



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2022/021

JS

By email: foi+request-8273-19ff5046@righttoknow.org.au

Dear JS

I refer to your email of 7 January 2022 in which you made a request (the **FOI request**) under the *Freedom of Information Act 1982* (the **FOI Act**) to the Department of the Prime Minister and Cabinet (the **Department**) in the following terms:

I request copies of any correspondence between Trent Twomey, the Pharmacy Guild of Australia (including its Directors and Branches) and the Prime Minister, the Prime Minister's Office, the Minister for Health and DPMC between 1 October 2021 and 5 January 2022.

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.

Section 24AA of the FOI Act provides that for the purposes of section 24 of the FOI Act a request raises a practical refusal reason if the work involved in processing the request would substantially and unreasonably divert the resources of an agency from its other operations (section 24AA(1)(a)(i) of the FOI Act).

I write to advise you that the Department considers that your request raises a practical refusal reason under section 24AA(1)(a)(i) of the FOI Act. The Department therefore intends to refuse access to the documents requested.

However, before the Department 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

The Department has undertaken a preliminary search for potentially relevant documents and identified at least 4,760 documents that would need to be reviewed for relevance. It is not known how many of these documents have other documents embedded in them (for example, attachments to emails), nor how many of these documents may be duplicates, and therefore the total number of documents requiring review for relevance may be higher.

For the 4,760 documents identified to date, the process of reviewing for relevance would require, at a minimum, opening the relevant document, reading the document, extracting the document if relevant to the FOI request, and closing the document. We estimate that this process would take one officer approximately 2 minutes per document. The task of reviewing all 4,760 documents would therefore take one officer at least 151.7 hours.

Ordinary hours of work for full-time employees in the Department are 38 hours per week. Having regard to the estimate of time process your request, this means it would take one officer at least 4 weeks to merely undertake the tasks of search and retrieval.

For any documents identified as relevant to your request, there would be further work required to process the request that may include consulting with any parties, deciding whether to grant, refuse or defer access, redacting any exempt material, and preparing and notifying a decision. It is not possible to estimate the time required to undertake these tasks at this time.

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 consider 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.

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

² FOI Guidelines, [3.117].

For the reasons given above, the Department 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:

- refining the subject of your request, or
- narrowing the time frame of your request

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 any aspect of your request, please contact the Department by email at foi@pmc.gov.au or by phone 02 6271 5849.

Yours sincerely

A small, handwritten signature in blue ink, appearing to be the initials 'SL', is placed over a light pink rectangular background.

A/g Senior Adviser
FOI and Privacy Section

1 February 2022