

From: [Vivian Yue](#)
To: ["information.access@dva.gov.au"](mailto:information.access@dva.gov.au)
Subject: MR18/00831 - Notice of request for IC review and Preliminary Inquiries [SEC=UNCLASSIFIED]
Date: Thursday, 1 November 2018 11:39:00 AM
Attachments: [FW IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLUCCS referrals SECUNCLASSIFIED.msg](#)
[image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Our reference: MR18/00831

Your reference: IR 24561

The FOI Contact Officer

Sent by email: information.access@dva.gov.au

Notice of request for IC review and Preliminary Inquiries under s 54V

Dear Sir/Madam

Ms Verity Pane has requested that the Information Commissioner review of a deemed decision by the Department of Veterans' Affairs (DVA) of 18 October 2018, to refuse access to documents under the *Freedom of Information Act 1982* (Cth).

I attach a copy of the application for review.

Preliminary Inquiries (s 54V)

I note it appears that Ms Panes's FOI request is deemed to have been refused pursuant to s 15AC. However, DVA retains an obligation to provide Ms Pane with a substantive decision as soon as practicable.

Pursuant to s 54V, to assist the OAIC in progressing Ms Panes's IC review please provide:

- An explanation with regards to the present status of Ms Pane's request
- If the request is not yet finalised - an estimated date for its completion.
- If the Department has provided a statement of reasons to the applicant, please forward a copy to the OAIC.

Please provide a response to this email by close of business **8 November 2018**

Yours sincerely



Vivian Yue | Review Officer
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9797 | vivian.yue@oaic.gov.au



[Subscribe to OAICnet newsletter](#)

From: FOIDR
To: "Verity Pane"
Subject: RE: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals [SEC=UNCLASSIFIED]
Date: Thursday, 1 November 2018 11:46:00 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

OAIC reference: MR18/00831
Department reference: FOI 24561

Dear Mr Pane

Your IC review application about an FOI decision by the Department of Veterans' Affairs (FOI 24561)

Thank you for your correspondence seeking to lodge an IC review application with the [Office of the Australian Information Commissioner](#) (the OAIC) about the Department of Veterans' Affairs.

Please note:

- Your application will be assessed and you will be advised by an IC review officer of the next steps.
- Your IC review application will be shared with the Department as part of the IC review process unless you have specifically requested otherwise.
- If your circumstances change, or your request has been resolved directly with the Department, please advise us by email as soon as practicable.

Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email foidr@oaic.gov.au and quote the reference number at the top of this email.

Kind regards



Vivian Yue | Review Officer
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
+61 2 9284 9797 | vivian.yue@oaic.gov.au



[Subscribe to OAICnet newsletter](#)

From: Verity Pane s 22
Sent: Thursday, 1 November 2018 12:44 AM
To: Enquiries <enquiries@oaic.gov.au>
Subject: Fwd: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals

Attn OAIC,

Still waiting for registration here.

Further, DVA has since claimed the FOI has been withdrawn, based on the backdated charges notice provided to the address for notices after the FOI received a deemed decision.

This, of course, does not have any legitimacy and is ultra vires. The FOI has not been withdrawn and remains a deemed refusal.

The fact that the OAIC has not registered this IC Review suggested that yet again this chain of events is yet another example where DVA and the OAIC have been scheming behind closed doors to subvert the FOI Act and bin the IC Review in bad faith.

Why is it that the OAIC has corrupted its purpose as a regulator, to be just another fox in the hen house?

Verity Pane

From: Verity Pane s 22
Sent: Tuesday, October 23, 2018 7:02 pm
To: enquiries@oaic.gov.au
Subject: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals

Attn OAIC,

You know, if you stopped giving DVA reasons to ignore FOI law, you wouldn't be getting these IC Reviews in the first place. Really you are letting DVA dump its work on you, but hey these are the games you choose to play.

This one is slightly more unusual - DVA pulling out a new dirty trick. This time, backdated charges notices never sent, after the FOI goes deemed refusal (when no such charges can apply).

This history of this FOI is here:

https://www.righttoknow.org.au/request/jan_2018_may_2018_cluccs_referra

The FOI went deemed refusal 5 days ago. I chased up DVA on the day of deemed refusal. It ignored the correspondence. I chased up again today, and now it has attempted to put a backdated charges notice on the FOI, claiming it had been sent before (but if it had been, it would have been published on the FOI page).

Every time an FOI is made on Right to Know, the address for notices is generated, with a unique Right to Know email address (therefore not a personal email address, and I don't correspond with DVA myself, so they wouldn't even know my UoW email address).

There has been no correspondence from DVA about that FOI since 19 September 2018 (s 15(5)(a) acknowledgement) until today for this FOI, as evidenced by the Right to Know chronology of correspondence.

I have not received nor being advised by DVA of any charges notice until today, and I have checked my spam folder to confirm. Either DVA is outright lying or failed to give notice by deliberately sending to the wrong person or invalid address for notices.

The law is clear here, where an address for notices is given in respect of an FOI, notices must be given to that address, and it is well covered by Regs and the Guidelines that the consequences of s 15(5)(b) expiry deemed refusal is no charges can be levied.

DVA need to stop being little corrupt dickheads, and get on with it. This is just another case where the OAIC needs to say enough to DVA, to tell them stop making more unnecessary work for everyone, and tell DVA it needs to get on with the FOI and do it honestly.

Verity Pane

MR18/00831McKenna, Megan
15-Nov-2018 1:40 PM**Title**

Pane, Verity | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	Access Refusal	Received Date:	23-Oct-2018 12:00 AM
Case Type:	To be Determined	Received By:	Yue, Vivian
How Received:		Registered Date:	26-Oct-2018 2:01 PM
Owned By:	Allocation - Deemed Decisions - FOI	Registered By:	Allocation - Deemed Decisions - FOI

Case Details

Stage:	Triage
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Agency Reference Number:	FOI 24561
Primary Client Group:	Individual
Parent Case Entity Code:	IC Review
Respondent Client Group:	Agency
Case PrimaryPerson:	Pane, Verity
Case Respondent:	DVA - Department of Veterans' Affairs
Assessor Note:	PIs due 23 Nov
Retention Class:	OAIC RA 61986 (D2)

Case Parties - 2

Applicant Client:	Pane, Verity
Respondent Client:	DVA - Department of Veterans' Affairs

Summary

Summary

A requested documents under s 17, on the number of DVA clients, by ages group, who were referred to SPOC management between Jan and May 2017.

Date requested: 18 September 2018

Deemed on: 18 October 2018

Actions - 10 (1 Open, 9 Completed)

Action	Owner	Due	Completed
Record case details and attach docs (MR REG)	Yue, Vivian	30-Oct-2018	26-Oct-2018
Send Acknowledgement Letter (MR REG)	Yue, Vivian	30-Oct-2018	01-Nov-2018
Move to Triage basket (MR REG)	Yue, Vivian	29-Oct-2018	26-Oct-2018
Allocate to Triage Officer (MR TR)	Triage - FOI	29-Oct-2018	26-Oct-2018, Yue, Vivian
Conduct Triage (MR TR)	Yue, Vivian	29-Oct-2018	26-Oct-2018: Further Info

Seek Further Information (MR TR)	Triage - FOI	29-Oct-2018	01-Nov-2018, Yue, Vivian
Conduct Triage (MR TR)	Triage - FOI	02-Nov-2018	01-Nov-2018, Yue, Vivian: Further Info
Seek Further Information (MR TR)	Triage - FOI	02-Nov-2018	01-Nov-2018, Yue, Vivian
Conduct Triage (MR TR)	Triage - FOI	02-Nov-2018	01-Nov-2018, Yue, Vivian: Further Info
Seek Further Information (MR TR)	Allocation - Deemed Decisions - FOI	02-Nov-2018	

Documents - 6

Title	Date Added	By
FW: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals [SEC=UNCLASSIFIED]	24-Oct-2018 9:01 AM	Yue, Vivian
FW: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals [SEC=UNCLASSIFIED]	01-Nov-2018 9:29 AM	Yue, Vivian
MR18/00831 - Notice of request for IC review and Preliminary Inquiries [SEC=UNCLASSIFIED]	01-Nov-2018 11:39 AM	Yue, Vivian
RE: IC Review - Deemed Refusal of DVA FOI 24561 - Jan - May 2018 CLU/CCS referrals [SEC=UNCLASSIFIED]	01-Nov-2018 11:46 AM	Yue, Vivian
RE: MR18/00831 - Notice of request for IC review and Preliminary Inquiries [DLM=For-Official-Use-Only]	07-Nov-2018 4:14 PM	Yue, Vivian
RE: MR18/00831 - Notice of request for IC review and Preliminary Inquiries [DLM=For-Official-Use-Only]	12-Nov-2018 10:11 AM	Yue, Vivian