



**Australian Government**  
**Australian Public Service Commission**

FOIBLES

Our reference: LEX 945(833)

By email: [foi+request-11156-7f683986@righttoknow.org.au](mailto:foi+request-11156-7f683986@righttoknow.org.au)

Dear FOIBLES

**Internal Review Application – Freedom of Information request**

1. I refer to your application made on **4 April 2024** for internal review of a full release decision sent to you on 25 March 2024 (**original decision**) in relation to your Freedom of Information (**FOI**) request for documents held by the Australian Public Service Commission (**Commission**).
2. The FOI Act and all other Commonwealth legislation referred to in this letter is publicly available from [www.legislation.gov.au](http://www.legislation.gov.au).
3. I have prepared this notice in accordance with section 26 of the under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) which by virtue of subsection 54C(4) of the FOI Act applies to internal review decisions.

**Background**

4. On 22 February 2024, you requested the following from the Commission under the FOI Act:

*“I request access to the letter referred to in Mr Belot’s article, in which Dr de Brouwer’s noted his concerns about conflicts of interest to senior bureaucrats in the Australian Public Service.”*

5. You provided the following context for your FOI request:

*I refer to Henry Belot’s article, “Public servants must do more to manage conflicts of interest, APS Commissioner tells top bureaucrats”, published on the website of The Guardian Australia: <https://www.theguardian.com/australia-news/2024/feb/22/public-servants-must-do-more-to-manage-conflicts-of-interest-aps-commissioner-tells-top-bureaucrats>.*

*According to the article, the APS Commissioner sent a letter to senior bureaucrats in December 2023 in which he, amongst other things, asked senior bureaucrats to:*

- a) *“ensure you and your senior executive service employees have up-to-date declarations in place, as well as strategies in your agency to mitigate or manage conflicts that are identified” and*

b) “ensure similar arrangements are in place for all relevant agency functions and processes, such that conflict of interest declarations are triggered for those participating in activities such as recruitment, procurement, awarding grants, or performing regulatory roles.”

6. One (1) document was discovered that fell within scope of this request.
7. On 25 March 2024, the original decision maker, Ms Meeghan Webster, provided a decision to you granting full access to the document within scope.

### **Your request for internal review**

8. On 4 April 2024, you provided submissions in respect of your request for internal review of the original decision. Your submissions are summarised below:

*“I did not agree to the decision maker redacting the details of public servants in the APSC.*

*On the last page of the letter that was released, there is a reference to the "Assistant Commissioner" for "Integrity Performance Employment Policy".*

*The Assistant Commissioner for Integrity Performance and Employment Policy in the APSC is Kylie Barber. Her contact number is 02 6202 3763 and her email address is kylie.barber(at)apsc.gov.au. Kylie Barber is an SES Band 1 employee. Kylie Barber's name, position, contact number, classification and email address are all published on the APSC's website. Those details are also published in the Public Service Gazette. They are not, as the decision maker claimed, irrelevant to my request and should not have been redacted pursuant to section 22 of the FOI Act.*

*As part of the internal review, please remove the redactions from Kylie Barber's name, her contact number and her email address.”*

### **Internal Review Decision**

9. I am authorised under subsection 23(1) of the FOI Act to make a fresh FOI decision in respect of your original FOI request. I confirm that in accordance with subsection 54C(2) of the FOI Act, I am a different person to the original decision maker.
10. The internal review is a merit review process, which means that I not only examine the reasons given by the original decision maker but also determine the correct or preferable decision in the circumstances.<sup>1</sup>

---

<sup>1</sup> Freedom of Information Guidance for Government Agencies.

11. I have decided to affirm the original decision to grant full access to the document. I am satisfied that the correct and preferable finding is that the document is fully released under the FOI Act.
12. I have decided to keep the redaction made under section 22 of the FOI Act over the recipient of the letter, as you had expressly excluded individual versions of the letter in the primary request as the same letter was sent to all Agency Heads.
13. I have also decided to remove a number of redactions applied under section 22 of the FOI Act. While I am not convinced they are relevant material for the purpose of your request, they are publicly available information.
14. **Attachment A** sets out the document schedule.


### **Contacts**

15. If you require clarification on matters in this letter, please contact the Commission's FOI Officer by email at [xxx@xxxx.xxx.xx](mailto:xxx@xxxx.xxx.xx)

### **Review rights**

16. You are entitled to seek review of this decision. Your review rights are set out at **Attachment B**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Melanie McIntyre', with a long horizontal line extending to the right.

Melanie McIntyre  
Authorised FOI decision maker  
2 May 2024

SCHEDULE OF DOCUMENTS

<b>Document</b>	<b>Description</b>	<b>Exemption grounds</b>
<b>1</b>	Letter from the Commissioner to Agency Head	Section 22 – Irrelevant Information

### Rights of Review

#### Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek external review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

#### Applying for external review by the Australian Information Commissioner

If you do not agree with the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (OAIC) from the date you received this letter or any subsequent internal review decision.

You can **lodge your application**:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

### Complaints to the Information Commissioner and Commonwealth Ombudsman

#### *Information Commissioner*

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992  
Website: [www.oaic.gov.au](http://www.oaic.gov.au)

#### *Commonwealth Ombudsman*

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)