



Australian Government
Department of Foreign Affairs and Trade

FOI Reference: LEX 11661
File Reference: 24/38067

November 2024

Tyler (Right to Know)

By email: foi+request-12178-c368215b@righttoknow.org.au

Dear Tyler

Re: Freedom of Information Request

I refer to your request received by the Department of Foreign Affairs and Trade (the department) for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to provide you with a decision about 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.

Your request

On 18 October 2024 you sought access to:

- *documents that were submitted to the Governor-General, or other relevant officers (e.g. Prime Minister??), for approval of appointment of Hon. George Brandis KC to the post of High Commissioner to the United Kingdom;*
 - *letters of credence, or similar written correspondences (between governments within the Commonwealth of Nations), from Australia to the UK, and from the UK to the Australia, conveying and accepting (or otherwise confirming) the above appointment.*
- (I understand that the above appointment took place in 2018.)*

Authority

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

Reasons

In making my decision I have taken into account:

- the terms of your request;
- the documents within the scope of your request;
- 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. Where I refer to parts of the FOI Guidelines, these are available at 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 could 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 (paragraph 5.42 of the FOI Guidelines).

Furthermore, the expression ‘damage’ could 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 (paragraph 5.25 of the FOI Guidelines).

I have had regard to the nature of the information, the circumstances in which it was communicated, and the nature of Australia’s international relationship with the foreign country (FOI Guidelines, paragraph 5.40). Based on these considerations, I consider that the disclosure of the relevant material to which you seek access, would be reasonably likely to cause damage to Australia’s foreign relationships.

For these reasons, I have decided that the information marked up in the documents is exempt under section 33(a)(iii) of the FOI Act.

Material communicated in confidence (*section 33(b) of the FOI Act*)

Under section 33(b) of the FOI Act, a document is exempt if disclosure would divulge any matter communicated in confidence to the Australian Government by or on behalf of a foreign government, an authority of a foreign government or an international organisation.

Information is communicated in confidence by or on behalf of another government or international organisation if it was communicated under an express or implied understanding that the communication would be kept confidential ([FOI Guidelines, paragraph 5.46](#)). [Paragraph 5.44 of the FOI Guidelines](#) also provides that an understanding of confidentiality need not be formal and may be inferred from the circumstances in which the communications occurred.

For these reasons, I have decided that the information marked up in the documents is exempt under [section 33\(b\) of the FOI Act](#).

Irrelevant and excluded 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](#)).

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 18 October 2024, in which you were invited to respond if you required the personal information of junior staff from ministerial offices and government officials not in the Senior Executive Service (SES) or equivalent, including their email addresses and contact numbers, together with all signatures, mobile phone numbers, departmental inboxes and technical transmission details including reference numbers. As you have not stated that you require this information, I have decided to remove it from the documents 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](#).

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 (foi@dfat.gov.au).

Yours sincerely

Elizabeth McGregor
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 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.

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.

Third party review rights

Further information about third party review rights are available on the Office of the Australian Information Commissioner's (OAIC) website at www.oaic.gov.au/freedom-of-information/freedom-of-information-guidance-for-government-agencies/freedom-of-information-reviews/personal-and-business-information-third-party-review-rights.