days after the day the decision has been notified to you.
10. You do not have to pay any other fees or processing charges for an internal review, except fees and charges applicable for providing access to further material, if any, in the document released as a result of the review (for example, photocopying, inspection, etc).
11. No particular form is required to apply for review, although it is desirable (but not essential) to set out in the application, the grounds on which you consider that the decision should be reviewed.
12. An application for internal review of the decision should be:
 - (a) sent by email to foi@apra.gov.au (preferred); or
 - (b) sent by post or hand delivered, addressed to:

FOI Officer
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001
13. If you make an application for internal review and we do not make a decision within 30 days of receiving the application, we are deemed to have affirmed the original decision. However, under section 54D of the FOI Act, APRA may apply, in writing to the Information Commissioner for further time to undertake the internal review.

Application for review by Information Commissioner

14. Under section 54L of the FOI Act, you also have the right to apply to the Information Commissioner for a review of the original decision set out in this Notice of Decision or a review of this decision made on internal review.
15. Any application must be in writing and must give details of an address where notices may be sent and include a copy of the original decision or the decision made on internal review.
16. An application for review by the Information Commissioner may be lodged with one of the following:

Online

Complete and lodge the online review form at:

<https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>

(Alternatively, you may download & complete the review form, then send it to the Office of the Australian Information Commissioner via post or email as detailed below)

Post

Director of FOI Dispute Resolution

GPO Box 5218, Sydney NSW 2001

Email foidr@oaic.gov.au

17. More information about your review rights under the FOI Act is available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>.

Application for review by Administrative Review Tribunal

18. If you apply for a review by the Information Commissioner, you may be able to make an application to the Administrative Review Tribunal (ART) for a review. The ART is an independent body with powers that include the ability to make a fresh decision in relation to your FOI request. The Information Commissioner's decision letter should tell you whether you are eligible to apply for the ART to conduct an independent review and the time limit to lodge an application for review.
19. An application fee of \$1121 is payable within six weeks of making an application to the ART. You may seek to have this amount reduced if payment would cause you financial hardship.
20. You can obtain more information about the review process, the application fees, or the possible outcomes of a review at <https://www.art.gov.au/applying-review/other-decisions> or on 1800 228 333.

Complaints to the Information Commissioner

21. You may complain to the Information Commissioner concerning action taken by APRA in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint.

Justine (Person Number 102870)
FOI Officer

Australian Prudential Regulation Authority

FREEDOM OF INFORMATION ACT 1982

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.