



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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18 December 2024

NoseyRosey

By email: foi+request-12588-1fa9ea5c@righttoknow.org.au

**Freedom of Information Request No. FOI 296-2024
Section 24AB Practical Refusal Notice**

Dear applicant

I refer to your request dated **14 December 2024** under the Freedom of Information Act 1982 (**FOI Act**) in which you seek access to documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request states the following:

"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.servicesaustralia.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.

I emphasize that I am not authorizing the transfer of this FOI request to the Department of Veterans' Affairs or any other agency. If [Authority name] holds the requested information, it should provide it directly. If there are parts of this request that [Name of Agency] does not understand or believes are not held, I invite you to contact me to clarify or refine the scope under section 24AB of the FOI Act, rather than initiating a transfer. However, I do not consent to the transfer of this request to another entity. The FOI Act places the onus on agencies to process requests for documents they hold, and I expect [Authority name] to meet its responsibilities in this regard.

I note that the statutory timeframe for processing FOI requests is 30 days from the date of receipt. I do not consent to any extension of time due to internal reduced activity periods, holiday stand-down periods, or other internal operational issues. If [Authority name] considers that it cannot meet the 30-day timeframe, it may seek an extension from the Office of the Australian Information Commissioner as provided under section 15AB of the FOI Act. I request to be notified if such an application is made.

If you consider any part of this request too broad or complex, please contact me promptly to discuss refining its scope. I remain willing to consider adjustments that will assist efficient processing, provided that they occur within the statutory timeframe and do not undermine the substance of what I am seeking.

I believe that disclosure of these documents is in the public interest, as it promotes transparency and accountability in how government agencies access and use sensitive personal information about veterans. Should you consider charges applicable, I request that you exercise your discretion to reduce or waive them, given the importance of the matter and its alignment with the principles of open government and public accountability.

I look forward to receiving your acknowledgment and decision within the statutory timeframe. Please contact me at the details below if you require further clarification."

Practical refusal ground(s)

Section 24AA of the FOI Act provides that a practical refusal ground exists in relation to a request for documents if either (or both) of the following apply:

- the work involved in processing the request, in the case of an agency would substantially and unreasonably divert the resources of the agency from its other operation (s24AA(1)(a));
- the request does not satisfy the requirement in paragraph 15(2)(b) of FOI Act, (24AA)(1)(b)).

In relation to your request, I find that section 24AA(1)(b) applies.

Section 15(2)(b) of FOI Act

Section 15(2)(b) of the FOI Act states that a request for access to a document 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.'

There is lack of clarity around the type of documents you are seeking, and it is unclear by what you mean by [Name of Agency] and [Authority name].

Section 24AA(1)(b) FOI Act – Identification of documents

I am writing to advise you that your request in its current form does not adequately identify the documents sought and it would therefore be my intention to refuse your request given that a practical refusal reason exists within the meaning of section 24AA(1)(b) of the FOI Act.

Request consultation process

The purpose of this letter is to invite you to revise the terms of your request so that the practical refusal reason no longer exists. In revising the scope of your request, please consider the issues set out above.

Please explain what you intend by:

- *[Name of Agency] and [Authority name].*
- *Are you seeking documents held by ASIC or by another agency? Given that you have made references to Department of Veterans' Affairs (DVA), you may consider submitting an FOI request with DVA.*

Timeframe

The statutory timeframe for notifying an applicant of a decision on a request for access under the FOI Act is 30 days from the day the agency receives a request. Please note that, in accordance with section 24AB(8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter, and resumes on the day after ASIC receives from you one of the following:

- written notification that you wish to withdraw the request;
- a revised written request addressing the matters raised above; or
- written notification that you do not wish to revise your request.

If you choose to do one of the things mentioned above, you must do so **within 14 days of the date of this letter (the consultation period)**. If I have not heard from you at the end of the consultation period, your request will be taken to be withdrawn in accordance with section 24AB(7) of the FOI Act.

During the consultation period you are invited to seek assistance in reframing your request. I can be contacted by email shoumia.nithianantha@asic.gov.au or by telephone on 02 9911 2454 if you wish to discuss the scope of your request.

Yours sincerely

Shoumia

Shoumia Nithiananthan
Privacy and Freedom of Information Lawyer
Australian Securities and Investments Commission (ASIC)