

Information and Data Protection Commissioner

CDP/FOI/20/2025

Caroline Muscat

vs

Office of the Prime Minister

FREEDOM OF INFORMATION REQUEST

1. On the 19th February 2025, Ms Caroline Muscat (the “**applicant**”) made a freedom of information request pursuant to the requirements set forth in article 6(1) of the Freedom of Information Act (the “**Act**”), Chapter 496 of the Laws of Malta, requesting the Office of the Prime Minister (OPM) (the “**Public Authority**”) to provide the following information in electronic format:

“Copy of engagement contracts of ALL consultants/advisors in 2024 and 2025 up to the day of reply of this FOI, including of those attached to parliamentary secretary/s”.

2. On the 21st March 2025, the Public Authority informed the applicant that her request could not be met on the basis that:

“It-talba tal-applikanta hija wiesa u ta’ natura generika. Ghaldaqstant l-applikanta qed tkun mitluba biex tispecifika ghal-liema kuntratt ta’ individwu trid li jkollha access ghalih”.

3. On the same day, the applicant requested the Public Authority to revise its decision under its internal complaints procedure, asserting that the request was specific, clear and well-defined. On the 14th May 2025, the Public Authority reiterated that:

“L-Awtorità Pubblika tirreferik ghar-risposta originali. Gentilment mitluba tispecifika ghal-liema kuntratt ta’ individwu li trid li jkollok access ghalih”.

FREEDOM OF INFORMATION APPLICATION

4. On the 20th May 2025, the applicant applied for a decision notice pursuant to article 23(1)(a) of the Act and requested the Information and Data Protection Commissioner (the “**Commissioner**”) to decide whether the request for information made by the applicant to the Public Authority was handled pursuant to the requirements of the Act.

INVESTIGATION

Admissibility of the Freedom of Information Application

5. After having considered that the applicant is an eligible person in terms of article 2 of the Act and the nature and background of the freedom of information application, together with the procedural steps involved between the applicant and the Public Authority in the request for documents, the Commissioner deemed the freedom of information application made by the applicant as admissible for the purpose of article 23(2) of the Act.

The Issuance of the Information Notice

6. As part of the investigation procedure, by means of an information notice dated the 10th June 2025, issued in terms of article 24(1)(a) of the Act, the Commissioner requested the Public Authority to furnish information in relation to the application made by the applicant. In particular, the Commissioner requested the Public Authority:
 - a. to provide any information which it deems relevant and necessary to support its decision and rebut the arguments made by the applicant;
 - b. to provide the legal basis of the decision taken by the Public Authority to refuse the applicant’s request for information; and
 - c. to identify the public entities falling under the remit of this Public Authority.

Submissions of the Public Authority

7. In response to the information notice, the Public Authority submitted the following salient arguments for the Commissioner to consider during the legal analysis of the case:

- a. that the Public Authority reiterated its position that the request is generic in nature and lacks the specificity required under article 6(1)(b) of the Act;
- b. that in its original reply, the Public Authority had requested the applicant to specify the contract or the individual to which she sought access, in line with article 6(1)(b) of the Act, which requires an applicant to provide sufficient information to enable the Public Authority to identify the document;
- c. that the Government has consistently entertained requests under the Act, including requests made by media outlets for access to contracts relating to clearly identified individuals, particularly where a legitimate public interest exists;
- d. that the present request does not identify any particular individual and effectively amounts to an open-ended document-retrieval exercise rather than a targeted request for identifiable documentation. Therefore, requests of such a broad and indiscriminate nature are, by definition, generic and fall outside the scope of reasonable identification as required by the Act;
- e. that in accordance with its duty, the Public Authority informed the applicant that the request was too broad and invited her to narrow it by specifying which contract(s) or individual(s) she wished to access, an offer made in good faith to allow the request to be processed efficiently;
- f. that the applicant did not modify or refine the request following the Public Authority's invitation to do so;
- g. that “[h]ad the request been refused, such a decision would have fallen within the scope of Article 14(h) of the Act, which permits refusal where the request is frivolous or vexatious or the information requested is trivial”;
- h. that the request, in its current form, is burdensome, lacks precision and would require substantial administrative effort to identify and compile a large volume of documentation, rendering it vexatious in terms of scope;
- i. that recruitment of secretariat staff, including consultants and advisors, is governed by the *Manual on Resourcing Policies and Procedures*, which is publicly available and outlines roles, engagement limits and remuneration structures;

- j. that engagement contracts are based on standardised templates accessible via the People and Standards Division website under '*Resourcing Forms and Templates*', ensuring that the regulatory framework is transparent and already available to the public;
- k. that the Public Authority has previously disclosed information to the same applicant and news outlet when requests were clearly defined and the public interest outweighed any applicable exemption. Thus, this reflects the Public Authority's commitment to transparency where the conditions of the Act are fulfilled;
- l. that it is only in cases such as the present one (where the request lacks specificity and would impose an unreasonable administrative burden), that the Public Authority must justifiably withhold the documents unless a refined request is submitted;
- m. that the Government considers this type of request to amount to a fishing expedition, seeking a significant volume of documentation without sufficient justification or a clearly defined public interest relating to each individual case;
- n. that disclosure of contractual data in such broad terms may lead to individuals being unfairly targeted, exposing them to unwarranted reputational harm merely for undertaking roles within public administration;
- o. that the Public Authority must therefore consider not only the legal framework governing access to information but also the broader implications for the proper functioning of government and the potential harm caused by unjustified disclosure;
- p. that the Public Authority must balance the need for transparency with the potential detrimental effects of releasing non-specific, overly broad information requests; and
- q. that the Public Authority remains willing to provide access to documents should the applicant submit a request that is sufficiently specific and in line with the requirements of the Act.

Submissions of the Applicant

- 8. Pursuant to the internal investigative procedure of the Office, the Commissioner provided the applicant with a copy of the submissions of the Public Authority and enabled the applicant to produce its counterarguments. By means of an email dated the 9th July 2025, the applicant submitted that:

“In a democracy, a government is obliged and duty-bound to be transparent and accountable, particularly on issues such as the engagement of ALL its consultants/advisors paid by taxpayers and selected without a call on a person of trust basis.

Also, in normal democracies, the OPM, as primus inter pares, should set an example. Until a few weeks ago, Government Ministries and government agencies had no problem supplying the same information”.

Final Submissions of the Public Authority

9. The Public Authority was provided with the final opportunity to provide its submissions in relation to the arguments raised by the applicant. On the 1st August 2025, the Public Authority submitted the following principal arguments:
 - a. that the Public Authority *“respectfully reiterates that the request in question is generic in nature and lacks the specificity required under Article 6(1)(b) of the Act”*;
 - b. that *“[t]he Government clarifies that it has consistently entertained requests under the Freedom of Information Act, including from the media outlet in question requesting access to contracts related to clearly identified individuals, particularly where there is a legitimate public interest, as well as other requests which such platform has submitted through this system. This clearly undermines the complainant’s claim that the Government is failing in its duty to respond to such requests”*;
 - c. that *“[t]he current request does not identify particular individuals and effectively amounts to an open-ended document retrieval exercise. As such, it is, broad by its nature”*;
 - d. that *“[t]he Public Authority emphasizes that it has made efforts, in good faith, to assist the complainant by asking her to specify the individual(s) whose contracts she seeks to access. This would have allowed the request to be processed efficiently and in compliance with the requirements of the Act. However. the applicant did not modify the request accordingly”*;

- e. that “[t]he Public Authority reaffirms its commitment to transparency, where the conditions of the Act are met. For this reason, it did not outright reject the applicant’s request but rather sought clarification to enable it to proceed appropriately”;
- f. that “[t]he Government considers the current request to amount to a “fishing expedition”, wherein a substantial volume of documentation is sought without a clearly defined public interest for each individual case. In this regard, the Public Authority must consider not only the legal obligations related to access to information, but also the broader implications for the proper functioning of government. It must balance the need for transparency with the potential harm of unjustified disclosure, particularly In cases involving generic requests”;
- g. that “[f]inally, the Public Authority notes that that recruitment of secretariat staff, including consultants and advisors, is governed by the Manual on Resourcing Policies and Procedures, which is publicly available. This manual outlines the roles, engagements, and remuneration structures tied to such positions. Additionally, engagement contracts are based on standardised templates accessible via the People and Standards Division website under “Resourcing Forms and Templates” The regulatory framework is therefore transparent and accessible”; and
- h. that “[t]he Public Authority remains open to providing access to documents should the request be specific enough, in line with the provisions of the Act”.

LEGAL ANALYSIS AND DECISION

10. As a preliminary point, the Commissioner proceeded to examine the freedom of information request submitted by the applicant on the 19th February 2025, wherein she sought access to copies of engagement contracts of all consultants and advisors engaged by the Public Authority during 2024 and 2025, including those attached to parliamentary secretaries, in electronic format. By means of a reply dated the 21st March 2025, the Public Authority refused the request on the grounds that “*it-talba tal-applikanta hija wiesa u ta’ natura generika*” and requested that the applicant specify which individual’s contract she sought to access.
11. The applicant exercised her right to lodge a complaint pursuant to the internal complaints procedure on the same day, asserting that the request was specific, clear and well-defined. On the 15th May 2025, the Public Authority reiterated its position, stating that “[l]-Awtorita’

Pubblika tirreferik ghar-risposta originali. Gentilment mitluba tispecificka ghal-liema kuntratta' individwu li trid li jkollok access ghalih". The applicant subsequently applied for a decision notice on the 20th May 2025, requesting the Commissioner to decide whether the Public Authority had handled the freedom of information request pursuant to the requirements of the Act.

12. The Commissioner notes that the Public Authority refused the applicant's request on the basis that it is generic in nature and lacks the specificity required under article 6(1)(b) of the Act, which states that an applicant must provide "*such information concerning the document as is reasonably necessary to enable a responsible officer of the public authority to identify it*". This provision establishes a fundamental procedural requirement governing the exercise of the right of access under the Act and sets a minimum threshold of specificity that an applicant must satisfy in order to enable the Public Authority to identify, locate and retrieve the document or documents requested.
13. The wording of article 6(1)(b) of the Act places the onus on the applicant to provide information "*concerning the document*" that is "*reasonably necessary*" for identification purposes. In this regard, article 6(1)(b) of the Act serves a two-fold purpose. Firstly, it ensures that a Public Authority can properly and promptly act upon a request. Hence, and as a matter of principle, without being provided with specific details and information concerning the documents which are being sought, the Public Authority will be placed in a difficult position to trace or locate the requested documents. Secondly, it seeks to protect public authorities from requests which are exceedingly broad or indeterminate, and which will impose an open-ended obligation of documentary retrieval.
14. The Public Authority submitted that the request, in its current form, lacks the level of specificity required under article 6(1)(b) of the Act, as it does not identify any particular individual or other distinguishing information that would reasonably allow a responsible officer to identify the precise documents requested. The Public Authority further contended that, in the absence of such identifying information, the request amounts to an open-ended retrieval exercise across a potentially large volume of documentation, effectively a fishing expedition through the Public Authority's records rather than a targeted request for identifiable documents.
15. The Commissioner has examined the wording of the request and the arguments submitted by both parties. Although the request identifies a general category of documents, namely engagement contracts of consultants and advisors within a defined timeframe, the

Commissioner finds that it does not provide sufficient information to reasonably enable a responsible officer to identify the documents requested. The request requires the Public Authority to determine, on behalf of the applicant, which contracts may fall within the scope of the request, thereby imposing a degree of discretion and administrative effort that exceeds the threshold established under article 6(1)(b) of the Act.

16. The Commissioner also notes that the Public Authority invited the applicant to refine or clarify the request to specify particular individuals. This approach is consistent with article 7 of the Act, which obliges a Public Authority to take reasonable steps to assist an eligible person whose request does not comply with article 6 of the Act, ensuring that the request is made in a manner that enables proper identification of the documents and doing so at no charge. Despite this assistance, the applicant did not provide further information to enable the Public Authority to identify the documents with the specificity required under article 6(1)(b) of the Act.

On the basis of the foregoing considerations, pursuant to article 23(3)(b) of the Act, the Commissioner is hereby serving the Public Authority with a decision notice and concluding that the applicant's request, in its current form, does not satisfy the requirements of article 6 of the Act, as it lacks sufficient information to enable a responsible officer of the Public Authority to specifically identify the documentation requested.

Ian
DEGUARA
(Signature)

Digitally signed
by Ian DEGUARA
(Signature)
Date: 2026.03.16
11:55:25 +01'00'

Ian Deguara
Information and Data Protection Commissioner

Right of Appeal

In terms of article 39(1) of the Act, “[w]here a decision notice has been served, the applicant or the public authority may appeal to the Tribunal against the notice within twenty working days”.

An appeal to the Information and Data Protection Appeals Tribunal shall be made in writing and addressed to “*The Secretary, Information and Data Protection Appeals Tribunal, 158, Merchants Street, Valletta*”¹.

¹ Further information on the procedure of the appeal is available at: <https://idpc.org.mt/appeals-tribunal/>