



Australian Government
Department of Employment

Mr Bob Buckley
Convener
Autism Aspergers Advocacy Australia (A4)

By email: cnvnr@a4.org.au

Dear Mr Buckley

1. I refer to your correspondence received by the Department of Employment (the department) on 25 February 2014, in which you requested access under the *Freedom of Information Act 1982* (FOI Act) to the following documents:

"... All the information about 'the circumstances and the statistics' relating to 'the growth in the Disability Support Pension' that your Department of Employment:

1. put to:
 - a. Senator Abetz, Minister for Employment;
 - b. other Ministers and members of the Parliament (or Government), and
 - c. media and the public;
2. feels might influence Government policy relating to people who receive a Disability Support Pension; and
3. has as records of communications relating to the letter that my organisation (Autism Aspergers Advocacy Australia (A4)) sent (originally) to the Prime Minister in October 2013 (see DSS reference MC13-010923, <http://a4.org.au/a4/node/742> and <http://a4.org.au/a4/node/779>)."

Background

2. On 18 September 2013, the Administrative Arrangements Order (AAO) was made, transferring responsibility for disability employment services from the former Department of Education, Employment and Workplace Relations (DEEWR) to the new Department of Social Services (DSS).
3. Given the transfer of responsibility, on 25 February 2014 I advised you that the department was unlikely to hold any documents within the scope of your request. I suggested that you might like to redirect your request to DSS, however you advised that you wished to proceed to a decision on access.

Decision on access to the documents


4. I am authorised to make decisions under section 23 of the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

5. Pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act, I have decided to refuse your request for access to documents on the basis that the documents you are requesting do not exist.

Reasons for decision

6. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act 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 the Minister's possession but cannot be found; or*
 - (ii) *does not exist.*
7. I am advised that the department does not hold any documents within the scope of your request. Relevant officers across the department have undertaken searches for documents within the scope of your request, and these searches have not identified any material in the possession of the department.
8. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the department has taken all reasonable steps to find documents falling within the scope of your request, and I am satisfied that those documents do not exist.
9. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
10. Should you have any questions, please contact me on (02) 6240 3627 or via email at foi@deewr.gov.au.

Yours sincerely



Tegan Farrelley
Senior Government Lawyer
Information Law Team
Corporate Legal

6 March 2014

Your rights of review

Internal Review

Section 54 of the FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: The FOI Coordinator
 Department of Employment
 Location Code: C12MT1-LEGAL
 GPO BOX 9880
 CANBERRA ACT 2601

Email: foi@deewr.gov.au

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street
 Sydney, NSW 2000

For general enquiries, please call 1300 363 992 or +61 2 9284 9749 for international.

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone 1300 362 072.