Australian Government

Department of Finance and Deregulation

Reference: FOI 13/32
Contact: FOI Team
Telephone: 02 6215 1783
e-mail: foi@finance.gov.au

Ms Margo Kingston

via email: foi+request-73-309e8af4@righttoknow.org.au

Dear Ms Kingston

Freedom of Information Request – FOI 13/32

I refer to your email dated 15 March 2013 to the Department of Finance and Deregulation (Finance) in which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:

> *All correspondence to or from Mr Peter Slipper between April 2012 – January 2013 concerning travel costs incurred by Mr Slipper;*
>
> *All correspondence to or from any Member of Parliament in relation to requests to repay travel costs deemed outside entitlement in accordance with what is described as "the Minchin Protocol" between January 2010 to January 2013.*

The purpose of this letter is to inform you that the decision maker, Suzanne Pitson, Assistant Secretary, Entitlements Policy Branch, Chief Operating Officer Group believes that the work involved in processing your request in its current form, whilst narrower in scope than your previous requests, would still substantially and unreasonably divert the resources of this agency from its other operations due to the size and scope of the request (practical refusal reason, section 24AA of the FOI Act).

On this basis, the decision maker intends to refuse access to the documents you requested. However, before a final decision is made, you have the opportunity to further revise your request (subsection 24AB(2) of the FOI Act).

Assessment of the volume of material that may be relevant to your request

The decision maker notes that Finance has identified a large amount of material relating to the subject matter of your request (around 176 pages). It has been estimated that processing this request would take in excess of 44 hours.

In considering your request, the decision maker has given consideration to the public interest in access to information held by Finance and the resources which would need to be employed to provide access.

In light of Finance having identified a large amount of documentation relating to the general subject matter of your request, the decision maker has concluded that identifying, consulting on and assessing the documents sought would involve a large amount of work. This work would unreasonably interfere with the performance of the functions of the department, a practical refusal reason in terms of subparagraph 24AA(1)(a)(i) of the Act. Please find enclosed relevant provisions of the FOI Act.

Clarifying the terms of your request in such a way that it might reasonably be managed by the department

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 documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, our agency will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.

Reviewing Finance's publicly available reporting on Parliamentarians' entitlements may assist you in narrowing the request to more specific information. Since June 2009, Finance has published reports on its website every six months on Parliamentarians' expenditure on entitlements paid by the Department of Finance and Deregulation. These reports detail travel taken under entitlement and specify the amounts paid to individual Parliamentarians and adjustments of fares made during the reporting period. They are available at http://www.finance.gov.au/publications/parliamentarians-reporting/index.html.

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 after you are given this notice.

If you do not do one of the three things listed above during the consultation period your request will be taken to have been withdrawn.

If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. (Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 30 day time limit for processing your request.)

Way Forward

To assist Finance in the processing of your request, could you please consider the scope of your request and consider Finance's suggestions. We would appreciate a response by **COB Monday 22 April 2013.**

Further Assistance

For assistance with narrowing the terms, or to discuss any other aspect, of your request, please contact the FOI team on the above contact details.

Yours sincerely

FOI Team
Legal & Strategic Support Branch
8 April 2013

Relevant provisions of the FOI Act

11 Right of access

(1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:

(a) a document of an agency, other than an exempt document; or

(b) an official document of a Minister, other than an exempt document.

(2) Subject to this Act, a person's right of access is not affected by:

(a) any reasons the person gives for seeking access; or

(b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

24 Power to refuse request—diversion of resources etc.

(1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:

(a) must undertake a request consultation process (see section 24AB); and

(b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists—the agency or Minister may refuse to give access to the document in accordance with the request.

(2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:

(a) the requests relate to the same document or documents; or

(b) the requests relate to documents, the subject matter of which is substantially the same.

24AA When does a *practical refusal reason* exist?

(1) For the purposes of section 24, a ***practical refusal reason*** exists in relation to a request for a document if either (or both) of the following applies:

(a) the work involved in processing the request:

(i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or

(ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions;

(b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).

(2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:

(a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;

(b) 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:

(i) examining the document; or

(ii) consulting with any person or body in relation to the request;

(c) making a copy, or an edited copy, of the document;

(d) notifying any interim or final decision on the request.

(3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:

(a) any reasons that the applicant gives for requesting access; or

(b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or

(c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a *request consultation process*?

Scope

(1) This section sets out what is a ***request consultation process*** for the purposes of section 24.

Requirement to notify

(2) The agency or Minister must give the applicant a written notice stating the following:

(a) an intention to refuse access to a document in accordance with a request;

(b) the practical refusal reason;

(c) the name of an officer of the agency or member of staff of the Minister (the ***contact person***) with whom the applicant may consult during a period;

(d) details of how the applicant may contact the contact person;

(e) that the period (the ***consultation period***) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

(3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.

(4) For the purposes of subsection (3), ***reasonable steps*** includes the following:

(a) giving the applicant a reasonable opportunity to consult with the contact person;

(b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

(5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

(6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:

(a) withdraw the request;

(b) make a revised request;

(c) indicate that the applicant does not wish to revise the request.

(7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:

(a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or

(b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

(8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

(9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.