



OFFICIAL

Freedom of Information (FOI) request

Practical Refusal Consultation Notice

Reference: FOI-2022-209

To: BE

Email: foi+request-9222-748ffa04@righttoknow.org.au

Dear BE,

I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 4 August 2022.

You set out your request in the following terms:

I seek access under the FOI Act 1982 to Question Time briefs (however described). This request is limited to Question Time briefs for the 47th Parliament (ie Question Time briefs prepared for 27 – 28 July and 1-4 August).

I also request a copy of the Department's current index of Question Time briefs.

Duplicate copies of the same document are not required, although different or updated versions of a document are. If a document contains tracked changes or comments, it is requested that the document be provided in a form where all tracked changes and comments are visible.

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 exists in relation to that request.

I write to advise you that subject to possible further revision and clarification which would narrow the request, the Department considers that the work involved in processing the request in its current form would substantially and unreasonably divert the resources of the Department from its other operations. This is due to the large number of documents identified as being potentially relevant to your request within the time period specified.

This constitutes a 'practical refusal reason' under section 24AA of the FOI Act. On this basis, the decision maker for the request intends to refuse access to the documents you have requested. However, before a final decision to refuse the request can be made, you have an opportunity to revise

your request. This is called a 'request consultation process' as set out in section 24AB of the FOI Act. You have 14 days to respond to this notice, as 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.

Following the preliminary searches for documents, the Department has identified approximately 500 documents (ranging from 2-3 pages) that are potentially relevant to the scope of your request. This includes Question Time Briefs (QTB) for both the Prime Minister and the Minister for Women/Public Service. It has taken the Department a total of 10 hours to date to identify the documents that may be captured by your request.

Noting you have requested different and updated versions of each QTB, an officer will need to review each document for the version history, identify the correct version for release and extract each individual document from the Department's system. In addition, a decision maker would be required to assess each of the 500 documents that are captured by your request. This would include deciding whether to grant, refuse or defer access to the 500 documents, requiring the resources of multiple areas, coordinated through the FOI team to examine the documents, make copies, or edited copies, of the documents, and to notify you of a decision on access. This is because the documents cover a broad aspects of the Department's functions.

Based on the conservative estimate that each QTB consists of 2 pages, and the above process would take a minimum of 3 minutes per page for one officer, we estimate at least 50 hours or processing time for that one officer. Further work would be required across the Department to complete the consultation required to inform the decision maker, with respect to providing access to the documents. There are 17 Divisions/areas across the Department and we therefore estimate a minimum of 2 hours consultation per Division/area with respect to these documents.

We also consider that there is likely external consultation required with partner agencies but are unable to calculate an estimate for this time without conducting further analysis of the 500 documents.

Taking into account the above factors, including time already spent on searching for documents, we have estimated a minimum of 94 hours required to process this request.

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.¹

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 the reallocation of resources within an agency in some circumstances. However, in this case, the Department is not able to reasonably divert its resources from its other operations to assist in processing this request. In reaching this view, the Department has had regard to the public interest in providing access to information but considers that this is outweighed by the competing public interest in the ability of the Department to undertake its ordinary functions without substantial impairment, in particular the processing of other FOI requests.

For the reasons given above, the decision maker considers that processing your request in its current form would create 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.

For example, you may wish to consider revising your request in one or more of the following ways:

- limiting your request to the latest version of each QTB
- limiting your request to one of the timeframes referenced in your request
- consider the structure of the Department and identify specific Divisions/areas of interest, see: [The Department | Department of the Prime Minister and Cabinet \(pmc.gov.au\)](https://www.pmc.gov.au)

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.

Action required

Section 24AB of the FOI Act provides that before the end of the consultation period you must do one of the following, in writing, within the next 14 days (**6 September 2022**):

- revise your FOI request;
- indicate that you do not wish to revise it; or

¹ Paragraph 3.117 of the FOI Guidelines

- withdraw the FOI request.

The consultation period runs for 14 days and starts on the day after you receive this notice. During this, you may wish to seek assistance to revise your request from the contact person listed below.

If you do not do one of the above during the consultation period, your request will be taken to have been withdrawn².

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.

Calculation of 30 day period

Please note that the time taken to consult with you regarding the scope of your FOI request, under this request consultation notice, is not taken into account for the purposes of calculating the 30 day period³.

Contact officer

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, quoting reference number FOI-2022-209.

Should you wish to discuss any aspect of your request, please contact me at foi@pmc.gov.au or by phone 02 6271 5849, quoting reference number FOI-2022-209.

Yours sincerely



Janelle Dedakis
FOI and Privacy Section
23 August 2022

² Section 24AB(7) of the FOI Act

³ Section 24AB(8) of the FOI Act