



## Australian Government

### Department of Health and Aged Care

Department Reference: FOI-3902

BE

By email: [foi+request-9245-a45b31b5@righttoknow.org.au](mailto:foi+request-9245-a45b31b5@righttoknow.org.au)

Dear BE

#### **Freedom of Information Request FOI-3902 Notice of Practical Refusal**

I refer to your request of 8 August 2022, received by the Department of Health and Aged Care (the department) seeking access to documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.

#### **Power to refuse request**

I am writing to tell you that I believe that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the department from its other operations due to the large number of documents captured by it. This is called a 'practical refusal reason' (section 24AA).

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, 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.

#### **Why I intend to refuse your request**

You have requested access to the following documents:

Question Time briefs (however described) prepared for Ministers within the Health and Aged Care portfolio. 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 indexes 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.

The basis upon which I have decided that a practical refusal reason exists is set out below.

Search and retrieval of documents

In order to assist you with your request, the department has undertaken a preliminary assessment of documents relevant to your request.

The department has 169 Question Time Briefs which are captured by your request. Of these, 78 were updated at least once, many several times, during the timeframe of your request. Of the 78 updated during that timeframe, there are 277 individual documents which would be captured by your request, noting you have specifically included "different or updated versions" of each document. An assessment has been made that each Question Time Brief contains an average of 3 pages per brief. I therefore estimate that a total of 1,104 pages will require a decision on access to be made on them. A detailed breakdown of that assessment is included below:

Documents relevant to request	Total
Total number of documents identified	368
Average number of pages contained in documents	3
Estimated number of pages to be assessed by decision maker	1,104

In the event that the department were to continue to process your request we would need to extract the 368 documents from the department's computer systems in an appropriate format to be reviewed and considered by the FOI decision maker. On the basis that this extraction would take approximately 1 minute per document, that process would take the department in excess of **6 hours**.

Decision making

In addition, if we were to proceed with your request, the decision maker would be required to examine each of the documents identified and decide whether to grant, refuse or defer access to those documents. Given the nature of the documents, and the fact that they relate to multiple different business areas within the department, extensive internal consultation with subject matter experts would need to occur to enable the decision maker to make a sufficiently informed decision on access to these documents.

The FOI team would be required to prepare any documents being released to you, including the deletion of any information that the decision maker would consider to be exempt from disclosure. A decision on access, containing the statement of reasons for the decision, required by the FOI Act, would also need to be prepared, considered by the decision maker, and finalised so it can be provided to you.

On the basis that the preparation and finalisation of the decision-making process, as outlined above, would take an average of 4 minutes per page, I estimate that it would take the department a further **73 hours** to make a decision on access to the documents relevant to your request.

## Summary

As such, I estimate that it would take the department at least **79 hours** to process your request. This estimate is derived as follows:

<b>Summary of preliminary assessment of processing time</b>	<b>Total</b>
Total estimate of search and retrieval hours	<b>6 hours</b>
Total estimate of decision-making hours	<b>73 hours</b>
	<b>79 hours</b>

In considering whether this would constitute a substantial and an unreasonable diversion of resources of the department, I have taken into consideration the following factors:

- the staffing resources available to the department for FOI processing
- whether the processing work requires the specialist attention of senior officers, or can only be undertaken by one or more specialist officers in the department who have competing responsibilities
- the impact that processing this request may have on other work in the department, including FOI processing, the work being undertaken by the Ministerial and Parliamentary Services team to support the Ministers' Offices, and the multiple different business areas, with subject-matter expertise, which would be required to assess the documents and provide advice to the decision maker to ensure a well-informed decision is made
- the business-as-usual priorities of those business areas, including, but not limited to, the management of the ongoing global COVID-19 pandemic; the monitoring and developing situation concerning the both the Japanese encephalitis virus and MPX, both of which are Communicable Disease Incidents of National Significance; and the delivery of aged care services.

As such, I am satisfied that the work involved in processing your request, as currently presented, would substantially and unreasonably divert the resources of the department 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 documents you wish to access. For example, by reducing the number of documents you are seeking to access.

By way of example only, you may wish to consider limiting your request to the final version of the 169 active Question Time Briefs that the department had as at 4 August 2022.

Alternatively, there may be specific Question Time Briefs you would prefer to focus on, and it may be possible for the department to be able to provide you with an index of its active Question Time Briefs to facilitate this, if that is an option you would like to pursue.

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request
- make a revised request
- tell us that you do not wish to revise your request.

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the department's FOI team. We can be contacted on the details below.

If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. Please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 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 the contact person during this period, your request will be taken to have been withdrawn.

**Contact officer**

For the purposes of this consultation, you may contact the FOI Unit on (02) 6289 1666, or you can email us at [foi@health.gov.au](mailto:foi@health.gov.au).

Yours sincerely,



Anita Agett  
A/g Assistant Secretary  
Ministerial and Parliamentary Service Branch  
People, Communications and Parliamentary Division | Corporate Operations Group  
18 August 2022