



FOI Reference: LEX 9788

File No: 23/32804

January 2024

A Citizen
Right to Know

By email: foi+request-10973-cc8161b5@righttoknow.org.au

Dear A Citizen

Re. Freedom of Information Request

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).

On 17 December 2024 you requested access to:

“- any assessment, discussion, evaluation, deliberation or consideration of the risk or likelihood of any Australian official being investigated or prosecuted by the International Criminal Court in connection with any acts or omissions by Australian officials relating to Israel's actions in Gaza since 7 October 2023; and

- any assessment, discussion, evaluation, deliberation or consideration of the risk or likelihood of any Australian official being investigated or prosecuted for war crimes in connection with any acts or omissions by Australian officials relating to Israel's actions in Gaza since 7 October 2023.

The above should be construed to include legal advice and/or advice to any Government Minister.

Without limiting the above, the purpose of this request is to understand whether your department has considered whether any Australian officials could become liable for war crimes in connection with Australia's support of Israel's actions in Gaza since 7 October 2023.

Please exclude any personal or business information from any documents within scope of the above.”

I am authorised under section 23 of the FOI Act to make decisions in relation to FOI requests and have been appointed to be the decision maker on your request.

Thorough searches conducted by the Cabinet, Ministerial and Parliamentary Branch, the International Law Branch, the Israel-Gaza Taskforce and Middle East Branch found no documents relevant to your request.

After taking all reasonable steps to find documents, I am satisfied that they cannot be found or do not exist. I therefore refuse your request under section 24A(1) of the FOI Act.

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

Brooke King

Brooke King
A/g Director
Freedom of Information Section

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 Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 2600
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>