



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2022/021

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: JS

**DECISION BY: Russell de Burgh
Assistant Secretary
Health Branch**

JS

By email to: 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.

On 1 February 2022, the Department notified you of the Department's intention to refuse your FOI request for a 'practical refusal reason' under section 24(1) of the FOI Act.

The Department's notice advised that a practical refusal reason existed under section 24AA(1)(a)(i) of the FOI Act on the grounds that processing your FOI request would constitute a substantial and unreasonable diversion of the Department's resources from its other operations. The Department's notice initiated a request consultation process in accordance with section 24AB of the FOI Act and invited you to revise your FOI request.

On 3 February 2022, you responded in the following terms:

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Department of the Prime Minister and Cabinet's handling of my FOI request 'Correspondence with Pharmacy Guild of Australia'.

In lieu of the 4,760 documents being searched and utilising Departmental resources, I would like to reduce the scope to include:

- Correspondence between Trent Twomey (trent.twomey@qldguild.org.au, trent.twomey@guild.org.au) and DPMC and the Prime Minister between 1 November 2021 and 1 January 2022.

I believe this should sufficiently reduce the volume of emails that must be searched.

A full history of my FOI request and all correspondence is available on the Internet at this address: https://www.righttoknow.org.au/request/correspondence_with_pharmacy_gui

On 3 February 2022, the Department sought confirmation that you intended to revise your FOI request FOI/2022/021 in response to the practical refusal consultation notice dated 1 February 2022, as follows:

So that we can progress your request, could you please clarify if you are revising the scope of your request to the following documents:

Email messages sent or received by Trent Twomey (trent.twomey@qldguild.org.au, trent.twomey@guild.org.au) to or from the Department of Prime Minister and Cabinet or the Prime Minister between 1 November 2021 and 1 January 2022.

On 6 February 2022, you responded in the following terms:

Yes, I would like to confirm that I want the scope reduced to: 'Email messages sent or received by Trent Twomey ([email address], [email address]) to or from the Department of Prime Minister and Cabinet or the Prime Minister between 1 November 2021 and 1 January 2022.'

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Decision

I have decided to refuse your request under section 24A(1) of the FOI Act, on the basis that the Department has taken all reasonable steps to locate the documents you have requested, and those documents do not exist.

In making this decision, I have had regard to the following:

- the terms of your request;
- my own knowledge of the subject matter of your request
- the outcome of searches;
- the FOI Act; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **FOI Guidelines**).

Reasons

Subsection 24A(1) of the FOI Act provides that:

An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document;
and

(b) the agency or Minister is satisfied that the document:

- (i) is in the agency's or Minister's possession but cannot be found; or*
- (ii) does not exist.*

The FOI Guidelines provides that ‘reasonable steps’ would amount to include all appropriate or suitable search actions that relate to the circumstances surrounding the documents requested, this is defined to include:

3.88 The Act is silent on what constitutes ‘all reasonable steps’. The meaning of ‘reasonable’ in the context of s 24A(1)(a) has been construed as not going beyond the limit assigned by reason, not extravagant or excessive, moderate and of such an amount, size or number as is judged to be appropriate or suitable to the circumstances or purpose.

Based on my own knowledge of the subject matter, and searches undertaken relevant to the scope of the request, I am satisfied that all reasonable steps have been taken to identify any documents relevant to the FOI request, and that the documents requested do not exist.

I have therefore decided to refuse the request under subsection 24A(1) of the FOI Act.

Processing and access charges

I have decided not to impose processing charges in respect of the applicant’s request.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department’s actions in relation to this decision. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department’s decision.

Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

Yours sincerely



Russell de Burgh
Assistant Secretary
Health Branch

14 February 2022