



19 April 2017

Jeremy Nadel
By email: foi+request-3278-2df22992@righttoknow.org.au

Dear Mr Nadel,

Request consultation notice under s 24AB of the FOI Act
FOI Reference Number: 16/17-33

I refer to your email received by the Fair Work Commission (**Commission**) on 23 March 2017, in which you seek access to documents under the *Freedom of Information Act 1982* (**FOI Act**).

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

I am writing to advise you that I believe the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the Commission from its other operations. This is called a 'practical refusal reason' under section 24AA of the FOI Act.

On this basis, I intend to refuse access to the documents you have 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 process' as set out under section 24AB of the FOI Act.

Why I intend to refuse your request

In your request, you have sought access to the following documents:

In accordance with the Freedom of Information Act 1982, I am requesting all documents certified by the Fair Work Commission including emails and agreements that make reference to both Mark James Ingleby or Mark Ingleby (as he is also known) and make reference to the following companies: Programmed Maintenance ABN 61 054 742 264, Catalyst Recruitment Systems Limited ABN 17 050 243 251 or Australian Industry Group ABN 76369958788

In addition to these documents, I am also requesting any agreements that mention both Christina Johanna Mary Ingleby or simply Christina Ingleby and Mark James Ingleby or simply Mark Ingleby in the same document.

On 27 March 2017 I wrote to you to clarify what you meant by "all documents *certified* by the Fair Work Commission...". I advised that this could potentially mean all documents in the Commission's possession, all documents that are part of an enterprise agreement file, or something different. On 15 April 2017 you advised that you meant "the broadest definition. That is all documents in the Commission's possession".

A search of the Commission's electronic records was conducted and 1,114 case files were identified as including either Programmed Maintenance, Catalyst Recruitment Systems or Australian Industry Group as a party. However, no case files were identified as listing Mark James Ingleby or Mark Ingleby as a party. Each file contains multiple documents. Each document in the 1,114 files identified as being potentially relevant would need to be searched manually for any references to Mark James Ingleby or Mark Ingleby.

In regards to the second part of your request for any agreements that mention “both Christina Johanna Mary Ingleby or simply Christina Ingleby and Mark James Ingleby or simply Mark Ingleby”, I note that there are 150,975 agreements in force as at 18 April 2017.¹ Each agreement would need to be searched manually for any reference to the two individuals. I note that these agreements are publicly available on the Commission’s website at the following page:
<https://www.fwc.gov.au/search/document/agreement>.

I believe that the process of:

- reviewing each of the 1,114 case files and 150,975 agreements;
- assessing whether any exemptions or conditional exemptions apply to each of the documents;
- consulting with any third parties;
- making a copy or an edited copy of each of the documents (where applicable); and
- notifying a decision on whether or not to grant access to each of the documents

will substantially and unreasonably divert the resources of the Commission.

A preliminary examination of a sample of documents from the 1,114 case files shows that each case file contains an average of approximately 70 pages.

A preliminary estimate of the time required to process the request is outlined in the table below:

Searching 1,114 case files listing Programmed Maintenance, Catalyst Recruitment Systems or Australian Industry Group as a party for any mention of Mark James Ingleby or Mark Ingleby (average of 70 pages per case file, approximately 77,980 pages in total, at an average time of 1 minute per page).	1,299.67 hours
Searching 150,975 agreements for references to “both Christina Johanna Mary Ingleby or simply Christina Ingleby and Mark James Ingleby or simply Mark Ingleby” at an average of 5 minutes per enterprise agreement.	12,581.25 hours
Preparation and notification of decision and statement of reasons.	5 hours (estimated)
Total	13,885.92 hours

The staffing resources of the Commission with respect to processing FOI requests currently comprise one FOI officer who is also responsible for processing other FOI requests within statutory timeframes. The Commission is a small agency and can be distinguished from larger agencies with dedicated FOI teams.

You have **14 days** to respond to this notice in one of the ways set out below.

Request consultation process

You now 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 providing more specific information about exactly what documents you are interested in, the Commission will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.

The consultation period runs for **14 days** and starts on the day after you receive this notice. Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request;
- make a revised request;

¹ See <https://www.fwc.gov.au/search/document/agreement>

- indicate that you do not wish to revise your request.

During this period, you are welcome to seek assistance from me to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, I will recommence processing it. (Please note that the time taken to consult with you regarding the scope of your request is not taken into account for the purposes of the 30 day time limit for processing your request.)

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

Contact officer

If you would like to revise your request or have any questions, please contact me on (03) 8656 4856 or by email at foi@fwc.gov.au.

Yours sincerely,

Haydar Tuncer
Freedom of Information Officer
Reporting, Planning and Legal
Fair Work Commission
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