



January 2024

CR

Right to Know

By email: foi+request-11005-fe5d0d38@righttoknow.org.au

Dear CR

Freedom of Information Request – Notification of intention to refuse request

Thank you for your email dated 7 January 2024, in which you sought access under the *Freedom of Information Act 1982* (the Act) to:

1. *A list of all FOI requests received by the department relating to the 2023 Hamas-Israel Conflict. The list should include the reference number and date of receipt for each request.*
2. *All correspondence between the department and FOI applicants regarding the above-mentioned requests.*
3. *All internal correspondence exchanged within the department regarding the above-mentioned requests.*
4. *All correspondence between the department and any external parties regarding the above-mentioned requests.*
5. *All correspondence between FOI applicants and any external parties regarding the above-mentioned requests. For example, communications with the OAIC or the AAT, if applicable.*

Please include any email attachments as they form part of the scope of this request.

Please exclude the following information:

- i. *Personal information of FOI applicants.*
- ii. *Personal information of departmental staff.*
- iii. *Personal information of any third parties.*
- iv. *Duplicate content.*

If consultation with a third party is deemed necessary where documents affect privacy under s 27A of the Act, I respectfully request to be notified first so that I may

consider revising or narrowing the scope of my request to avoid such consultation if possible

On 8 January 2024 the department wrote to you and informally consulted you about the scope of your request. The department stated:

Before we undertake searches for documents relevant to your request, you may wish to revise the scope of your request.

In relation to part 1 of your request, the FOI Act gives a right of access to documents that already exist, the department is not required to create a new document to satisfy an FOI request (such as lists). You may wish to refine your FOI request by removing the part of the request for a list of documents or revising the wording of this request.

In relation to the remainder of your request, as currently worded may constitute a substantial and unreasonable diversion of the department's resources from its other operations. Since 1 October 2023 the department has received over 20 FOI requests relating to the 2023 Hamas-Israel Conflict, capturing hundreds of emails and attachments relating to the processing of each request. You may wish to refine your FOI request to a particular date range or particular request.

As currently worded, your request specifies multiple forms of correspondence, including with third parties. Whilst you have excluded personal information of FOI applicant's and third parties, consultations with over 20 third parties would be required to fulfil this request. You may wish to refine your FOI request by limiting the correspondence types and/or limiting the amount of third parties.

Following further exchange of emails between yourself and the department, on 10 January 2024, you revised the scope of your request to:

- 1. All correspondence between the department's FOI team and FOI applicants regarding FOI requests relating to the 2023 Hamas-Israel Conflict*
- 2. All internal correspondence sent to/from the department's FOI team regarding the above-mentioned requests.*
- 3. All correspondence between the department's FOI team and any external parties regarding the above-mentioned requests.*
- 4. All correspondence between FOI applicants and any external parties regarding the above-mentioned requests. For example, if applicable, correspondence between FOI applicants and third parties, where the department's FOI team was copied.*

Please exclude early parts of email streams captured in later emails. I have also maintained my previous exclusions:

- i. Personal information of FOI applicants.*
- ii. Personal information of departmental staff.*

- iii. *Personal information of any third parties.*
- iv. *Duplicate content.*

I am writing to inform you the department has identified a large volume of material that would require assessment to determine whether it is suitable for release, the processing of which we assess (for the reasons set out below) would constitute a substantial and unreasonable diversion of the department's resources.

However, you are welcome to revise the scope of your request in line with section 24AB(2)(e) of the Act, so that it might be processed.

Notice of intended practical refusal

In accordance with section 24AB(2) of the Act, I am providing you notice of my intention to refuse to grant access to the documents captured by your request.

The reason for the proposed practical refusal is that the work involved in processing the request as it currently stands would substantially and unreasonably divert the department's resources from its other operations.

In making this assessment, I have considered how the department could proceed to process your request, and the time and resources that would be involved in doing so, including undertaking consultation, understanding sensitivities, collating documents, examining the documents, and redacting material from the documents. I have been assisted in this task to date by the Freedom of Information Section.

Preliminary searches have identified 30 requests relevant to your request, capturing approximately 742 emails, with many of the emails containing attachments.

Consultation would also potentially be required with third parties external to the department and many other government agencies.

For these reasons, I am of the view that processing your request in its current form would be a substantial and unreasonable diversion of the department's resources, and therefore a practical refusal reason exists within the meaning of section 24AA(1) of the Act.

Consultation to revise the scope of the request

Pursuant to section 24AB(2)(e) of the Act, you have 14 days from the day you are given this notice to:

- a) withdraw your request,
- b) revise the scope of your request, or
- c) inform the department that you do not wish to revise your request.

I invite you to contact me (via foi@dfat.gov.au) should you wish to revise the request in order that it may be processed.

We have created the following table to provide you information about each request and to support your consideration of a revised scope. In considering your revised scope it may be useful to:

- limit your request to a particular FOI request,
- exclude attachments to emails,
- limit the date range for your request, and
- limit the scope of your request to a particular part of the FOI process.

Number	LEX Reference	Date Received	Emails identified up to 07/01/24 (attachments not included)
1.	LEX 9204	09.10.23	5
2.	LEX 9207	09.10.23	64
3.	LEX 9262	15.10.23	7
4.	LEX 9269	14.10.23	24
5.	LEX 9295	17.10.23	16
6.	LEX 9321	22.10.23	14
7.	LEX 9322	21.10.23	8
8.	LEX 9326	20.10.23	14
9.	LEX 9346	24.10.23	13
10.	LEX 9358	25.10.23	15
11.	LEX 9365	26.10.23	6
12.	LEX 9366	26.10.23	8
13.	LEX 9368	27.10.23	18
14.	LEX 9373	27.10.23	15
15.	LEX 9419	02.11.23	4
16.	LEX 9427	03.11.23	5
17.	LEX 9428	03.11.23	5
18.	LEX 9582	21.11.23	57
19.	LEX 9614	22.11.23	17
20.	LEX 9615	22.11.23	31
21.	LEX 9662	21.12.23	14
22.	LEX 9703	08.12.23	35
23.	LEX 9708	08.12.23	23
24.	LEX 9712	11.12.23	18
25.	LEX 9716	09.12.23	55
26.	LEX 9726	11.12.23	24
27.	LEX 9788	17.12.23	14
28.	LEX 9820	21.12.23	2
29.	LEX 9824	21.12.23	15
30.	LEX 9836	22.12.23	19

An additional 177 emails were identified for LEX 9207, 9269, 9295, 9321, 9322, 9326, 9346, 9358, 9366, 9368, 9373, 9419 and 9428 in a combined folder.

Please note that under section 24AB(7) of the Act, if you do not take an opportunity to consult with the department within 14 days, your request will be considered to have been withdrawn.

Please also be aware that during this period of consultation, the statutory timeframe under section 15(5) of the Act for the processing of your request is on hold (see section 24AB(8) of the Act for details).

Where I refer to sections of the FOI Act, these are available at www.legislation.gov.au.

Yours sincerely



Brooke Rogers

A/g Assistant Secretary

Public Interest Law Branch