

4 December 2025

Daniel M

By email: Daniel foi+request-13970-2aee5113@righttoknow.org.au

Dear Daniel

ABC FOI 202526-062 – NOTICE OF INTENTION TO REFUSE YOUR REQUEST

I refer to your email sent Tuesday 4 November 2025 seeking access under the *Freedom of Information Act* (Cth) 1982 (the **FOI Act**) to:

1. All documents, in any format (including but not limited to text messages, WhatsApp, Signal, emails, PDF files, etc.) held within the News Division or the ABC's HR Department, within and matching the following date ranges and keywords.

a) From 1 January 2024 to 4 November 2025, inclusive:

- i) "Mahmood Fazal" and "Friendlyjordies"
- ii) "Mahmood Fazal" and "Jordan Shanks"
- iii) "Mahmood Fazal" and "Jordies"
- iv) "Mahmood Fazal" and "Alameddine"

b) From 27 October 2025 to 4 November 2025, inclusive:

i) "RZBQe4RLdZ8" (this being the video ID for the Friendlyjordies YouTube video covering the subject - note that this would be included as part of a URL, e.g. [https://urldefense.com/v3/_http://www.youtube.com/watch?v=RZBQe4RLdZ8_!!FvZmfVE!H7gNXKB6Aj5QX7xZqzuimeQ4Jq8mYiXI2GwBOi_JUC3GQiKTIXeZLqoY2ZquNn5X2Q8AonHfjwlbFj68d7qM3n7uasZWqxil1jc\\$](https://urldefense.com/v3/_http://www.youtube.com/watch?v=RZBQe4RLdZ8_!!FvZmfVE!H7gNXKB6Aj5QX7xZqzuimeQ4Jq8mYiXI2GwBOi_JUC3GQiKTIXeZLqoY2ZquNn5X2Q8AonHfjwlbFj68d7qM3n7uasZWqxil1jc$))

... I preemptively agree to the exclusion of:

- duplicates of documents [and] ... email chains;
- draft versions of a document where a later version exists;
- publicly available documents;
- personal information (including names and contact details) of ABC staff (although job titles are to remain), EXCEPT FOR where the name "Mahmood Fazal" is mentioned, which is to still be included.

On Wednesday 3 December 2025, you had a call with the FOI team to discuss the scope of your request generally which the ABC considers to be broad. Following this conversation, you emailed on 3 December 2025 to say:

To confirm, I agree to revise my scope as below:

- Documents held within the Four Corners team, rather than the News Division as a whole (ABC HR Dept. still to be included)

- Exclusion of documents subject to legal professional privilege or which are related directly to program material.

I do wish to respectfully note the following:

- My revisions are made on the basis that as per our discussion, I understand if the scope isn't revised, my FOI request will likely be refused due to a practical refusal reason as per s24AA.

- My preference would've been to not revise the scope, and instead either have the legal privilege/program material exemptions formally applied, or have the documents edited as to allow access under s22

- However, in the interest of having my request processed, and given the time of year & resources available to the ABC's FOI team, I am agreeing to the revision as outlined above.

The ABC would like to confirm there is no obligation to informally agree to vary the scope of your request. You indicated you prefer "not to revise the scope" in the same email you stated you agreed to revise it. As these statements are conflicting, the ABC is continuing to process your original scope.

This notice is to allow you more time to consider the scope of your request and to commence a formal request consultation process under the FOI Act.

Authorisation

I am authorised by the Managing Director of the ABC to make decisions about FOI requests under s 23 of the FOI Act.

Material taken into account

In making my decision I have considered:

- the scope of your request
- the content of the document/s requested
- the FOI Act
- the guidelines issued by the Office of the Australian Information Commissioner under s 93A of the FOI Act (**the Guidelines**)
- relevant case law

Locating and identifying documents

The search for documents included approaching the ABC News team and the People and Culture team. Their response indicated that the scope of your request is too broad to process. In response to internal consultation and document searches, both teams gave an indication of the type and breadth of documents that answer the scope of your request, including a sample of documents which I have reviewed.

s 24AA – Practical refusal reason

Based on preliminary searches, I am of the view that the work involved in processing your request in its current form will substantially and unreasonably divert the resources of the ABC from its other operations due to the substantial number of

documents which may fall within the scope of the request as received on 4 November 2025 (ss 24AA(1)(i) and 24AA(2)(b)(i)).

This is a '*practical refusal reason*' under s 24AA. On this basis, I intend to refuse access to the documents based on the size of the request. Before I make a final decision, you have an opportunity to revise your request which is a '*request consultation process*' as set out under s 24AB.

From 5 December 2025, you have 14 days to respond to this notice as set out at below.

This letter is a notice under s 24AB meaning the time to process your request is stopped until we have completed consultation with you regarding the scope of your request, under s 24AB(8).

Examination and assessment time

Based on discussion with the relevant areas of the ABC regarding your request, I have considered how much the time it would take the FOI decision maker to examine, assess and edit the documents in scope in order to process and make a decision on your FOI request. I advise the following:

- to collate and examine all documents takes multiple staff members off their substantive roles
 - this includes program makers from the News team
 - if this is limited to the Four Corners team instead, you have included all members of that team rather than the most likely staff to have relevant documents being management within that team
 - program makers have a principal responsibility of creating content for the Australian public.
- the ABC is an exempt agency in respect of its program material (content and documents *directly related to* content) – you have sought this class of document as part of your request,
 - there is no public interest test for program material documents
 - there is no right of access to program material documents under s 7(2)
- you have requested documents for an almost 2-year period.
- In terms of documents held within the People and Culture team, documents attracting legal professional privilege are rightfully exempt under the FOI Act
- Documents that concern private matters of an individual (noting the employee is someone other than yourself), and the ABC's obligations as an employer alongside the employee's right to privacy are relevant considerations for any documents not covered by legal privilege or a program material exemption
 - Public reporting to date (which may or may not be accurate) doesn't mean such private matters would be shared under FOI
 - The ABC takes this approach with any employee matter, including those

not attracting media attention

- to collate and organise a large set of documents to then refuse the vast majority under FOI is an unreasonable diversion of resources and an inefficient use of taxpayer resources
 - the ABC does not have a practice of waiving legal privilege over documents that properly attract the legally privileged exemption under s 42 of the FOI Act. This is an unconditional exempt that has no public interest test
 - the employee concerned has not consented to the release of their personal or professional affairs under FOI
 - it is extremely unlikely this consent would be given.
- there are external media enquiries from external journalists captured in searches, it is not clear if you seek these documents
- aside from public statements and media enquiries (if this request was limited to this category only), it is likely all documents located to answer the scope of your request would be exempt in full.
 - Undertaking this work would appear to achieve no access grant which would have no practical benefit to you, it would be the same result as a practical refusal decision in that access is refused.
- the ABC has obligations to employees on the basis of contract as well as WHS legislation. These laws apply alongside other legislation such as the right to ask for access to documents under FOI.
- based on a sample of documents received in samples so far, at 5 minutes per page, I consider the estimate is conservative noting:
 - it has generally been accepted that between 30 seconds to 5 minutes per page is a reasonable estimate of time required for an agency to assess and edit documents, except where documents contain a substantial amount of sensitive information. This assessment is at the top end of this range because the documents relevant to your request are complex and require detailed consideration of multiple exemptions, as well as conferral with internal colleagues.
 - Prior to document review, it takes about 2 minutes per document to save, label and file each document as a PDF. By the time these documents are labelled and scheduled, it is estimated to be about **15 hours** before they are ready for the decision maker's final review.

Accordingly, I estimate that it would take at least **50 to 100 hours** for the FOI team to assess the documents within the scope of the request and mark-up exempt or irrelevant material, as well as confer internally any external stakeholders (such as third party journalists). This is based on the unknown variance of the remaining documents to be collated and reviewed depending on the wording of the final scope. This factors in the manual process of removing duplicates, unrelated or pre-agreed as

exempt documents. Whilst this results in a smaller document set at the end, it takes human resourcing to achieve the end result.

Third party consultation

Based on search results received so far, there are individuals and or businesses that need to be consulted under ss 27 and 27A as affected third parties. I estimate that it will take on average 2 hours per third party (either individual or business) to identify relevant material, prepare third party consultation correspondence and review and consider any submissions made by the relevant third party.

I estimate it will take between **5 and 12 hours** to complete third party consultation.

Decision making time

I conservatively estimate that it will take **5 hours** to draft the FOI reasons for decision for clearance.

Combining estimates for conducting search and retrieval, examination and assessment, third party consultation, and the estimated time to draft the FOI decision, I conservatively estimate that it would take the ABC FOI team at least **65 to 110 hours** to process your FOI request including decision making time and third party consultation, which is not reasonable. This would be roughly 2 to 3 weeks' full-time spent by 1 person on your request.

Diversion of resources

An estimate of processing time is one of the considerations to take into account when deciding whether a practical refusal reason exists. As well as requiring a request to substantially divert an agency's resources, s 24AA also requires the request to unreasonably divert an agency's resources from its other functions before it can be refused under s 24.

The Guidelines identify matters that may be relevant when deciding whether processing the request will unreasonably divert an agency's resources from its other functions. These include:

- the staffing resources available for FOI processing
- the impact that processing a request may have on other work in the agency, including FOI processing, and whether an applicant has cooperated in framing a request to reduce the processing workload
- whether there is a significant public interest in the documents requested
- other steps taken by an agency or minister to publish information of the kind requested by an applicant.

The ABC FOI team is small, currently with 2 dedicated staff to process all requests received nationally. It processes a high volume of requests for multiple applicants.

Processing a request of this size would substantially impact on the ABC FOI Team operations because of the limited number of people the ABC has available to process FOI requests, including those which would result in full or part access. Spending some

weeks on your request means that the FOI team would be diverted from its other functions work which includes responding promptly to its regulator (the OAIC) regarding IC Reviews, internal support and guidance for other areas of the ABC regarding FOI matters and reporting, processing all other original decisions, and training and onboarding new (anticipated) team members.

In addition, the ABC News team and the People and Culture (P&C) team would also be diverted from their principal roles by making searches for all of the documents requested, after which these teams also participate in internal consultation with the FOI team as part of the final decision-making. Given the breadth of the request and the 22-month timeframe, I am of the view it is both a significant and unreasonable diversion of the ABC's resources.

Request consultation process

You have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by reducing the amount of documents requested in the scope.

Ways you can reduce the scope of your request

Ways to refine the request include limiting your request to:

- seeking documents about external media enquiries and any public statements made by the ABC
- limiting the timeframe of the search to be the most recent months of 2025
- naming specific staff members you seek searches to be made within *the Four Corners* team, or limit searches to those in a management or senior role, such as the Executive Producer of the show
- limit the searches within the P&C team to those concerned with this matter but to exclude all documents that are legally privileged or otherwise related to personal or employment matters of Mr Fazal

Before the end of the 14 day consultation period, the FOI Act requires you respond in writing to:

- withdraw your request;
- make a new revised request; or
- state you do not wish to revise your request.

The 14 day consultation period starts the day after this notice is sent. During this period, you may ask the ABC's FOI team for help revising your request*. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, the ABC will recommence processing it.

If you do not respond within the nominated 14 day period in writing, your request will be taken to have been **withdrawn** and closed on that basis after **18 December 2025**.

If you respond to narrow your request to a scope that removes the practical refusal reason, the ABC notes you previously granted a 30 day extension of time for processing under s 15AA of the FOI Act. This agreement was noted in your first email when you submitted your original scope on 4 November 2025.

Contact officer

*The FOI contact officer's contact details are:

Ph. 02 8333 3312 | Email: foi.abc@abc.net.au

Review rights

Your review rights are set out in **Annexure A**.

Yours sincerely



Ali Edwards
Head of Rights Management & FOI Decision Maker
foi.abc@abc.net.au

Annexure A – Your Review Rights

If you are dissatisfied with this decision you can apply for Internal Review of the decision by the ABC, or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review.

APPLICATION FOR INTERNAL REVIEW BY THE ABC

You have the right to apply for an internal review of the decision refusing to grant access to documents. If you apply for an internal review, a delegate who is not the person who made the initial decision will undertake a review and make a fresh decision.

You must apply in writing for an internal review of the decision **within 30 days** of receipt of this letter. No particular form is required, although it helps if you set out the reasons for review in your application and include the decision under review.

Application for a review of the original decision should be emailed to: foi.abc@abc.net.au

or posted to: **FOI team**
ABC Legal
GPO Box 9994
SYDNEY NSW 2001

APPLICATION FOR INFORMATION COMMISSIONER (IC) REVIEW

Alternatively, you have the right to apply for a review by the Information Commissioner of the decision refusing to grant access to documents. Your application must:

- be in writing;
- be made **within 60 days** of receipt of this letter (the original decision or the internal review decision, or a deemed refusal decision);
- give details of how notices may be sent to you (eg. an email address); and
- include a copy of the decision for which a review sought.

Please refer to the OAIC website the IC review process page for further information including the online form for applying for IC review:

<https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews>

Alternatively, an application for IC Review can be emailed to: FOIDR@oaic.gov.au or

posted to: Director of FOI Dispute Resolution
OAIC
GPO Box 5218
Sydney NSW 2001

The Information Commissioner has a discretion not to undertake a review.

COMPLAINTS TO THE INFORMATION COMMISSIONER

You may complain to the Information Commissioner about action taken by the ABC in the performance of functions, or exercise of powers, under the FOI Act. The Information Commissioner may make inquiries for the purpose of determining whether or not to investigate a complaint.

Complaints can be made in writing to: **OAIC** - GPO Box 5218
Sydney NSW 2001