

PROTECTED



COPY

SENATOR THE HON RICHARD COLBECK

Minister for Aged Care and Senior Australians
Minister for Youth and Sport

Ref No: MS21-900186

Senator Wendy Askew
Chair
Community Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

13 MAY 2021

Dear Chair

I refer to Question on Notice no. 352 asked by Senator the Hon Don Farrell on 24 March 2021 (SQ21-000374). I note that this question requests a copy of the talking points memo prepared by staff within Senator the Hon Bridget McKenzie's office for her meeting with the Prime Minister, the Hon Scott Morrison MP, on 28 November 2018 and any other relevant documents, including attachments, spreadsheets and briefs.

The documents that fall within the scope of this request were originally created by a ministerial advisor to Senator McKenzie, and the Department of Health does not have possession or control of the original documents. The Department only accessed a copy of the original documents by virtue of a request from the Secretary of the Department of the Prime Minister and Cabinet, Mr Philip Gaetjens, and the assistance provided by the Department as part of Mr Gaetjens' report to the Prime Minister under the Statement of Ministerial Standards into the administration of the Community Sport Infrastructure Grants Program by Senator McKenzie (report). The Department notes that permission was provided by Senator McKenzie's office to access the documents for that purpose.

As a result of this involvement, the requested documents are attached to an email from the former Chief Operations Officer of the Department of Health to the Department of the Prime Minister and Cabinet. This email was created and sent for the purpose of providing information to Mr Gaetjens in preparation of his report to the Prime Minister. We understand the report was prepared for the dominant purpose of consideration by the Governance Committee of Cabinet and was the subject of deliberations by that Committee of the Cabinet.

Accordingly, I claim Public Interest Immunity in relation to providing a response to this Question on Notice on the grounds that disclosure of the requested information would or could disclose the deliberations of the Cabinet – or a Committee of the Cabinet.

PROTECTED

PROTECTED

2

The confidence of Ministers now and into the future in the confidentiality of the Cabinet process would be diminished if the details of Cabinet deliberations were to be disclosed prior to the open access period provided for in the *Archives Act 1983*. Disclosure prior to the open access period risks harm through a weakening of adherence by current and future Ministers to the formal process for confidentiality of matters for consideration by Cabinet, draft and final Cabinet documents, briefing and record keeping of Cabinet. Furthermore, unless Ministers can be assured of the confidentiality of Cabinet meetings, they may not speak freely or honestly between themselves and may be more likely to suppress their views on present policies that may be unpopular or politically embarrassing. Any of these outcomes would ultimately impact negatively on Australia's national interest.

Compromise of the confidentiality of Cabinet would cause current and future Cabinet Ministers, as well as the officials tasked to brief them about matters to be discussed, to apprehend that what was written by them for the purpose of Cabinet and what was discussed in meetings may not remain confidential, and therefore temper what they wrote or said in the course of Cabinet processes (including Cabinet committees). This would undermine the process of decision-making and policy deployment in Australia, and could have a particularly adverse effect on the ability of Cabinet meetings to provide a forum in which comprehensive and candid discussion by Ministers could take place.

Yours sincerely



Richard Colbeck

cc: Committee Secretary
Senate Standing Committees on Community Affairs
Parliament House
Canberra ACT 2600

PROTECTED