



**Office of the Hon Stuart Robert MP  
Minister for the National Disability Insurance Scheme  
Minister for Government Services**

29 October 2019

Our reference: LEX 48055

The National Advocate  
Right to Know

Only by email: [foi+request5674d13989a9@righttoknow.org.au](mailto:foi+request5674d13989a9@righttoknow.org.au)>

Dear the National Advocate

**Your Freedom of Information (FOI) request – Consultation**

I refer to your request, dated 2 October 2019 and received by the Minister's Office on the same date, for access to documents under the *Freedom of Information Act 1982* (FOI Act), made in the following terms:

*Can you please provide the Minister's diary covering all days in September in 'weekly agenda format.'*

This is a notice of an intention to refuse access to the documents you have requested because a practical refusal reason exists under section 24(1) of the FOI Act. I am issuing this notice under section 24AB(2) of the FOI Act.

**Consultation – your request gives rise to a practical refusal reason**

Pursuant to the FOI Act, I am consulting with you to ask that you revise your request because processing it would substantially and unreasonably interfere with the performance of the Minister's functions.

I am consulting with you to ask that you consider revising your request to address this.

Section 24(1) of the FOI Act provides that the Minister may refuse to give access to documents in accordance with an FOI request if:

- a practical refusal reason exists in relation to the request; and
- following a consultation process (under section 24AB of the FOI Act), the Minister is satisfied that the practical refusal reason still exists.

If you do not revise your FOI request in order to resolve the issues raised in this letter, I will have to refuse your request on the basis that a practical refusal reason still exists.

For a more detailed explanation, see **Attachment A**.

### **How to send a revised request**

Within 14 days after you are provided this notice, you must do one of the following, in writing:

- withdraw the request;
- make a revised request; or
- indicate that you do not wish to revise your request.

Your written response must be received by the Minister's Office before the consultation period ends on **12 November 2019**.

If no response is received by that date, your request will be taken to have been withdrawn, pursuant to the operation of the FOI Act.

The 14 day consultation period is not included in the initial 30 day processing period for your request.

### **Contact officer**

I am the contact officer for your request. During the consultation period you are welcome to ask for my help in revising your request. You can contact me:

in writing to the address at the top of this letter; or

via email to [FOIMINISTER@humanservices.gov.au](mailto:FOIMINISTER@humanservices.gov.au)

**Note:** When you contact us please quote the reference number **FOI LEX 48055**.

### **Further assistance**

If you have any questions please email [FOIMINISTER@humanservices.gov.au](mailto:FOIMINISTER@humanservices.gov.au)

Yours sincerely



**Richard Briedis**  
Chief of Staff  
Authorised FOI Decision Maker

## ATTACHMENT A

### What I took into account

Processing your request would substantially and unreasonably interfere with the performance of the Minister's functions.

#### Request is substantial

Following initial enquiries, I estimate that more than 60 hours of processing time would be required to deal with your request because of the number of third parties that it captures. These third party businesses and individuals must be provided an opportunity to make an exemption contention with respect to personal or business information contained in the documents and that consultation process would require a substantial resource investment by the Minister's Office. An officer would be required to separate relevant parts of the documents for each third party, notify them of the request, provide assistance with the process and consider any exemption contentions made. This would substantially interfere with the performance of the functions of the Minister and the Minister's Office.

#### Request is unreasonable

For the purpose of considering whether the substantial request would be unreasonable to process, I have considered the fact that:

- the Minister and the Minister's Office would be diverted from engaging with constituents and dealing with escalated issues that are directed to the Office, as well as from delivering the Government's agenda;
- there does not appear to be significant public interest value in the disclosure of the information that is contained in the documents;
- this information does not appear to be relevant to a decision of government that has personally affected you; and
- it is likely that the information you seek with respect to the Minister's diary can be obtained with a narrower scope, or by requesting another document that is relevant to the specific information you are seeking.

In light of this, I consider that your request would substantially and unreasonably interfere with the performance of the Minister's functions

### Revising your request

To enable the Minister to reasonably process your request and to limit the number of third parties that would be captured, you may wish to limit your request to a narrower time period or amend your request to a specific third party or meeting that you seek information about. I would be happy to discuss these options further with you if it would assist.

Please note that, even if you do provide a revised scope, a practical refusal reason may remain if the revised scope would still substantially and unreasonably interfere with the Minister's functions. You will need to take this into consideration when revising the scope of your request.

## **Relevant sections of the *Freedom of Information Act 1982***

Section 24(1) of the FOI Act provides that an agency or Minister may refuse to give access to documents in accordance with an FOI request if:

- a practical refusal reason exists in relation to the request; and
- following a request consultation process under section 24AB of the FOI Act, the agency is satisfied that the practical refusal reason still exists.

Section 24AA(1)(a)(ii) of the FOI Act provides that a practical refusal reason exists in relation to an FOI request if the work involved in processing the request would substantially and unreasonably interfere with the performance of the Minister's functions.

Section 24AA(2) of the FOI Act sets out certain factors which the Minister must consider when determining whether a practical refusal reason exists, including:

- identifying, locating or collating the documents within the office of the Minister;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for examining the document or consulting in relation to the request;
- making a copy, or an edited copy, of the document;
- notifying any interim or final decision on the request.

Section 24AB(6) says that the applicant must, before the end of the consultation period, do one of the following, by written notice:

- withdraw the request,
- make a revised request, or
- indicate that the applicant does not wish to revise the request.

Section 24AB(7) of the FOI Act provides that the request is taken to have been withdrawn at the end of the consultation period if:

- the applicant does not consult the contact person during the consultation period in accordance with the section 24AB notice, or
- the applicant does not do one of the things mentioned in section 24AB(6) before the end of the consultation period.