



OFFICE OF THE PRIME MINISTER

Reference: FOI/PMO/2022/007

Mr Paul Swain

By email: [foi+request-8460-fe31d571@righttoknow.org.au](mailto:foi+request-8460-fe31d571@righttoknow.org.au)

Dear Mr Swain

I refer to your email dated 18 February 2022 in which you made a request to the Office of the Prime Minister (the Office) under the *Freedom of Information Act 1982* (Cth) (the **FOI Act**) in the following terms:

*On Thursday, you met virtually with UK Prime Minister Boris Johnson, e.g. see <https://www.sbs.com.au/news/scott-morrison-and-boris-johnson-have-held-talks-today-here-s-what-they-discussed/9b9157b2-eb1f-43dc-9823-a1bfb5758961> thus giving the Australian Government another chance to resolve the frozen UK State Pension issue. As we all know from much previous correspondence, most recently, in my case, Minister for Trade, Tourism and Investment Dan Tehan's 17 September 2021 letter to Senator Andrew Bragg, the Australian Government repeatedly assures us that it*

*"will continue to press the issue with our UK counterparts on behalf of UK pensioners in Australia"*

*so I feel confident that you will have made another attempt to resolve the issue on this occasion, even though the attempt appears to have been excluded from the joint statement available at <https://www.pm.gov.au/media/joint-statement-uk-australia-virtual-summit>*

- 1. Could you please provide me with any documents that you or your office hold that shows that the you attempted to resolve the frozen UK State Pension issue with the UK Prime Minister Boris Johnson and his staff during the virtual meeting.*
- 2. If you DID NOT attempt to resolve the frozen UK State Pension issue with UK Prime Minister Boris Johnson and his staff during the virtual meeting, could you please provide me with any documents that you or your office hold that shows why the Australian Government did not attempt to resolve this issue on this occasion.*
- 3. If the Australian Government was once again ineffective in its attempt to resolve the frozen UK State Pension issue during this visit, could you please provide me with any documents that contain analyses that you or your office have done investigating*

*the reason for the failure, and attempting to develop a more effective strategy for future attempts.*

*4. If you or your office do not hold any documents that are covered by point 3, could you please provide me with any documents that you or your office hold that shows why you and your office do not attempt to improve your performance in resolving the frozen UK State Pension issue by analysing your past performance.*

In response to the practical refusal notice issued to you on 7 March 2022, you advised that you did not wish to revise your request, and set out the following reasons (extract):

*I dispute your claim that my request "imports cascading propositions or assertions", and therefore I believe that your assessment is incorrect. I believe that there are very simple pathways through my request, and in any case, part 1 of my request is extremely straightforward.*

*As evidence that it is possible to provide the documents I have requested, DFAT are having no problems with a very similar request as you can see at [https://www.righttoknow.org.au/request/resolution\\_of\\_frozen\\_uk\\_state\\_pe](https://www.righttoknow.org.au/request/resolution_of_frozen_uk_state_pe), apart from needing a few extra days to provide of the documents I requested.*

*Therefore, since you represent the Prime Minister who "deal[s] with the hard questions" (see [https://www.righttoknow.org.au/request/resolution\\_of\\_frozen\\_uk\\_state\\_pe\\_2#outgoing-17002](https://www.righttoknow.org.au/request/resolution_of_frozen_uk_state_pe_2#outgoing-17002)), I believe that it is fully within your capabilities to provide the information that I have requested.*

*Could you please review your decision and stop ducking the question. People ducking questions is something that the Prime Minister says is unacceptable as you can see at <https://twitter.com/SquizzSTK/status/1511869935508930560>.*

### **Authorised decision-maker**

On 17 April 2022 you wrote to seek a review of the decision, however at that time the Office was still considering your request and had not yet issued a decision.

The purpose of this notice is to provide you with a decision on access under the FOI Act taking into consideration the terms of the request. This notice sets out your review rights below. With respect to when an internal review is available, the FOI Act does not make provision for an internal review of a decision by a Minister.

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

### **Decision**

I am satisfied that, following the request consultation process, the practical refusal reason still exists in relation to your request. Therefore, under section 24(1) of the FOI Act, I have decided to refuse your request.

My reasons for refusing the request are below.

## Reasons for decision

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; and
- after undertaking a request consultation process in accordance with section 24AB of the FOI Act, the practical refusal reason remains.

Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists if the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).

Subsection 15(2) of the FOI Act sets out the requirements for a FOI request, including that the request must 'provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it'.

Your request, which is in four parts, imports cascading propositions or assertions that make it unreasonably difficult to identify a document that may be relevant to the request. It would require that an officer form a view as to the relevancy of information within a document and whether that information then met the terms of the various parts of the request.

Accordingly, I am of the view that your request does not satisfy the requirement in paragraph 15(2)(b) of the FOI Act.

I am satisfied that a request consultation process was entered into as set out in s 24AB of the FOI Act. I note that you advised that you did not wish to revise your request.

I have decided to refuse your request in accordance with section 24(1) of the FOI Act.

## 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/information-commissioner-review/>.

Yours sincerely



John Harris  
Senior Adviser

16 May 2022