



## Australian Government

### Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT  
BARTON

FOI/PMO/2015/001

Mr Ben Fairless  
By email: [foi+request-880-1fbc9615@righttoknow.org.au](mailto:foi+request-880-1fbc9615@righttoknow.org.au)

Dear Mr Fairless

I refer to your email of 18 January 2015 in which you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

I would like a copy of all emails sent from the Prime Minister, or his staff (including all staff of the PMO and the Chief of Staff) which contain expletives, which include the below words (letters removed, however please search for the full words):

F\*\*K

C\*\*T

B\*\*\*H

Turd

This comes in light of the article in the NT News:

<http://www.ntnews.com.au/news/senator-david-leyonhjelm-in-abusive-email-exchange-with-constituent/story-fnjbnts7-1227188020846>

Please attempt to process this request under Administrative Access, if you can't process it under the Freedom of Information Act.

The Department provides administrative support to the Prime Minister and the Office of the Prime Minister in relation to the processing of FOI requests made to the Prime Minister.

The authorised decision-maker for your request is Mr Shaun Schmitke, Senior Adviser, Office of the Prime Minister.

#### **Notice of practical refusal reason**

I write to advise you that, subject to possible clarification which would narrow your request, Mr Schmitke considers 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 constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis, Mr Schmitke intends to refuse access to the documents you have requested.

However, before Mr Schmitke 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**

Mr Schmitke notes that in its current form your request is not limited by a date range, does not specify all of the expletives that you intend to be covered by your request, does not specify particular kinds of documents, and would cover all staff who have worked in the Office of the Prime Minister in any capacity since the 2013 Federal election. These features of your request mean that a substantial amount of resources would need to be devoted to search for potentially relevant documents. Further, as your request covers the material surrounding any expletives in any potentially relevant document, an additional amount of resources that cannot be quantified at this time would be required to make, prepare and notify a decision including consulting with any third parties on possible release. Accordingly, Mr Schmitke considers the effort required to process your request would substantially and unreasonably interfere with the performance of the Prime Minister's functions.

In reaching this view, Mr Schmitke has had regard to the public interest in access to information held by the Office of the Prime Minister and considers that the public interest in access is outweighed by the competing public interest in the ability of the Office of the Prime Minister to undertake its ordinary functions of supporting the Prime Minister without substantial impairment.

Mr Schmitke acknowledges that the processing of requests for access to documents is a legitimate part of each minister's functions, and that FOI requests may require reallocation of resources within a minister's office. However, Mr Schmitke considers that the Office of the Prime Minister could not reasonably divert resources to assist in processing your request. This assessment includes the ability of the Office of the Prime Minister to allocate fairly its resources to process FOI requests to the Prime Minister from other applicants. This assessment also includes such resources as are available from the Department to assist in processing the request.

### **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.

Noting the reasons for the intention to refuse your request, you may choose to revise your request by:

- specifying a timeframe;
- specifying particular documents; and/or
- identifying specific staff or categories of staff.



Further, given that it is not clear what other expletives you intend to be covered by your request apart from the ones you have listed, please specify what those other expletives are.

Mr Schmitke will assess whether the practical refusal reason has been removed following any revisions you might make to your request.

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 and will start on the day after you receive this notice. I am the relevant person for you to contact for the consultation process.

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

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

Should you wish to discuss any aspect of your request, please contact the Department by email at [foi@pmc.gov.au](mailto:foi@pmc.gov.au) or by phone on 02 6271 5849.

Yours sincerely



Kieran  
FOI Adviser  
Legal Policy Branch

6<sup>th</sup> February 2015