



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/178

Mr Reason

By email: foi+request-6567-55cb53bd@righttoknow.org.au

Dear Mr Reason

I refer to your email of 3 August 2020, 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:

Government public discourse regarding COVID 19 is nearly entirely framed by public health.

It's reasonable that Government health officials, private health professionals, and some academics offer Government advice in matters related to public health but COVID's impacts demonstrably extend beyond public health and therefore outside the scope of public health advice.

COVID management strategies are profoundly impacting the economy and future generation's fiscal welfare. Most commercial industries are severely impacted, there may be serious impacts to Australia's means for food production, water and energy security. National sovereignty may be challenged by external actors.

It's reasonable that Commonwealth Government will have undertaken a multidisciplinary cost benefit analysis and/or risk assessment to examine the non-public health impacts of current COVID management strategies.

We would like to ask for a copy of these documents for public review.

Authorised decision-maker

The authorised decision-maker for your request is Mr Alistair Campbell, Assistant Secretary, Priorities Delivery Unit.

Notice of practical refusal reason

Section 24(1) of the FOI Act provides that a request to an agency may be refused if the decision maker is satisfied that a practical refusal reason (as set out in section 24AA of the FOI Act) exists in relation to the request.

I write to advise you that 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, 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

Document searches undertaken to date have so far identified over 210 documents that are potentially relevant to the scope of your request.

Before the decision-maker can make a decision regarding any disclosure of documents, these documents would need to be carefully examined. The decision-maker has formed the view that, in order to process your FOI request, the task of thoroughly examining the material identified to date, firstly to confirm whether the material is within the scope of the FOI request and, secondly, to decide whether that material should be released, will be substantially time consuming. Documents would then have to be checked, possible redactions made, a schedule of documents prepared and a decision letter written, which would also add to the time required to process your FOI request.

We have sampled approximately 10 per cent of the documents identified. Based on this sample, it is estimated that it would involve over 310 hours to process your request. The actual time involved to process your request would likely be substantially higher, as it is most likely that the documents that are ultimately identified as within the scope of your request would likely require consultation with a range of third parties.

¹ ‘Guidelines issued by the Australian Information Commissioner under s 93A of the *Freedom of Information Act 1982*, [3.116].

² *Ibid*, [3.117].

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 considers 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, in its current form, 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 narrowing the scope of the request to make it more manageable or explaining in more detail the specific documents you wish to access. We will assess whether any revised request has removed the practical refusal reason.

You may wish to consider revising your FOI request by, for example:

- limiting your request to final documents only and excluding draft versions; and
- indicating a specific date range for the documents you are seeking.

No guarantee of access

Please be aware that even if you revise your FOI request to enable it to be processed, there is still no guarantee that documents will ultimately be released. That is a matter for the decision-maker to decide in the usual manner after examining the relevant documents. The issue we are addressing at the moment is whether your FOI request can be processed – not what the eventual outcome may be if it is processed.

Action required

Section 24AB of the FOI Act provides that you must do one of the following, in writing, within the next 14 days:

- revise your FOI request;
- indicate that you do not wish to revise it; or
- withdraw the FOI request.

If you do *not* do one of the above within the next 14 days, your FOI request will be taken to have been withdrawn. If you were to revise your FOI request in a way that adequately addresses the above concerns and makes it manageable, the Department will recommence processing it.

Calculation of 30 day period

Please note that the time taken to consult with you regarding the scope of your FOI request is not taken into account for the purposes of calculating the 30 day period during which the Department is required to take all reasonable steps to process your FOI request.

Should you wish to discuss your request, please contact the Department's FOI and Privacy Section on (02) 6271 5849, or by email to foi@pmc.gov.au.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Cuiamrally".

A/g Senior Adviser
FOI and Privacy Section
24 August 2020