



25 September 2024

Oliver Smith

BY EMAIL: foi+request-12033-1a0148f5@righttoknow.org.au

In reply please quote:

FOI Request: FA 24/09/00467

File Number: FA24/09/00467

Dear Oliver Smith,

I refer to your email dated 9 September 2024, in which you requested access to documents held by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

You have requested access to the following:

Under the FOI Act, I seek all ministerial briefs sent from the department to the office of the Minister for Home Affairs and Immigration from 29 July 2024 to the present in relation to the Subclass 866 Protection visa.

Intention to refuse request

I am writing to advise you that I intend to refuse your request on the basis that a practical refusal reason exists. However, before I make a final decision to do this, you have an opportunity to revise your request to remove the practical refusal reason. This is called a '*request consultation process*'. You have 14 days to respond to this notice in one of the ways set out below.

Power to refuse request

Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

Practical refusal

A *practical refusal reason* exists under section 24AA of the FOI Act if either (or both) of the following applies:

- (1)(a)(i) the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations
- (1)(b) the request does not satisfy the requirement in section 15(2)(b) of the FOI Act, which requires you to provide such information concerning the document you are seeking access to, to enable the Department to be able to identify it.

I consider that the work involved in the processing of the request would substantially and unreasonably divert the resources of the Department from its other operations, and accordingly that practical refusal reasons exist under section 24AA(1)(a)(i) of the FOI Act.

Reasons for practical refusal

The Department has made a preliminary assessment of the documents that would be captured by your request.

The Department has identified a total of 255 ministerial briefs that may be relevant to your request. As it has been identified that a large number of relevant ministerial briefs fall in the scope of your request, it will take a significant amount of time to sort through and come to a final range of documents that meets the scope of your request.

The 255 ministerial briefs contain information concerning 17 business areas of the Department. As such, the Department must not decide to give access to those documents unless the involved business area have been consulted and provided with a reasonable opportunity to make exemption submissions. I estimate that this consultation process would take, on average, one hour per business area, and require a total of at least **17 hours** to complete. This includes managing any queries raised by the business areas in relation to the consultation.

In order to finalise this request, a decision maker would be required to assess the 255 ministerial briefs that have been identified by your request. On an average of 252 pages per ministerial brief, and based on the decision maker requiring 8 minutes to assess each page identified by your request, I estimate that the decision maker would require **8,568 hours** (refer to the below calculation) to assess the documents identified by your request. This would not include deciding whether to grant, refuse or defer access to the 255 ministerial briefs to which your request relates, or to grant access to edited copies of such ministerial briefs, and the resources that would have to be used to examine the ministerial briefs, make copies, or edited copies, of the ministerial briefs, and to notify you of a decision on access in your request.

Assessment time: 255 ministerial briefs x 252 pages x 8 minutes = 514,080 minutes or 8,568 hours.

As such, a total estimated time of over **8,585 hours** (including consultation) would be required to process this request.

I am satisfied that the Department would be required to divert significant resources from its current operations in order to identify, locate and collate the documents held within the Department, and to make a decision on access to those documents. This diversion would result in a significant drain on the resources of the area within the Department that would be required to process this request.

I consider that this would result in this request imposing both a substantial and an unreasonable diversion of resources of the Department from its other operations and that a practical refusal reason exists in relation to this request.

You now have an opportunity to revise your request to enable it to proceed.

Based on initial searches, we have identified that a large number of the ministerial briefs pertain to non-citizens and/or visa applicants seeking requests from the Minister. These documents contain personal and confidential information which will likely be exempt if third parties' do not express consent for this information to be released.

As such, would you agree to revise your scope to not include any ministerial brief concerning non-citizens and/or visa applicants.

Under section 24AB(6) of the FOI Act, you have 14 days to do one of the following:

- withdraw your request;
- make a revised request;
- indicate that you do not wish to revise your request.

If you do not do one of the three things listed above during the consultation period (14 days), or you do not consult the contact person listed below during this period, your request will be taken to have been withdrawn in accordance with section 24AB(7) of the FOI Act.

Contact

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact FOI at foi@homeaffairs.gov.au.

Yours sincerely,

[Electronically signed]

Lyn

Position No. 60186967

Authorised Decision Maker

Department of Home Affairs