



**Australian Government**  
**Department of Veterans' Affairs**

Mr Will Martin  
Assistant Review Adviser  
Freedom of Information Branch  
Office of the Australian Information Commissioner  
By email only: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

Your reference: MR24/00884  
Our reference: LEX 53717 and 54687 (IR)

Dear Mr Martin

**IC Review MR24/00884 – response to notice of review and request for documents**

I refer to the emails dated 18 June 2024 and 6 November 2024 to the Department of Veterans' Affairs (Department) relating to an application made by Mr Alan Ashmore (applicant) for Information Commissioner (IC) review in accordance with the *Freedom of Information Act 1982* (FOI Act).

***Issues in Contention***

The Department understands that the applicant contests that further documents exist within the scope of the last two dot point of their request (s 24A(1) of the FOI Act).

***Background***

On 8 September 2022, the applicant requested access to the following under section 15 of the FOI Act (last two dot points bolded to emphasise the issue in dispute):

*'...I am seeking the latest document/worksheet listing the following, namely:*  
*: The total cost to DVA of a veteran in receipt of a Gold Card.*  
*: The total cost to DVA of a war widow in receipt of a Gold Card*  
*: **The total additional cost to Government of a veteran in receipt of a Gold Card, and***  
*: **The total additional cost to Government of a war widow in receipt of a Gold Card.***  
*All documentation/worksheets to list the complete breakdown of costs, e.g. optical, dental, hospital, transport, medical, pharmaceutical, etc...'*

On 15 September 2022, the Department acknowledged the request via email (LEX 53717).

An extension of time was applied to process the request in accordance with section 15AA of the FOI Act. Accordingly, a decision on the request was due by 24 October 2022.

On 24 October 2022, the Department decided to grant full access to two documents. In relation to the last two dot points of the FOI request, the Department decided to refuse access under section 24A(1)(b) of the FOI Act on the basis that such documents do not exist or cannot be found.

On 15 November 2022, the applicant requested internal review of the Department's 24 October 2022 decision (LEX 54687). The request stated:

*'...I am writing to request an internal review of Department of Veterans' Affairs's handling of my FOI request 'Gold card costs...'*

On 8 December 2022, the Department sought the applicant's clarification on what he meant by 'the total additional cost to Government of a veteran in receipt of a Gold Card' and 'the total additional cost to Government of a war widow in receipt of a Gold Card'. On the same day, the applicant replied with the following clarification:

*'...I thought this would have been self explanatory but I will spell it out in more detail for you and will use my example as a Gold Card veteran.*

*Nearly every medical issue I have to seek a medical and specialist appointment/treatment for is for a war accepted medical condition and is paid for by DVA gold card. It is a specific DVA cost but incorrectly included as a 'cost' of the Gold Card. I estimate that of the annual costs DVA pay for my gold card is that 90% is specifically related to my war accepted medical conditions and 10% is the additional cost to Government for example dental costs which are not specifically war related. In my case the ADDITIONAL cost to Government in my case is around 10% and not 100%.*

*In addition there are many costs DVA include as the total cost of a Gold Card that would otherwise be paid by:*

- : Medicare.*
- : The Public Hospital system, and*
- : Chemist costs to name a few.*

*I hope this gives you some direction that I am looking for the ADDITIONAL cost to Government by the issue of a Gold Card.*

*As noted previously Mick Quinn and I saw a one page document in 2019 of the information I am seeking so I know such a document DOES exist...'*

On 15 December 2022, the Department affirmed its original decision to grant full access to two documents and refuse access to the last two dot points of the applicant's request on the basis that the documents do not exist or cannot be found (section 24A(1)(b) of the FOI Act).

## **Submissions**

The Department submits that its decision of 15 December 2022 should be affirmed.

The Department maintains the position outlined in its 15 December 2022 Statement of Reasons that it is unable to provide the applicant with any documents that fall within the scope of the last two dot points of the applicant's request as no such documents exist in discrete form other than the 'Stats at a Glance' pdf document dated March 2022 which was provided to the applicant on 15 December 2022. This pdf document is also published at [https://www.dva.gov.au/sites/default/files/2022-05/saag\\_mar2022.pdf](https://www.dva.gov.au/sites/default/files/2022-05/saag_mar2022.pdf).

## **Searches**

Considering the subject matter and line areas of the Department, search minutes were sent to the Data and Insights Branch, Client Benefits Division and the Client Engagement and Support Services Division.

The Data and Insights Branch conducted searches of the Department's web pages for publication statistics and found one document entitled 'Stats at a glance' dated March 2022 as being within scope of the FOI request. It was noted that the data requested is not produced in a report and therefore no documentation is available to fully address the report ( see pages 4 and 5 of the search minute at **Attachment F.2**).

The Client Benefits Divisions responded to the search request by indicating that they do not possess information relevant to the scope of the FOI request that preliminary enquiries of the Client Benefit Division indicates that they do not possess information relevant to the scope of the FOI request (**Attachment G**).

The Client Engagement and Support Services Division responded to the search request by referring the request to the Data and Insights Branch (**Attachments H.1 and H.2**).

In October 2024, the Department undertook further searches to determine if all relevant information had previously been identified in response to last two dot points of the applicant's FOI request:

- The Data and Insights Branch confirmed that there were no additional documents available in discrete form within the scope of the applicant's FOI request (see pages 4 to 6 of **Attachment I.2**); and
- The Policy Division responded to a request for further searches by indicating that the request should be handled by the Data and Insights Branch and noted that information about Gold Card costs is published on the DVA website at: <https://www.dva.gov.au/sites/default/files/2024-05/saag-march-2024.pdf> (**Attachments J.1 and J.2**).

The Department submits that the searches described above constitute ‘all reasonable searches’ for the purposes of section 24A of the FOI Act<sup>1</sup>, and is satisfied that all reasonable steps have been taken to find documents relevant to the scope of the request and no further documents exist in discrete form beyond what was provided to the applicant on 15 December 2022.

Consistent with the decision in ‘*AJQ and the Department of Veterans' Affairs*’<sup>2</sup> the Department submits that it has done all that could reasonably be required of it to find the documents in question and it is open to the applicant to make a fresh FOI request for access to further documents.

### ***Use of database - section 17***

The Department submits that on 15 December 2022, it provided the applicant with a spreadsheet produced by using computer equipment ordinarily available to the Department in accordance with section 17(1) of the FOI act.

As indicated in the Department’s search minute at **Attachment F.2**, the *Enhanced Average Treatment Card Model (ATCM) version 2021.06* is a database which could be interrogated and from which data could be extracted for the purpose of obtaining the average Gold card costs, such as published in the pdf document at [https://www.dva.gov.au/sites/default/files/2022-05/saag\\_mar2022.pdf](https://www.dva.gov.au/sites/default/files/2022-05/saag_mar2022.pdf)

The ATCM database was interrogated, relevant data extracted and a spreadsheet containing the information sought by the applicant was created in discrete form, in accordance with section 17 of the FOI Act. See the second page of the spreadsheet at **Attachment F.3** for further details about the extraction of data. Caveats on the extracted data are as set out in the spreadsheet that was provided to the applicant on 15 December 2022 (**Attachment C.2**).

A limitation is that Department’s ATCM database does not contain information that could be extracted to address the last two dot points of the applicant’s FOI request, namely:

- The total additional cost to Government of a veteran in receipt of a Gold Card; or
- The total additional cost to Government of a war widow in receipt of a Gold Card.

This was confirmed in the further searches undertaken by the Data and Insights Branch in October 2024 where it was noted that the Department does not have the data to perform the cost isolation required to generate the information described in the last two dot points of the applicant’s FOI request (see page 4 of **Attachment I.2**).

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<sup>1</sup> See also Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act, at [3.87] – [3.89] and *Langer and Telstra Corporation Ltd* [2002] AATA 341 at [95]; *Bienstien and Attorney-General (Commonwealth of Australia)* [2008] AATA 490 at [48]; and *Re Khorramdel and Department of Human Services* [2012] AATA 707 and *De Tarle and Australian Securities and Investments Commission* [2015] AATA 770 which followed a similar approach to reasonable searches.

<sup>2</sup> ‘*AJQ and the Department of Veterans' Affairs* (Freedom of information) [2024] AICmr 85 (23 April 2024)

The Actual Analytics team of the Data and Insights Branch noted the following in relation to the further searches (**Attachment I.1**):

*'...Our team has reviewed the Freedom of Information (FOI) request related to the total additional cost of DVA Gold Cards for veterans and War Widow(er)s (LEX 68720), including an approximate breakdown of average expenditure by item. Please note that we are unable to provide this, as this would require the additional cost covered by each client's Gold Card to be isolated from Medicare payments, Pharmaceutical Benefits Scheme (PBS) payments, DVA treatment expenditure for service-related conditions and any other benefits that would already have been available to the client had they not held a Gold Card. Our team's understanding is that DVA doesn't have all of the necessary data in order to perform the required cost isolation...'*

### **Further documents and information**

The Department **attaches** the following documents in accordance with section 55(2)(e)(ii) of the FOI Act:

- the original FOI request (**Attachment A**);
- the Department's Statement of Reasons and covering email dated 24 October 2022 (**Attachment B.1 and B.2**);
- documents 1 and 2 as provided to the applicant on 24 October 2022 (**Attachments C.1 and C.2**);
- applicant's request for internal review and subsequent clarification of scope (**Attachments D.1 and D.2**);
- the Department's Statement of Reasons dated 15 December 2022 (**Attachment E**);
- search results of the Data and Insights Branch dated 20 October 2022 (**Attachments F.1, F.2 and F.3**);
- search results of the Client Benefits Division dated 19 September 2022 (**Attachment G**);
- search results of the Client Engagement and Support Services Division dated 19 and 21 September 2022 (**Attachments H.1 and H.2**).
- results of further searches by the Data and Insights Branch in October 2024 (**Attachments I.1, I.2 and I.3**); and

- results of searches by the Policy Division in October 2024 (**Attachments J.1 and J.2**).

The Department also notes:

- no external consultation was undertaken in relation to this matter; and
- no third parties have been notified of the IC review in this matter.

The Department does **not** consent to **Attachments F.1, F.2, F.3, G, H.1, H.2, I.1, I.2, I.3, J.1 or J.2** being provided to the applicant on the basis that they contain material that is or would be exempt under sections 47E and 47F of the FOI Act.

The Department is grateful for the opportunity to make submissions in this matter and would be happy to provide additional submissions if required.

We look forward to hearing next steps in due course.

Yours sincerely

Kathleen PN62230915  
Information Law Section  
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10 December 2024