



Australian Government

Department of Health and Aged Care

Department reference: FOI 25-0169 LD

Noseyrosey

By email: foi+request-12601-ec543258@righttoknow.org.au

Dear Noseyrosey

Freedom of Information Request FOI-25-0169 LD Notice issued under section 24AB(2) and invitation to engage in a request consultation process

I refer to your request of 14 December 2024 to the Department of Health and Aged Care (the department), seeking access to the following documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act). The scope of your request is as follows:

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.

Power to refuse request

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

I am writing to notify you that I believe the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the department from its other operations. This constitutes a 'practical refusal reason' under section 24AA of the FOI Act.

I am currently considering refusing your access request on the basis of the practical refusal reason. However, before I make a final decision on your request, you have an opportunity to revise your request to remove the practical refusal reason. This is called a 'request consultation process' as per section 24AB of the FOI Act.

Practical refusal reason

Section 24AA(1) of the FOI Act provides that a *practical refusal reason* exists in relation to a request for a document or either (or both) of the following applies:

- (a) the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations; or
- (b) the request does not satisfy the requirement in paragraph 15(2)(b).

My assessment of the section 24AA(1)(a) practical refusal reason is as follows:

Search and retrieval of documents

The department has undertaken preliminary searches for documents in scope of your request, as per the Office of the Australian Information Commissioner's Freedom of Information Guidelines [at 3.89].

These searches were undertaken by officers of divisions within the department with knowledge of and responsibility for the subject-matter of your request, having regard to the department's record management systems and the age of the documents sought.

This preliminary search has so far taken by one business area approximately **52 hours** to identify approximately 1,500 documents that are potentially relevant to your request. Other business areas within the department are likely to hold documents that could potentially be in scope of your request.

Sampling

As per the FOI Guidelines [at 3.121], the business area responsible for your request has examined a sample of the documents potentially in scope of your request to determine the potential processing requirements of your request.

The department sampled 100 documents (that is, approximately 15 per cent of the 1500 documents identified as potentially in scope of the request), with an average of 4 pages each.

On the basis that the preliminary searches identified approximately 1500 documents potentially relevant to your request, and the sampled documents had an average of 4 pages, I estimate that the documents potentially in scope of your FOI request can reasonably be estimated to comprise some **6,000 pages** for assessment.

Extraction and scheduling of documents

To process your request further, the department would need to extract approximately 1,500 documents from its record management and/or computer systems and manually review each document to ensure that it falls within scope of your request.

On the basis that extraction and conversion of documents to an editable format would take approximately 1 minute per document, I estimate that the extraction process would take at least **25 hours** to complete. Duplicate documents would also be identified and removed during this process.

The department would then need to create a schedule of documents in scope of the request. On the basis that it would take approximately 1 minute per document to enter the required information into a table, I estimate that the scheduling process would take at least **25 hours** to complete.

Assessment

As an officer authorised to make a decision regarding your request, I would then be required to read and assess each page of each document in scope of your request against the FOI Act to decide whether to grant, refuse or defer access to the information in any document in scope of your request.

If all documents so far identified as potentially relevant to your request are determined to be in scope of your request, I would need to review approximately **6,000 pages of material**.

On the basis that assessment would take me an average of 3 minutes per page, I estimate that it would take at least **300 hours** to make a decision on access to the documents potentially in scope of your request.

Third party consultation

The department may need to consult with affected third parties in accordance with the statutory provisions of sections 27 and 27A the FOI Act.

At this stage, without undertaking a closer review of the content of the documents potentially in scope of your request, I am unable to estimate whether third-party consultation is required or how long consultation might take. I have not, therefore included any estimate for this work effort in my practical refusal calculations.

Document preparation

Once I had assessed each of the documents in scope of your request, officers of the department would then need to prepare the documents in scope of your request by applying any relevant deletions or exemptions. Assuming this process would take an average of 3 minutes per page, I estimate that it would take the department at least **300 hours** to prepare the documents for decision.

The department would also need to prepare a statement of reasons, as required by section 15 the FOI Act. I anticipate it would take an officer of the department approximately **2 hours** to prepare this statement of reasons for my final review and decision.

Summary

As outlined above, and noting that these estimates are based on very conservative assumptions, I estimate that it would take the department at least **704 hours** to process your request, as summarised below:

Task	Time (hours)
Search for potentially relevant documents	52
Extraction of documents	25
Preparation of a schedule of documents	25
Third party consultation	0
Assessment	300
Preparation of documents	300
Preparation of a statement of reasons	2
TOTAL ESTIMATE OF WORK EFFORT	704

Whether diversion of resources would be substantial and unreasonable

In considering whether processing your request would constitute substantial and unreasonable diversion of resources of the department I have considered the following factors, as suggested by the FOI Guidelines [at 3.117]:

- the staffing resources available to the department for FOI processing
- whether the processing work requires the specialist attention of a senior officer, or can only be undertaken by one or more specialist officers in the department who have competing responsibilities; and
- the impact that processing this request may have on other work in the department, including FOI processing.

In financial year 2023-24, the department had 7,135 staff, 15 of which were allocated to processing of FOI requests. I consider that processing one access request with an estimated work effort of **704 hours**, at least, would represent an unreasonable diversion of resources as it would:

- divert **402 hours** work effort of myself, an SES Officer, and support staff from the lead business area Benefits Integrity Division, a core operation of the department.
- divert **302 hours** work effort from the FOI Section, which is required to respond to all other on hand FOI requests within statutory timeframes.

I further observe that in *VMQD and Commissioner of Taxation (Freedom of information) [2018] AATA 4619* (17 December 2018) [101] the AAT noted:

What constitutes valid practical refusal grounds is thus agency specific and resource dependent. Nevertheless for any agency, a burden in excess of 200 hours would almost certainly make the threshold of a rational and objective test. As is illustrated above, burdens as (relatively) small as 74 hours have been so characterised.

As such, I am satisfied that the work involved in processing your request, as currently presented, would substantially and unreasonably divert the resources of the department from its other operations.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

You could revise your request by narrowing the scope of the request and/or providing greater detail about the documents you wish to access. Providing more specific information about the format, timeframes, and substance of the documents you are interested in will enable the department to conduct targeted searches for documents of interest.

For example, the scope of the request could be revised to:

- Narrow the timeframe e.g. limit the time period of documents between X and Y date (requesting specific dates rather than just “the last 10 years” makes it easier to search)
- Exclude documents publicly available on the department’s website, for example, the information that has been released and accessible on the department’s disclosure log relating to data matching legislation.
- Specify the types of documents required, for example, seeking copies MOUs, agreements, records of data being shared by DVA and what it was used for.
- Copies of finalised/signed documents, and exclude draft documents or where no decisions were made, or actions progressed, for example, meetings discussing how data matching may be done in general, proposals that did not go any further.

The request consultation period runs for 14 days and starts on the day after you receive this notice.

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request
- make a revised request, or
- tell us that you do not wish to revise your request.

If you do not do one of the three things listed above during the consultation period, or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

If you agree to revise your request in a way that removes the practical refusal reason outlined above, the department will recommence processing your request. Please note: as per section 24AB(8) of the FOI Act the time taken to consult you regarding the scope of your request is not counted in the statutory timeframe provided for processing your request.

Please contact FOI section on the contact details below if you have any questions or require assistance responding to the practical refusal notice.

Legislative provisions

The FOI Act, including the provisions referred to above, are available on the Federal Register of Legislation website: www.legislation.gov.au/Series/C2004A02562

Contact officer

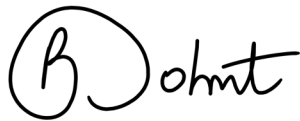
For the purposes of this consultation, the contact officer for your request is:

Tritiya

Phone: (02) 6289 1666

Email: foi@health.gov.au.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized capital letter 'B' followed by the name 'Dohnt' in a cursive script.

Brigid Dohnt
Assistant Secretary
Medicare Integrity Reform Branch
3 January 2025