



June 2024

Alex Pentland  
By email: [foi+request-11359-ff4dec94@righttoknow.org.au](mailto:foi+request-11359-ff4dec94@righttoknow.org.au)

Dear Mr Pentland

***Re: Freedom of Information Request***

I refer to your request received by the Department of Foreign Affairs and Trade (the department) on 26 April 2024, for access under the *Freedom of Information Act 1982* (the FOI Act) to:

- (a) All correspondence between the DFAT and the Australian Government entities in relation to Former Prime Minister Tony Abbott's visit to Hungary and appearance at CPAC Hungary in 2024*
- (b) notes, summaries or records of discussions between the DFAT Secretary and Tony Abbott regarding Former Prime Minister Tony Abbott's visit to Hungary and appearance at CPAC Hungary in 2024*
- (c) Any submissions sent by the DFAT to the Foreign Minister or the Trade Minister in relation to Former Prime Minister Tony Abbott's visit to Hungary and appearance at CPAC Hungary in 2024*
- (d) Any submissions sent by the Foreign Minister or the Trade Minister to the DFAT in relation to Former Prime Minister Tony Abbott's visit to Hungary and appearance at CPAC Hungary in 2024*

I am writing to provide you with a decision about your request.

In relation to part (a) of your request I have identified documents relevant to your request. After careful consideration, I have decided to grant you access to an edited copy of the documents, with irrelevant and exempt material removed.

In relation to parts (b), (c) and (d) of your request, thorough searches conducted by Western Europe Branch, Cabinet, Ministerial and Parliamentary Branch, the Secretary's Office and the Australian Embassy in Vienna found no documents matching the description of the documents you requested.

In accordance with section 24A(1) of the FOI Act, your request for access to documents relating to parts (b), (c) and (d) is refused as all reasonable steps have been taken to find the documents and I am satisfied that the documents do not exist.

### **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 your request;
- the documents that fall within the scope of your request;
- consultations undertaken with a third party;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

The reasons for my decision and for the application of exemptions under the FOI Act to the document are set out below. Where I refer to sections of the FOI Act, these are available at [www.legislation.gov.au](http://www.legislation.gov.au). Parts of the FOI Guidelines referenced can be found online at [www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines](http://www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/foi-guidelines).

### **Damage to international relations (section 33(a)(iii) of the FOI Act)**

Under section 33(a)(iii) of the FOI Act, a document is exempt if its disclosure would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth.

The phrase 'international relations' has been interpreted to mean the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them (FOI Guidelines, paragraph 5.39).

This applies to documents, the disclosure of which may diminish the confidence which another country has in Australia as a reliable recipient of confidential information, making that country or its agencies less willing to cooperate with Australian agencies in future (FOI Guidelines, paragraph 5.42).

The expression 'damage' can include intangible damage, including inhibiting future negotiations between the Australian Government and a foreign government, or the future flow of confidential information from a foreign government or agency (FOI Guidelines, paragraph 5.25).

I consider the expectation of damage to international relations is reasonable in all the circumstances, having had regard to the nature of the information, the circumstances

in which it was communicated, and the nature and extent of the relationship of the damage to international relations which could reasonably occur in the event of disclosure (FOI Guidelines, paragraph 5.40).

Considering these provisions, I am satisfied that the disclosure of the relevant material to which you seek access, would be reasonably likely to cause damage to Australia's foreign relationships and that that this material is exempt under section 33(a)(iii) of the FOI Act.

***Substantial adverse effect on an agency's proper and efficient conduct of operations (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 an agency's operations. A substantial adverse effect may be indirect (FOI Guidelines, paragraph 6.82).

The predicted effect must bear on the department's 'proper and efficient' operations, that is, the department is undertaking its operations in an expected manner (FOI Guidelines, paragraph 6.115).

The documents in scope include content which provides detailed information on the department's facilitation of individual travel, to the level of discussion of options for a specific trip. The department's functions include the facilitation of travel for former Prime Ministers, and it is important that different options can be discussed and evaluated within the department. If the nature of those discussions and the criteria by which the department evaluates specific request became known, it could lead to those discussions being impeded and by extension to the department's travel functions being impeded.

I am satisfied that disclosure of this material within the scope of your request would, or could reasonably be expected to, have a substantial adverse effect on the department's ability to effectively and efficiently undertake its operational activities.

I have therefore decided that this material is conditionally exempt under section 47E(d) of the FOI Act.

***Unreasonable disclosure of personal information (section 47F(1) of the FOI Act)***

Under section 47F(1) of the FOI Act, a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.

'Personal information' refers to information or opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not; and
- whether the information or opinion is recorded in a material form or not.

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 (FOI Guidelines, paragraph 6.133).

I have had regard to the following matters in considering whether disclosure of some information would involve an unreasonable disclosure of personal information:

- the extent to which the information is well known;
- whether the individuals to whom the information relates is/ are known to be (or to have been) associated with the matters in the document/ documents; and
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant (section 47F(2) of the FOI Act).

Having regard to the nature of the information, and the implications for the identified individuals if disclosed, I am satisfied that the disclosure of the personal information in this case would be unreasonable. I am not satisfied that the information is well known or publicly available, or that the disclosure of the relevant information would achieve a public purpose.

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

***Conditional exemptions - public interest considerations (section 11A(5) of the FOI Act)***

As sections 47E(d) and 47F(1) of the FOI Act are conditional exemptions, I must grant you access to this material unless providing access would, on balance, be contrary to the public interest (section 11A(5) of the FOI Act).

In assessing the public interest, I have considered the FOI Guidelines referred to above and the public interest factors listed in section 11B of the FOI Act as favoring access, including whether granting access to the documents would:

- promote the objects of the FOI Act; and/or
- promote effective oversight of public expenditure.

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

- prejudice an individual's right to privacy; and/or
- prejudice the functions of our Cabinet, Ministerial and Parliamentary Branch and our overseas posts in facilitating travel.

On balance, I am of the view that the public interest is weighted against the disclosure of this material. In forming this view, I have not taken into account any of the irrelevant factors specified in section 11B(4) of the FOI Act.

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

Some of the material excluded from the documents released to you is outside the scope or could reasonably be regarded as irrelevant to your request (section 22(1)(a)(ii) of the FOI Act) as it does not relate to Mr Abbott's travel to Hungary.

In determining what is relevant to your request, I have also taken into account the terms of your request and the email which you received from the department on 29 April 2024, in which you were invited to respond if you required the names and contact details of government officials not in the Senior Executive Service (SES). As you have not stated that you require this information, I have decided to remove them from the document being released to you.

***Declassifying documents***

The department will declassify a document before it is released to you. This process involves redacting the original security classification on a document. If applicable, the redaction will appear as a black rectangle at the top of the document. For further information regarding sensitive and classified information please see the Protective Security Policy Framework - <https://www.protectivesecurity.gov.au/system/files/2022-11/protective-security-guidance-for-executives.pdf>.

***Review rights***

Information about your review rights is set out in the **Attachment** for your reference.

***Contact***

Should you have any queries regarding this matter please contact the Freedom of Information Section by email ([xxx@xxxx.xxx.xx](mailto:xxx@xxxx.xxx.xx)).

Yours sincerely

Cate Rogers  
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 calendar days from the day you receive this notice.

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](mailto: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 0221  
Australia

### *Australian Information Commissioner*

You may apply to the Australian Information Commissioner to review my decision ([section 54L of the FOI Act](#)). To do this, you must contact the Australian Information Commissioner within 60 calendar days from the day you receive this notice.

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: [www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews](http://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews).

Further information about how to make a complaint is available at: [www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints](http://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints).