



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI
FOI/2017/282

Mr Jackson Gothe-Snape
Gothe-Snape.Jackson@abc.net.au

Dear Mr Gothe-Snape

I refer to your email of 21 December 2017 in which you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

This is a request under the FOI Act.

Can you please provide the document(s) with reference 17-19572, based on the "Files created January - June 2017" available at:

<https://www.pmc.gov.au/sites/default/files/files/departamental%20files-January-June-2017.pdf>

The authorised decision-maker for your request is Mr Duncan McIntyre, Assistant Secretary, Data and Digital Branch, Policy, Innovation and Projects Division.

Notice of practical refusal reason

I write to advise you that, subject to possible clarification which would narrow your request, Mr McIntyre 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, Mr McIntyre intends to refuse access to the documents you have requested.

However, before Mr McIntyre 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;

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 1.6, January 2016), [3.116].

- 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, whether the processing can only be undertaken by one or more specialist officers in an agency who have competing responsibilities, 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

The Department has identified 91 documents comprising 466 pages as relevant to your FOI request. The Department estimates that it would take at least a further 57.00 hours to process your FOI request. The breakdown of the estimated additional work required to process the FOI request is as follows:

Task	Average time per task	Total time (hours)
Examine relevant pages for decision making	3 minutes per page	23.30
Redacting pages	2 minutes per page	15.53
Consult third parties (8 parties)	2 hours per consultation	16.00
Writing statement of reasons	185 pages per hour	2.5
Complete schedule of documents by recording decision	4 pages per minute	0.379
Total		57.7

Ordinary hours of work for full-time employees in the Department are 38 hours per week.³ Having regard to the estimate of time process the request, this means it would take one officer more than one week to process the FOI request.

The Department has some specialist staff resources dedicated to FOI processing. The Department received 198 requests in 2016-17. 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 substantially impaired if this FOI request were to be processed. Further, processing this FOI request would represent a not insignificant call on the limited staff resources of the decision-maker's branch.

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.

² Ibid, [3.117].

³ Department of the Prime Minister and Cabinet, *Enterprise Agreement 2017-2020*, [315].

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. In reaching this view, Mr McIntyre has had regard to the public interest in access to information held by the Department and considers that 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.

Mr McIntyre 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, Mr McIntyre considers that the Department could not reasonably divert resources to assist in processing your request.

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 specific documents you wish to access.

Mr McIntyre's suggestion of how the request may be revised, if applicable is that you could consider removing cabinet documents from being in scope of your request or removing any documents that relate to the employment of other persons.

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 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



Claire Pitham
FOI Senior Adviser
Legal Policy Branch

6 February 2018