



OFFICE OF THE PRIME MINISTER

Reference: FOI/PMO/2020/062

JS

By email: foi+request-6901-b771c2e2@righttoknow.org.au

Dear JS

I refer to your email, dated 17 November 2020, addressed to the Minister for the Public Service, under the *Freedom of Information Act 1982* (the **FOI Act**) in the following terms:

As the Minister would know the Department of Home Affairs has consistently and repeatedly failed to comply with the disclosure log requirements of the FOI legislation.

Under FOI I seek access to documents, concerning or relating to the failure by the Department of Home Affairs to comply with the disclosure log requirement in the FOI legislation,

(a) sent from or

(b) received by

the Minister for the Public Service during the period December 2017 to the date of this request.

The Prime Minister is also the Minister for the Public Service. Accordingly, your request has been received by the Office of the Prime Minister (the **Office**).

Authorised decision-maker

I am authorised to make a decision in this matter on the Prime Minister's behalf.

Practical refusal reasons

Section 24(1) of the FOI Act provides that a request to a Minister may be refused if the decision maker is satisfied that a practical refusal reason exists in relation to the request.

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

However, before a request can be refused in this manner, the FOI Act provides that the applicant must be provided with a notice advising of the decision maker's intention to refuse the request and inviting the applicant to consider revising it to make it more manageable.

Notice of intention to refuse your request

I am of the view that the work involved in processing your request, in its current form, would substantially and unreasonably interfere with the performance of the Prime Minister's functions.

This is mainly because of the broad scope and expansive timeframe of your request.

The Prime Minister is the head of the national government and your request presents a significant challenge to the day-to-day execution of his duties. Should your request be processed, there are several considerations that will need to be taken in to account.

Firstly, the work of both the Prime Minister and his staff will be delayed and there are likely to be many unmet demands on their time. Secondly, determinations on which documents (if any exist) will be within the scope of your request are likely to be time consuming. Thirdly, there is a risk of inappropriate or inadvertent disclosure of sensitive information about the Prime Minister's activities, discussions or meetings, with any of a large range of people or on a large range of issues.

As a result and to adequately avoid these risks, processing your request would require dedicated resources and a significant allocation of time, which would need to be balanced with national issues that the Prime Minister and his staff deal with on a daily basis.

I consider that processing your request, in its current terms, would substantially and unreasonably interfere with the performance of the Prime Minister's functions, considering the other responsibilities of the Prime Minister and demands on his time, and that of his Office.

Therefore, I intend, at this stage, to refuse your request under section 24(1) of the FOI Act.

Opportunity to modify request

In accordance with the requirements of section 24AB of the FOI Act, I am therefore notifying you of my intention to refuse your request under section 24(1) of the FOI Act and inviting you to consider revising your request by, for example:

- limiting your request to a particular topic;
- narrowing the timeframe for the documents you are seeking.

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

If you were to revise your request in a way that adequately addresses the above concerns, processing of your request would recommence. If you do not respond within the next 14 days, I intend to proceed to a decision refusing your request under section 24(1) of the FOI Act, based on the current terms of your request.

No guarantee of access

Please note that even if you revise your request and it is able to be processed, there is still no guarantee that any relevant documents (if such documents exist) will be released. That is a matter for my decision, in the usual manner. The issue at the moment is whether the request is able to be processed, not what the eventual outcome may be if it were processed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Harris', written in a cursive style.

John Harris
Senior Adviser

08. January 2021