



December 2023

Alex Pentland

By email: foi+request-10836-c37d407b@righttoknow.org.au

Dear Alex

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

In relation to parts (a) and (e) of your request, I have identified documents relevant to these parts of your request and, after careful consideration, I have decided to release the documents in part with irrelevant and exempt material removed.

In relation to parts (b) to (d) of your request, I have not identified any documents relevant to these parts of your request and, after careful consideration, I have decided to refuse these parts of your request.

Request

On 3 November 2023 you sought access under the FOI Act to:

- a) *All correspondence between DFAT and the Australian Government entities in relation to Former Prime Minister's John Howard, Tony Abbott and Scott Morrison regarding a visit to London for the Alliance for Responsible Citizenship summit*
- b) *notes, summaries or records of discussions between the DFAT Secretary and John Howard in relation to a visit to London for the Alliance for Responsible Citizenship summit*
- c) *notes, summaries or records of discussions between the DFAT Secretary and Tony Abbott in relation to a visit to London for the Alliance for Responsible Citizenship summit*
- d) *notes, summaries or records of discussions between the DFAT Secretary and Scott Morrison relation to a visit to London for the Alliance for Responsible Citizenship summit*

- e) *Any submissions sent by DFAT to the Foreign Minister or the Trade Minister in relation to Former Prime Minister's John Howard, Tony Abbott and Scott Morrison regarding a visit to London for the Alliance for Responsible Citizenship summit*

Reasons

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

In making my decision I have taken into account:

- the terms of the request including the date your request was received,
- the documents found to be within the scope of your request,
- submissions made in response to third party consultations under section 27A of the FOI Act,
- the FOI Act, and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

The reasons for my decision are set out below. Where I refer to sections of the FOI Act, these are available at www.legislation.gov.au. Sections of the FOI Guidelines referenced can be found online at <https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines>.

Parts (b) to (d) of your request

Thorough searches conducted by the Secretary's Office found no documents relevant to parts (b) to (d) of your request. I am therefore satisfied that documents do not exist in relation to these parts of your request and refuse these parts of your request under section 24A(1) of the FOI Act.

Parts (a) to (e) of your request

Substantial adverse effect on the operations of an agency (section 47E(d) of the FOI Act)

Under section 47E(d) of the FOI Act, a document is conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the department. In this case, the conditionally exempt material involves internal email addresses.

I have decided that some of the material contained within the documents is conditionally exempt under section 47E(d) of the FOI Act, as its release could have a substantial adverse effect on operations of the department. Specifically, disclosure of the material could reasonably be expected to prejudice the department's internal processes. Publicly available contact channels have been established to mitigate this risk.

Personal privacy (section 47F(1) of the FOI Act)

Under section 47F(1) of the FOI Act, a document is conditionally exempt if release would constitute an unreasonable disclosure of personal information. The test of 'unreasonableness' implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals (paragraph 6.138 of the FOI Guidelines).

I have had regard to the factors in section 47F(2) of the FOI Act and consider that disclosure of the conditionally exempt material would constitute an unreasonable disclosure of personal information.

I am satisfied that in addition to these special circumstances the disclosure of the personal information would be unreasonable for the following reasons:

- the documents do not contain any of your personal information,
- you do not have the consent of the individuals for the release of their personal information, and
- there have been objections to the release of the personal information.

For these reasons, I have decided that the relevant material is conditionally exempt under section 47F(1) of the FOI Act.

Professional affairs (section 47G(1)(a) of the FOI Act)

Relevantly, under section 47G(1)(a) of the FOI Act a document is conditionally exempt if its disclosure would disclose information concerning a person in respect of their business or professional affairs in circumstances which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of their lawful business or professional affairs.

The business information exemption is intended to protect the interests of third parties dealing with the Government (paragraph 6.185 of the FOI Guidelines). I have carefully considered the contents of the documents that fall within the scope of this request and have also consulted with the relevant offices listed in your request about the release of the documents.

Taking into considerations objections to the release of the material, I am satisfied that material contained within the documents is conditionally exempt under section 47G(1) of the FOI Act and the disclosure would, or could reasonably be expected to unreasonably affect the professional affairs of a person (section 47G(1)(a) of the FOI Act).

Public Interest Considerations

As sections 47E(d), 47F(1) and 47G(1)(a) of the FOI Act are conditional exemptions I have considered whether providing access to the material in question would, on balance, be contrary to the public interest (section 11A of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines and the public interest factors favouring disclosure, including to:

- promote the objects of the FOI Act.

I have also considered the public interest factors against disclosure, including that disclosure could reasonably be expected to:

- prejudice the protection of an individual's right to privacy, and
- prejudice the management function of an agency.

I have concluded that granting you access to the documents would, on balance, be contrary to the public interest.

Irrelevant material (section 22(1)(a)(ii) of the FOI Act)

In determining what is relevant to your request, I have taken note of the terms of your request. Some material contained within the documents and captured by your request is not relevant to the scope of your request and has been removed (section 22(1)(a)(ii) of the FOI Act).

I have also taken note of the email which you received from the department on 3 November 2023 in which you were invited to respond if you required the names and contact details of government officials not in the Senior Executive Service. As you have not stated that you require this information, I have decided to remove it from the documents.

Review

Your review rights are attached for your reference.

Should you have any queries regarding this matter please contact the FOI Section by email to foi@dfat.gov.au.

Yours sincerely

Cameron Archer
Assistant Secretary
Department of Foreign Affairs and Trade

Your review rights

Internal review

You may apply for internal review of the decision (section 54 of the FOI Act). The internal review application must be made within 30 days of receipt of this letter.

Where possible, please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply within 60 days of receipt of this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision.

Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/freedom-of-information-reviews/internal-review-process>

Further information about how to make a complaint is available at: <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>

