



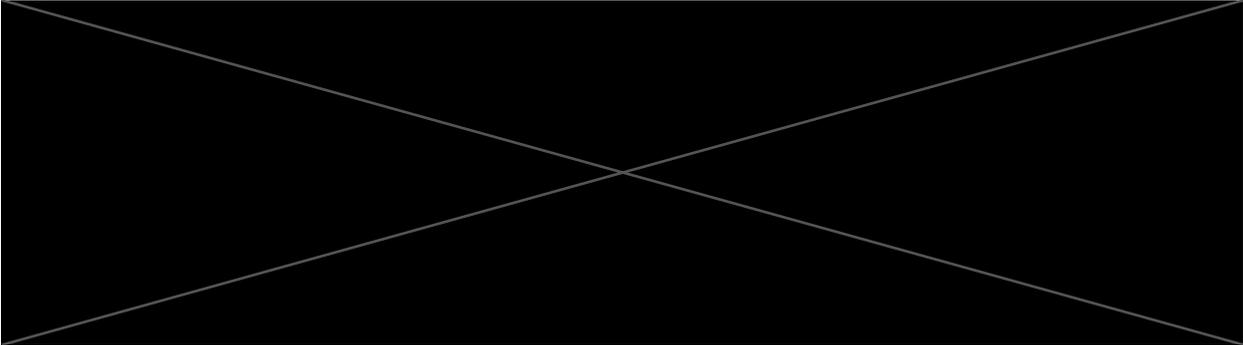
Women Women <women@womensactionall.org>

RE: Freedom of information request, Governor-General's patronage of Equality Australia [SEC=OFFICIAL]

Women Women <women@womensactionall.org>

1 April 2025 at 14:34

To: "Shared FOI & IPS Mailbox" <FOI.IPS@ov.au> FOIcontactofficer@ov.au



Subject: Request for Internal Review – FOI Decision FOI2025021

Dear FOI Contact Officer,

I am writing to request an internal review of the decision dated 18 March 2025 regarding my FOI request (Ref: FOI2025021). I respectfully submit that the decision is flawed both procedurally and legally, and I request that it be reviewed for the reasons set out below.

1. Failure to Conduct a Document Search

The decision refers to “documents (should they exist)” and concludes that “no documents or categories of documents (if they exist) relate to matters of an administrative nature” and that, accordingly, “it is not open to you to obtain access to the documents under the FOI Act.” This phrasing suggests that no search or retrieval process was conducted and therefore no documents were reviewed or assessed against the threshold in section 6A(1) of the *Freedom of Information Act 1982*.

This approach does not reflect the process contemplated by the Act or established administrative practice. Agencies are expected to identify documents relevant to the terms of a request and then assess whether those documents fall within the scope of any applicable exclusion or exemption.

The exemption in section 6A is no exception to that process. This is clear from the language of section 6A, which states that the Act does not apply unless ‘the document’ (not ‘the requested documents’ or ‘the category of requested documents’) relates to matters of an administrative nature.

Section 6A does not create a blanket exemption for whole categories of requests. A valid refusal under section 6A therefore requires locating any document within the scope of the request and then assessing whether each document relates to matters of administration or not.

A refusal without undertaking this step undermines both the intent of section 6A and the Act's core principles of transparency, accountability, and procedural fairness. If a search was conducted but not disclosed, the absence of that information has prevented me from properly understanding the basis for the refusal and limited my ability to seek an informed review of the decision.

2. The Implementation of the Patronage Policy Is Administrative in Nature

The documents sought in this case concern the implementation of an internal policy by the Office of the Official Secretary — a role that is administrative in nature. The decision-maker's reliance on *Kline v Official Secretary to the Governor-General* will be addressed below, but it is important to first explain why the nature of this request places it within the scope of the FOI Act.

The OOSGG Patronage Policy sets out a series of structured procedures and considerations for managing applications for patronage. These include the receipt and documentation of requests, triage of applications through a staff-level Planning Committee, referral of certain matters for internal or external consultation —as well as following prescribed procedural steps in handling reputational issues where reputational issues may arise.

These are features of administrative implementation — focused not on the exercise of substantive discretion by the Governor-General, but on the internal operations of the Office in managing and applying a standing policy. The title — “OOSGG Policy – Patronages” — further indicates that the policy originates from the Office of the Official Secretary to the Governor-General, the administrative body that supports the Governor-General's functions.

As outlined above, section 6A requires a document-by-document assessment of whether a record relates to the procedural or administrative matters covered by the OOSGG Policy on patronages. Where it does, the document falls within the scope of the Act and is subject to the FOI framework — including the public interest objective that underpins the Act's operation.

3. Misapplication of *Kline v Official Secretary to the Governor-General*

The decision-maker relies on *Kline v Official Secretary to the Governor-General* [2013] HCA 52 to conclude that the documents sought are outside the scope of the FOI Act. However, *Kline* does not support a blanket refusal of all documents relating to a Governor-General function. In *Kline*, the High Court held that documents relating to the conferral of

honours were excluded from the Act because they concerned the Governor-General's substantive powers. The Court contrasted such documents with those of an administrative nature, noting that the exception in section 6A "connotes documents which concern the management and administration of office resources or the provision of logistical support."

The Court's use of the word "*connotes*" is significant — it illustrates that these are examples, not limitations. *Kline* does not exclude documents that relate to how an internal policy is applied in practice, nor does it support a refusal to release documents relating to the procedural implementation of the Patronage Policy by the office of the Official Secretary.

A narrow reading of *Kline* — one that treats its reference to office resource management and logistical support as an exhaustive definition — risks applying the judgment as if it rewrote section 6A(1). But the statutory language refers more broadly to documents that "relate to matters of an administrative nature," and *Kline* does not suggest that Parliament intended to confine this phrase to a closed set of examples. Such an approach undermines the purpose of the FOI Act, which is to promote access to government-held information subject only to necessary and proportionate limitations.

4. Reiteration of the Intent and Scope of the Request

To assist with the internal review, I reiterate the intent and scope of my original request. The request was not directed at obtaining documents relating to the Governor-General's personal deliberations or the exercise of her substantive powers. Rather, it was directed at documents held by the Office of the Official Secretary concerning how the Patronage Policy was applied or operationalised in relation to the Governor-General's patronage of Equality Australia.

Specifically, I sought administrative documents relating to:

- How the Patronage Policy's requirements for reputational risk assessment and consultation were implemented;
- Internal governance processes or procedural steps taken by the Office in connection with the patronage;
- Interpretive or procedural guidance concerning the application of the policy to organisations engaged in advocacy.

These are, in my view, clearly administrative in nature, and distinct from any document recording or reflecting the Governor-General's personal decision to become a patron. I trust this reiteration will assist in properly identifying and assessing any responsive documents during the internal review process.

5. Public Interest and Objects of the FOI Act

This request arises from public interest in the administrative processes surrounding the Governor-General's patronage of an organisation the Federal Court found to be primarily

an advocacy body. There is a legitimate interest in understanding how the Office followed the procedural safeguards and consultation requirements in its Patronage Policy.

Disclosure of the documents sought would promote the objectives of the FOI Act, including:

- Promoting public participation in government processes, with a view to better-informed decision-making (s 3);
- Increasing scrutiny, discussion, comment and review of government activities (s 3);
- Informing public debate on a matter of public importance (s 11B).
Transparency in how the Governor-General's Office applies its own policies is essential to maintaining public trust in the impartiality and integrity of the institution it represents.

I thank you for your attention to this request for internal review and look forward to your response.

Yours Faithfully,

Megan Poore