



FOI Reference: LEX 6985

File No: 22/34416

February 2023

BE

By email: foi+request-9704-7e13591c@righttoknow.org.au

Dear BE

Re: Freedom of Information Request

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982 (Cth)* (FOI Act).

I have identified documents relevant to your request. After careful consideration, I have decided to release the documents in part.

Request

On 16 December 2022, you requested access to:

Talking Points relating to the decision of the Government to change Australia's recognition of Israel's capital.

In particular, I seek access to the following documents under the FOI Act:

- 1. Any departmental talking points prepared in relation to this issue between 17-19 October 2022 inclusive. Note I do not require drafts and if the document includes any personal information of public servants this can be redacted as irrelevant under s.22 of the FOI Act.*
- 2. Any Whole of Government talking points provided by DFAT to other agencies between 17 - 19 October 2022 inclusive in relation to this issue. Note I do not require drafts and if the document includes any personal information of public servants this can be redacted as irrelevant under s.22 of the FOI Act.*
- 3. Any talking points provided to Ministers or Ministerial offices (including the Prime Minister or PMO) in relation to this decision between 17-19 October 2022 inclusive. If the TPs were provided by email I am also seeking a copy of the emails between the department and relevant Ministerial office. Note that if the document includes any personal information of public servants this can be redacted as irrelevant under s.22 of the FOI Act.*

In relation to the Government's decision to change Australia's recognition of Israel's capital, please provide the whole-of government talking points DFAT provided to other agencies between Monday 17 October and Wednesday 19 October 2022.

Reasons

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests, and have been appointed to be the decision-maker on your request.

In making my decision I have taken into account:

- the terms of your request;
- the documents that fall 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.

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 section of the FOI Act, these are available at www.legislation.gov.au.

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 disclosure would, or could reasonably be expected to, cause damage to Australia's international relations. 'International relations' refers to the ability of the Australian Government to maintain good working relations with other governments and international organisations (FOI Guidelines, paragraph 5.36).

Consistent with paragraphs 5.16-5.18 and paragraph 5.25 of the FOI Guidelines, I have examined the documents relevant to the scope of your request and assessed the likelihood of potential damage resulting from disclosure. I have determined that it is reasonable to expect that the disclosure of some material within the documents could cause damage to the international relations of the Commonwealth.

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 of your request (section 22(1)(a)(ii) of the FOI Act). This includes material that is not related to the departments talking points, as well as material which is related to persons other than you.

In determining what is relevant to your request, I have also taken note of your email in which you have sought that personal information of public servants be considered as irrelevant under (section 22(1)(a)(ii) of the FOI Act).

Review

Your review rights are 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 at foi@dfat.gov.au.

Yours sincerely

Steven Barraclough
Assistant Secretary
Afghanistan Branch

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 days of the date of receiving this letter.

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 within 60 days of the date of receiving this letter to the Australian Information Commissioner to review my decision (section 54L of the FOI Act).

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: <https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>