



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2017/123

Mr Alan Cole

By email: foi+request-3741-385873ec@righttoknow.org.au

Dear Mr Cole

I refer to your email dated 22 July 2017 received by the Department of the Prime Minister and Cabinet (the Department) in which you made a request to the Department under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

List of functions/receptions hosted by the Prime Minister since October 2016 to the present for foreign heads of state/government to include the total list of attendees their names and roles.

To clarify the information provided in written answer to question 125 of the additional estimates 2016-2017 no names were provided the list said official party, Prime Minister's office staff etc without saying who anyone was. So I'm requesting the names of people attending these functions.

The authorised decision-maker for your request is Mr Gerard Martin, Assistant Secretary, Ceremonial and Hospitality Branch.

Notice of practical refusal reason

I write to advise you that, subject to possible clarification which would narrow your request, the decision-maker considers that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the Department from its other operations. This constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis, the decision-maker intends to refuse access to the documents you have requested.

However, before the decision-maker makes a final decision to refuse the request for a practical refusal reason, 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. You have 14 days to respond to this notice in one of the ways set out below.

Reasons for intention to refuse your request

In deciding if a practical refusal reason exists, an agency must have regard to the resources required to perform the following activities specified in section 24AA(2) of the FOI Act:¹

- identifying, locating or collating documents within the filing system of the agency;
- examining the documents;
- deciding whether to grant, refuse or defer access;
- consulting with other parties;
- redacting exempt material from the documents;
- making copies of documents;
- notifying an interim or final decision to the applicant.

Other matters may be relevant in deciding if a practical refusal reason exists such as the staffing resources available to an agency for FOI processing, the impact that processing may have on other work in an agency including FOI processing, and whether there is a significant public interest in the documents requested.²

From October 2016 to 22 July 2017, the Prime Minister hosted 12 official functions for visiting Heads of State and Heads of Government. The total number of attendees was 2062. If the request were to proceed in its current form, we estimate that up to 4124 hours would be required to consult all attendees. It is possible that one or more attendees may have attended more than one event, in which case the time required for consultation might be less.

In this regard, we refer you to the document titled 'Official functions hosted under the State Occasions and Official Visits Program and arranged by CERHOS', which was tabled at the Senate Finance and Public Administration Committee Estimates hearings on 23 May 2017. This document provides a list of hospitality events hosted by the Prime Minister for visiting Heads of State and Heads of Government from 1 July 2016 to 23 May 2017 and the number of acceptances for each event. The document is published on the following website: http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/fapacte/estimates/bud1718/pmc/index . The document was presented to the Committee on 23 May 2017.

Ordinary hours of work for full-time employees in the Department are 38 hours per week.³ Having regard to the estimate of time required for consultation, this means it would take one officer more than 21 weeks to undertake consultations. The further tasks of deciding whether to grant access to documents, redacting copies of documents, and preparing and notifying a decision would only add further time to the estimate of time to process your FOI request.

The Department has some specialist staff resources dedicated to FOI processing. The Department received 209 FOI requests in 2013-14 and 241 request in 2014-15. The FOI requests received by the Department are typically complex and cover sensitive matters. The combined effect of numbers of FOI requests, complexity and sensitivity means that the ability of the Department to fairly allocate its specialist FOI resources to processing other FOI requests would be impaired if this FOI request were to be processed.

¹ 'Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*', Part 3 – Processing and Deciding on Requests for Access (Version 1.5, October 2014), [3.102].

² Ibid, [3.103].

³ Department of the Prime Minister and Cabinet, *Enterprise Agreement 2011-2014*, [22.1].

The Department acknowledges that the processing of requests for access to documents is a legitimate part of each agency's functions, and that FOI requests may require reallocation of resources within an agency. However, the Department could not reasonably divert resources to assist in processing the request. In reaching this view, the Department has had regard to the public interest in access to information held by the Department but consider the public interest in access is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, including the processing of other FOI requests.

For the reasons given above, the decision-maker considers that processing your request would be a substantial and unreasonable diversion of the Department's resources from its other operations.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed. Revising your request can mean refining the time period or narrowing the scope of the request to make it more manageable.

We will assess whether any revised request has removed the practical refusal reason.

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.

The consultation period runs for 14 days and will start on the day after you receive this notice. I am the relevant person for you to contact for the consultation process.

If you were to revise your request in a way that adequately addresses the practical refusal grounds outlined above, we would 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 initial 30 day time limit for processing your request.

If you do not do one of the three things listed above during the 14 day consultation period or you do not consult with me during this period, your request will be taken to have been withdrawn.

Should you wish to discuss any aspect of your request, please contact the Department by email at foi@pmc.gov.au or by phone on 02 6271 5849.

Yours sincerely



Elaine Deng
FOI Adviser
Honours and Legal Policy Branch

7 August 2017