



Australian Government
Department of Health

Department Reference: FOI 355-1718

Mr Ben Fairless

Via email: foi+request-4633-5bb23018@righttoknow.org.au

Dear Mr Fairless

**REQUEST CONSULTATION NOTICE UNDER SECTION 24AB
OF THE FREEDOM OF INFORMATION ACT 1982**

I refer to your request of 5 June 2018 to the Department of Health (Department) for access under the *Freedom of Information Act 1982* (FOI Act):

'I understand that each Health Fund makes a submission to the Department or the Minister in order for the Minister to approve an increase in the cost of Private Health Insurance.

I would like a copy of documents related to the 2018 Private health insurance premium round process. These include:

- 1. Submissions or requests to the Minister by Private Health Insurers to increase the cost of Private Health Insurance*
- 2. Correspondence between the Minister, his office, the Department of Health and the relevant health funds*
- 3. Approval or rejection notices provided by the Minister.*

I am happy to exclude from this request as irrelevant under s.22 of the Freedom of Information Act:

- 1. Duplicates of Documents, including email chains. I am happy for the department to provide a single email chain that contains all relevant replies instead of processing each reply as a separate document.*
- 2. Direct contact details, including email addresses, direct telephone numbers and mobile telephone numbers. These can be redacted*
- 3. Personally identifiable information or sensitive information of individuals who are not employed by either the Health Insurance company, the Department or the Ministers office.'*

Practical refusal reason

I have considered the scope of your request. I am satisfied, for the reasons set out below, 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 (the 'practical refusal reason') (s 24AA(1)(a)(i) of the FOI Act).

Intention to refuse access

Before I can make a decision to refuse access to the documents on the basis of the practical refusal reason, the FOI Act requires me to undertake a request consultation process which gives you an opportunity to revise your request (s 24(1)(a) & s 24AB).

This letter constitutes a written notice in accordance with s 24AB(2) of the FOI Act giving you a 14-day period to consult with the Department about the terms of your request.

Substantial diversion of resources

The reasons for my assessment that a practical refusal reason exists is as follows. I have considered your request and have assessed the work that would be involved in processing your request, in both the searches required to identify the documents relevant to your request and the examination of these documents for decision making.

As set out below, the scope of your request would require a substantial amount of work.

Pursuant to s24AA(2) of the FOI Act, in deciding whether a practical refusal reason exists, an agency must have regard to the resources required to perform the following tasks:

- Identify, locate or collate the documents within the agency's filing system
- Decide whether to grant, refuse or defer access to documents or grant access to an edited copy, including examination of the documents and consultations
- Make a copy or an edited copy of the documents
- Notify the applicant of any interim or final decision on the FOI request

The list in s24AA(2) is not exhaustive.

Processing the revised requests would include the time taken to consider any statutory exemptions, determining whether any third party consultation is required, considering any third party submission, redacting, drafting a schedule of documents, communicating with the applicant and third parties.

A representative sample of 9% of emails and 11% of attachments to emails has been examined in order to assess the complexity of the potential decision, including the application of exemptions, and processing time. The information in a large number of documents is sensitive and as the decision maker, I would need to take particular care regarding sensitive information.

Search and Retrieval

The sample consists of emails comprising 52 pages and attachments comprising 284 pages.

I estimate that it would take 16.8 hours to search, retrieve and schedule the documents. The number of hours is calculated based on the following:

- 2 minutes to review each page and tag the relevant pages falling within the scope of the request (11.2 hours); and
- 1 minute per document for preparation of the schedule of documents (5.6 hours) for review by the decision maker.

This means that it would take a Departmental officer working on the task full time approximately 2.24 business days to complete the search and retrieval of documents, as identified in the preliminary assessment. As this assessment was made on a representative sample of 9% of emails and 11% of attachments, it would take approximately 22.4 business days for search and retrieval of all documents (100%) which fall within the scope of the request. During this period, other duties expected of that officer would not be attended.

Decision Making

To discharge my responsibility as decision maker, having regard to the complexity of the documents, it would take me, on a conservative estimate, an average of 3 minutes to examine and make a decision about each page. This could take up to 16.8 hours of my time (or approximately 2.24 business days). As this assessment was made on a representative sample of 9% of emails and 11% of attachments, it would take approximately 22.4 business days for examining and making a decision about each page.

Additional time may be required to undertake consultation with any identified third parties and draft my decision.

It is estimated your request in its current form would take, at a minimum, 44.8 business days to process.

As a senior executive officer in the Department and the decision maker for your request, if I were to work on nothing other than your FOI request, this would unreasonably divert me from my other tasks.

Please note that the above estimate is based on a sample of emails and attachments to emails alone. In addition, there are at least 295 additional individual pieces of correspondence in response to the private health insurance premium changes this year (up to the date of the FOI request). We also have other records held in our recording system.

Unreasonable diversion of resources

Having formed the view that processing your FOI request would substantially divert the Department's resources from its other operations, I have considered whether this substantial diversion of resources would be 'unreasonable' in the circumstances.

The Private Health Insurance Branch works to ensure Australians continue to have access to affordable and appropriate private health insurance. The branch oversees a wide range of insurance programs ranging from the visitor, parent and overseas student health cover policies through to lifetime health cover, private health insurance round, industry compliance and implementation of government reforms.

Reallocation of limited staff resources to deal specifically with your FOI request would compromise the Department's ongoing divisional work set out above. This would need to be significantly altered as a result if the work of your request is to proceed in its current form.

I am therefore of the opinion that utilising adequate resources to process your request would result in an unreasonable diversion of resources of the Department from its other operations.

Having regard to the volume of documents falling within the scope of your request, the amount of available resources that would be required and the impact on the administration of the Department's usual activities, processing your request would involve both a substantial and unreasonable diversion of resources from the Department's other operations.

On this basis, I am satisfied that a practical refusal reasons exists for the purposes of paragraph 24AA(1)(a) of the FOI Act.

It should be noted that in the event that the Department was to process this request, the content of a vast number of the documents would be such that the material would likely be exempt from release under s38 of the FOI Act.

Consultation period

The consultation period during which you can consult the below contact person is **14 days** commencing after today and ending on **5:00pm on Wednesday 18 July 2018**.

Contact person

The contact person whom you may consult is Mr Pierre Nijssen who can be contacted by telephone on (02) 6289 1508 or by email at Pierre.Nijssen@health.gov.au.

What you need to do

Under s 24AB(6) of the FOI Act, you are required to notify the Department, in writing, before the end of the consultation period that you either:

- (a) Withdraw your request;
- (b) Make a revised request;
- (c) Indicate that you do not wish to revise the request.

Under s 24AB(7), your request will have been taken to be withdrawn if you neither contact the Department's FOI Coordinator during the 14 days nor do any of the things mentioned above at (a), (b) and (c) before the consultation period ends.

Relevant provisions of the FOI Act

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:

<https://www.legislation.gov.au/Details/C2018C00016>

Yours sincerely



Susan Azmi
A/g Assistant Secretary
Private Health Insurance Branch
2 July 2018