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Case note: 'AUQ' and Department of Health and Aged Care (Freedom of Information)

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'AUQ' and Department of Health and Aged Care (Freedom of Information) [2025] AICmr 54 (26 March 2025)

This decision deals with a request for documentation relating to COVID-19 vaccine safety reports. It highlights a practical example of the importance of FOI decision-makers keeping a detailed record of searches undertaken to locate documents requested by an applicant.

The applicant's request was denied in this case on the basis that the requested documentation did not exist. The applicant, however, was provided with a weekly COVID-19 Safety Report in relation to certain items of the request and provided a written response to one item of the request. The issue to be decided here was whether the Department of Health and Aged Care (the **Department**) took reasonable steps to locate the documents, and what is the correct approach to a request under the *Freedom of Information Act* 1982 (Cth) (**FOI Act**) when the documents requested do not exist.

Section 24A of the FOI Act provides that when an agency receives a request, it must take all reasonable steps to locate the documents requested by the applicant before the agency refuses the request. In this case, relevant business areas within the Department were consulted on the types of documents sought and undertook searches on the Department's record management systems. The records kept by the Department illustrated the following:

- Persons who were consulted and undertook searches.

- Date the searches were undertaken.
- Locations searched.
- Search terms used.
- Outcomes of the searches undertaken.
- Reasons as to why no relevant documents have been found.

It was found in this decision that the Department took all reasonable steps required to locate the documents requested.

Key takeaways

FOI decision-makers should keep in mind the importance on maintaining detailed records of searches undertaken in order to adequately show all reasonable steps were undertaken to locate the documents requested by the applicant to comply with s 24A of the FOI Act.

We would like to acknowledge the contribution of Georgie Martin and Ciara McIntyre.

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