



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2020/039/IR

**INTERNAL REVIEW DECISION AND REASONS
UNDER SECTION 54 OF
THE FREEDOM OF INFORMATION ACT 1982**

REQUEST BY: Mr Andy Johnson

**DECISION BY: John Reid
First Assistant Secretary
Government Division**

By email: foi+request-6134-7cb27c8d@righttoknow.org.au

Dear Mr Johnson

I refer to your request, dated 28 March 2020, seeking internal review of the decision (the **primary decision**) made on 23 March 2020 by Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, Department of the Prime Minister and Cabinet (the **Department**) in relation to your request, originally made on 6 February 2020 and revised on 20 March 2020, for access under the *Freedom of Information Act 1982* (the **FOI Act**) in the following terms:

Can you please provide access to the Gaetjens report itself.

The primary decision found that the document you requested (the **requested document**) is exempt under sections 34(1) and 34(3) of the FOI Act (Cabinet documents).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

In your request for internal review, you submitted that:

I am writing to request an internal review of Department of the Prime Minister and Cabinet's handling of my FOI request 'Gaetjens report and all related internal DPMC emails about it since inception of McKenzie enquiry'.

I realise the documents are labelled as cabinet in confidence, but the Australian public deserves to know given the grants are funded by taxpayer money. There is significant interest in the topic and it is simply not fair that the Prime Minister can hide corrupt behaviour behind obscure paragraphs.

Authorised decision maker

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision.

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Internal review decision

I have decided to affirm the primary decision.

In reaching my decision I have had regard to:

- the terms of your request;
- the primary decision;
- your request for internal review of 28 March 2020;
- the requested document;
- the FOI Act;
- the 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*'¹ (the **FOI Guidelines**).

Reasons

I have carefully reviewed the requested document, as well as the exemptions claimed in the primary decision, and the reasons for those exemptions.

Further, I have considered your submissions in support of your request for internal review, particularly your assertion that "there is significant interest in the topic". In my view, there is a distinction between what is "of interest to the public" and the public interest in disclosure of a document², and I am not persuaded that disclosure of the requested documents would be in the public interest.

I am satisfied that the primary decision remains the correct and preferable decision, and I agree with the primary decision-maker's findings and the reasons underpinning those findings. Accordingly, I adopt and affirm those findings and reasons as my own for the purposes of this internal review.

Review rights

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

¹ FOI Guidelines combined November 2019 published on the web site of the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/>.

² This view was expressed by the Administrative Appeals Tribunal in *Thomas and Secretary, Department of Defence* (Freedom of information) [2018] AATA 604 at 141.

Complaint rights

You may make a complaint to the Information Commissioner about the Department's actions in relation to this request. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J Reid', with a stylized flourish at the end.

John Reid
First Assistant Secretary
Government Division

28 April 2020