



**Australian Government**  

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**Australian Public Service Commission**

Mr Paul Williams

By Email: [foi+request-10893-8c78fcc9@righttoknow.org.au](mailto:foi+request-10893-8c78fcc9@righttoknow.org.au)

Our Reference: LEX 718

Dear Mr Williams

***Freedom of information request***

1. I am writing about your request dated **22 November 2023** for access to documents under the *Freedom of Information Act 1982* (FOI Act) held by the Australian Public Service Commission (Commission).
2. I am an authorised officer under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information (FOI) requests.

***Request consultation process***

3. I am writing to advise that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size and broad scope. This is called a ‘practical refusal reason’ under section 24AA of the FOI Act.
4. On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a ‘request consultation processes’ as set out under section 24AB of the FOI Act.
5. You have **14 days** to respond to this notice in one of the ways set out below.

***Why I intend to refuse your request***

6. You requested access to documents in the following terms:
  - 1) *Any documents that are requests for bargaining representatives' contact details, made by bargaining representatives.*
  - 2) *Any responses provided to those bargaining representatives.*
  - 3) *Any internal documents which detail any decisions made, or are otherwise connected with the decision making process (with regard to the decision to refuse to provide bargaining representatives' contact details)*

4) *Any instructions given to APS agencies on how to handle similar requests from bargaining representatives*

*I exclude from scope of this request the names of APSC staff below the ELI level, and all identifying attributes of individual bargaining representatives other than their employing agency name*

7. Under subsection 24AA(2) of the FOI Act an agency or minister must have regard to the resources that would have to be used for:
  - identifying, locating or collating the documents within the filing system of the agency or the office of the Minister;
  - deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
  - making a copy or an edited copy, of the document; and
  - notifying any interim or final decision on the request.
8. Further to the above, the Commission may have regard to other matters in deciding if a practical refusal reason exists, relevantly:
  - the staffing resources available to an agency;
  - the impact that processing a request may have on other work in an agency; and
  - whether an applicant cooperates in framing a request to reduce the processing workload.
9. I have taken into account all of the above matters in forming my preliminary decision to refuse your request. I have not taken into account:
  - any reasons that you have given for requesting access; or
  - the Commission's belief as to what your reasons are for requesting access; or
  - any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.
10. My reasons are set out below.

### ***Reasons***

11. Firstly, I am of the preliminary view that processing your request would be a substantial diversion of the Commission's resources because:

- collecting and reviewing the volume of material involved would be significant, noting that bargaining commenced in March 2023;

- processing the documents would involve numerous consultations, noting about 103 APS agencies, about 10 unions and over 250 individual employee bargaining representatives participated in APS-wide bargaining; and
  - the contents of the documents will require diligent examination and likely involve significant redactions, noting there have been over 250 individual employee bargaining representatives who participated in APS-wide bargaining, whether for part of or for the whole period, and documents would contain identifying attributes.
12. Secondly, I am also of the preliminary view that processing your request would be an unreasonable diversion of the Commission’s resources because:
- the Commission is a portfolio agency, with limited staffing resources available;
  - the Commission does not have, nor has ever previously required, any permanent dedicated FOI staffing resources as it has historically received a low number of FOI requests that are capable of being managed within the existing resources;
  - the Commission has limited capacity to obtain temporary resourcing in considering the impact of processing your request; and
  - the Commission is currently working on a number of priority matters related to the Government’s public service reform agenda including in relation to the working conditions of non-SES APS employees. Processing your request would unreasonably divert resources that would otherwise be dedicated to performing the essential operations of the agency.

***Amount of time to process your request***

13. Based on a preliminary assessment of the volume of documents and a review of a sample of their contents, a breakdown of the time estimated for each stage in processing a request is approximately:

<b>Search and retrieval</b>	<b>Time required to undertake tasks</b>
Executing searches, examining relevant documents and collating documents	Up to 5 hours
<b>Decision making</b>	<b>Time required to undertake tasks</b>
Identify and examine relevant documents	Up to 5 hours
Redacting pages	Up to 5 hours
Consult third parties	Up to 35 hours
Writing statement of reasons	Up to 3 hours
Compiling schedule of documents	Up to 1 hours

<b>Search and retrieval</b>	<b>Time required to undertake tasks</b>
Process subtotal	Up to 54 hours
Process Total (minus 'first 5 hours free')	Up to 49 hours

### ***Request consultation process***

14. You now have an opportunity to revise your request to enable it to be processed.
15. Revising your request can mean narrowing its scope to make it more manageable or explaining in more detail the documents rather than the information you wish to access. For example:
  - a. Excluding from the scope any documents you already have or are otherwise able to obtain directly from relevant APS agencies and/or employee bargaining representatives;
  - b. Specifying and narrowing the period in which the Commission may have received requests for bargaining representatives' contact details, to enable the Commission to conduct a search in more defined time period;
  - c. Specifying whether the documents are in relation to requests for specific or all bargaining representatives' contact details. For example, if the request related to a request for a specific bargaining representative's contact details, the Commission could conduct a search with more defined terms;
  - d. Specifying the APS agencies you consider have provided contact details of employee bargaining representatives (in their agency) where requested. This would enable the Commission to narrow the scope of its consultation; and
  - e. Narrowing the scope to email communications only and excluding attachments and duplicates of documents.
16. 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.
17. The consultation period runs for **14 days** and starts on the day after you receive this notice.
18. During this period, you are welcome to seek assistance from the Commission to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it.
19. Please note that under subsection 24AB(8) of the FOI Act the time taken to consult you regarding the scope of your request is disregarded for the purposes of the 30 day

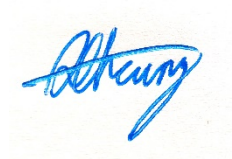
time limit for processing your request.

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

### ***Contacts***

21. If you require clarification on matters in this letter please contact the Commission's FOI Officer by email at [foi@apsc.gov.au](mailto:foi@apsc.gov.au).

Yours sincerely



Pui-Chi Cheung  
Authorised FOI decision maker  
19 December 2023