

15 November 2022

Scott P

[foi+request-9528-a6261dab@righttoknow.org.au](mailto:foi+request-9528-a6261dab@righttoknow.org.au)

Dear Scott,

### ***Freedom of Information Request***

The purpose of this letter is to formally acknowledge your request under the Freedom of Information Act 1982 (Cth) (**FOI Act**) that the eSafety Commissioner (**eSafety**) received on 4 November 2022 (**FOI request**).

### **Scope of Request**

We understand your request to be as follows:

*'I am seeking information on the breakdown of APS staff to contractors and consultants employed by the E-safety commissioner. I am also seeking information concerning the total dollar amount spent on consultants and contractors (i.e. Individuals not employed under the PS Act) for the last financial year 2021-22. I am not seeking information regarding individuals' salaries or hourly rates—just the collective total.'*

### **Practical refusal of the request**

An agency may refuse a request under the FOI Act if a practical refusal reason exists. A practical refusal reason exists if:

- in the case of an agency, the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations (section 24AA(1)(a)(i)), or
- a request does not sufficiently identify the requested documents (section 24AA(1)(b)).

Under section 24 of the FOI Act, if an agency believes they may need to refuse access to a request, they are to request a consultation process with the applicant. The consultation period runs for 14 days. Under section 24AB(8), the consultation period is to be disregarded in working out the 30 day period for processing an FOI request under section 15(5)(b).

Pursuant to section 24 of the FOI Act, we consider that a practical refusal reason exists in relation to your request.

On 8 November 2022 we sent you an email seeking to consult with you on the request and whether it would be suitable to treat the request as an administrative access request. We also noted that there may be grounds for practical refusal of this request.

As we did not receive a response from you, we would like to consult with you to assist you to revise your request so that a practical refusal reason does not exist.

## **Revising the scope**

The right of access under the FOI Act is to existing documents, rather than to information. The FOI Act does not require eSafety to create a new document in response to a request for access, except in limited circumstances where the applicant seeks access in a different format or where the information is stored in an agency computer system rather than in discrete form.

The information you have requested is not in the form of a document, and if produced from our internal systems would not capture the information you seek in a digestible manner. On this basis, eSafety may have grounds for refusing your request.

To ensure that a practical refusal reason does not exist in relation to your request, we are requesting your agreement to revise the scope of your request to include the following information:

- the specific types of documents you seek (for example, reports, emails, presentations etc)

Please respond to the FOI Coordinator by email at [foi@esafety.gov.au](mailto:foi@esafety.gov.au) by 5:00pm on 29 November 2022.

If you do not respond by 5:00 pm on 29 November 2022, your request will be taken to have been withdrawn in accordance with section 24AB of the FOI Act.

## ***Administrative Access Request***

Alternatively, if you do not want to revise the scope, eSafety can treat the request as an administrative access request.

Administrative access means the release of government information in response to a specific request, outside the processes in the FOI Act. Administrative access may be most readily used for release of statistics or data relating to an agency's key functions and activities.

As the information you are seeking is data rather than documents as described in the Freedom of Information Act, eSafety would be able to better process the request as an administrative access request.

eSafety will process the administrative access request within the 30 day timeframe usually given under the FOI Act.

If you agree to treat the request as an administrative access request, we will need your written confirmation of this, and withdrawal of your FOI request.

## ***Charges***

The processing charges which eSafety is entitled to charge are prescribed in the *Freedom of Information (Charges) Regulations 2019*. These charges include:

- searching and retrieving (\$15 per hour)
- making a decision on access (\$20 per hour after the first five hours, which are for free)
- photocopying a written document (10 cents per page)
- making a copy of a written document other than a photocopy (\$4.40 per page)
- postage or delivery (an amount not exceeding cost of postage or delivery)
- transcribing (\$4.40 per page)
- supervising, if the applicant wishes to inspect (\$6.25 per half an hour, or part thereof).

eSafety will, in accordance with section 29 of the FOI Act, advise you if you are liable to pay any charge and provide a preliminary assessment of those charges.

### ***Timeframe for processing***

eSafety received your initial request on 4 November 2022 and the 30-day statutory period for processing your request commenced from the day after that date.

Under section 24AB of the FOI Act, the period from that notice until your revised request is to be disregarded. Once we receive a response from you on whether you will be revising the scope or whether we should treat the request as an administrative access request we can advise you of the due date for your request.

### ***Next steps***

We will contact you via this email address ([foi+request-9528-a6261dab@righttoknow.org.au](mailto:foi+request-9528-a6261dab@righttoknow.org.au)), unless you advise us otherwise.

Please note that eSafety generally publishes information released under the FOI Act on our disclosure log, subject to exceptions.

Further information about the FOI Act, including eSafety's publication obligations, is available on our website at <https://www.esafety.gov.au/about-us/corporate-documents/freedom-of-information>.

If you have any questions, please contact me.

Kind regards,

FOI Coordinator  
eSafety Commissioner  
E: [enquiries@esafety.gov.au](mailto:enquiries@esafety.gov.au)  
T: 1800 880 176  
W: [www.esafety.gov.au](http://www.esafety.gov.au)