



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2020/283

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Trav S

DECISION BY: Mr Peter Rush
Assistant Secretary
Parliamentary and Government Branch

By email: foi+request-6964-dbf658c9@righttoknow.org.au

Dear Trav S

I refer to your email of 8 December 2020 in which you made a request to the Department of the Prime Minister and Cabinet (the **Department**) under the *Freedom of Information Act 1982* (the **FOI Act**) in the following terms:

The April 2019 "Humanitarian Overseas Service Medal Guide to Eligible Groups" cites "Palladium Group Pty Ltd" as an eligible organisation for the medal. For the public interest, please provide a copy of the Department's assessments justifying the award to Palladium Group Pty Ltd.

Authorised decision-maker

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

Document relevant to the terms of your request

The Department has identified one document relevant to the terms of your request (the **requested document**):

- Brief with reference number MS18-005187 dated 18 December 2018 from the Department to the then Assistant Minister to the Prime Minister, the Hon Steve Irons MP, titled 'Humanitarian Overseas Service Medal – Declarations for Events in the Philippines, [redacted], Vanuatu [redacted]'.

Decision

I have decided to grant access, in part, to the requested document, with information exempt under section 33(a)(iii) of the FOI Act and irrelevant material deleted under section 22 of the FOI Act.

A copy of the requested document in a form that can be released to you is **attached** to this decision.

In making this decision, I have had regard to the following material:

- your FOI request;
- the requested document;
- the FOI Act;
- the ‘Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*’ (the **FOI Guidelines**).

Reasons

Section 33(a)(iii) of the FOI Act – damage to the international relations of the Commonwealth

Section 33(a)(iii) of the FOI Act provides that:

A document is an exempt document if disclosure of the document under this Act:

- (a) *would, or could reasonably be expected to, cause damage to:*
- ...
- (iii) *the international relations of the Commonwealth;*

The FOI Guidelines state that:

The phrase ‘international relations’ has been interpreted as meaning 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. The exemption is not confined to relations at the formal diplomatic or ministerial level. It also covers relations between Australian Government agencies and agencies of other countries.

The mere fact that a government has expressed concern about a disclosure is not enough to satisfy the exemption, but the phrase does encompass intangible or speculative damage, such as loss of trust and confidence in the Australian Government or one of its agencies. The expectation of damage to international relations must be reasonable in all the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship. There must also be real and substantial grounds for the exemption that are supported by evidence. These grounds are not fixed in advance, but vary according to the circumstances of each case.

For example, the disclosure of a document may diminish the confidence which another country would have in Australia as a reliable recipient of its confidential information, making that country or its agencies less willing to cooperate with Australian agencies in future. On the other hand, the disclosure of ordinary business communications

between health regulatory agencies revealing no more than the fact of consultation will not, of itself, destroy trust and confidence between agencies.¹

Part of the requested documents contains information that would, or could reasonably be expected to, cause damage to the international relations of the Commonwealth. I am therefore satisfied that part of the requested document is exempt under section 33(a)(iii) of the FOI Act.

Section 22 of the FOI Act – irrelevant material

Section 22 of the FOI Act provides that exempt or irrelevant information may be deleted from a copy of a document, and access granted to such an amended copy where it is reasonably practicable to do so, unless it is apparent that the applicant would not wish to have access to such a copy.

The requested document contains the following irrelevant material:

- material subject to the Department’s redaction policy advised to you on 11 December 2020 namely:
 - any person’s signature;
 - names and contact details of Australian Public Service officers not in the Senior Executive Service;
 - the names and contact details of Ministerial staff at a level below Chief of Staff; and
- material that is not within the scope of the FOI request, that is, material which does not constitute ‘the Department’s assessments justifying the award to Palladium Group Pty Ltd’.

I find that it is reasonably practicable to copy the requested document with the exempt or irrelevant information deleted, and that you would wish to be granted access to the requested documents with the deletions.

Publication of documents

Under section 11C of the FOI Act, the Department will arrange to publish the document released to you on the Department’s FOI Disclosure Log.

Processing and access charges

I have decided not to impose charges in respect of your request.

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/>.

Complaint rights

You may make a complaint to the Information Commissioner about the Department’s actions in relation to a 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

¹ FOI Guidelines, [5.36] – [5.38] (footnotes omitted).

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 black ink, appearing to read 'Peter Rush', written in a cursive style.

Peter Rush
Assistant Secretary
Parliamentary and Government Branch

21 January 2021