



**Australian Government**

**Department of Broadband,  
Communications and the Digital Economy**

Our reference: FOI 20-1213

Your reference: [foi+request-26-42352d77@righttoknow.org.au](mailto:foi+request-26-42352d77@righttoknow.org.au)

**FREEDOM OF INFORMATION REQUEST No. 20-1213  
Geordie Guy, Righttoknow.org.au**

**ACCESS DECISION  
STATEMENT OF REASONS**

I, Andrew Madsen, Assistant Secretary, Governance Branch, Corporate and Business Division of the Department of Broadband, Communications and the Digital Economy (**the Department**):

- (a) being authorised by the Secretary under subsection 23(1) of the *Freedom of Information Act 1982* (the FOI Act) to make decisions about access to documents under the FOI Act; and
- (b) required under section 26 of the FOI Act to provide a Statement of Reasons for my decision,

make the following statement setting out my findings on material questions of fact, referring to the evidence or other material upon which those findings were based and giving the reasons for my decision.

**A. DECISION**

1. I decide that:

- documents **11, 15, 16, 19, 30, 31, 34, 39, 43, 44, 45** and **47** are exempt for the purposes of section 31B of the FOI Act (in accordance section 47F and subsection 11A(5) of the FOI Act) and that an edited version of each document with the exempt matter deleted can be released in accordance with section 22 of the FOI Act;
- document **2** is to be released in full; and
- all of the documents listed in the Schedule at **Attachment A** (except for document **2**, which is to be released in full) include information that could reasonably be regarded as irrelevant to the request and that these documents are to be released with the irrelevant parts (and any exempt matter) deleted in accordance with section 22 of the FOI Act.

## **B. FINDINGS ON MATERIAL QUESTIONS OF FACT**

2. On 29 November 2012, the Department received an FOI request from Geordie Guy, via Righttoknow.org.au (the Applicant) seeking access to the following documents under section 15 of the FOI Act:
  - Documents which relate to the distribution of the Department's 'Cybersafety Help Button' by third party platforms such as Apple's App Store or Google Play, including submissions to those services for review and inclusion (where applicable) and documents which comprise the outcome of those submissions.
3. The documents covered by the Applicant's request that are held by the Department are listed in the Schedule attached to this Statement of Reasons at **Attachment A**.
4. I have decided not to impose any charges in relation to the processing of this FOI request.

## **C. MATERIAL ON WHICH MY FINDINGS OF FACT ARE BASED**

5. I based my findings of fact on the following material:
  - the content of the documents falling within the scope of the Applicant's request;
  - the relevant provisions of the FOI Act;
  - the Guidelines issued by the Australian Information Commissioner under section 93A of the Freedom of Information Act 1982 (the FOI Guidelines); and
  - the Department's Guidelines for Processing Freedom of Information Requests (as approved by the Secretary on 13 July 2011).

## **D. REASONS FOR MY DECISION**

6. Where the Schedule of documents indicates an exemption claim has been applied to a document, my findings of fact and reasons for deciding that the exemption provision applies to that document are set out below.

### ***Section 47F – Public interest conditional exemptions – personal privacy***

7. Section 47F of the FOI Act is a conditional exemption provision, which provides:
  - (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
  - (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
    - (a) *the extent to which the information is well known;*

- (b) *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
  - (c) *the availability of the information from publicly accessible sources;*
  - (d) *any other matters that the agency or Minister considers relevant.*
- (3) *Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

#### *Personal information*

8. 'Personal information' is defined in section 4 of the FOI Act as:

*information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.*

9. Under subsection 11A(5) of the FOI Act, the agency or minister must give the Applicant access to a document if it is conditionally exempt at a particular time, unless (in the circumstances), access to the document at that time would, on balance, be contrary to the public interest.
10. I have determined that documents **11, 15, 16, 19, 30, 31, 34, 39, 43, 44, 45** and **47** contain personal information about certain individuals.
11. Specifically, these documents contain names, fax numbers, telephone numbers (including mobile phone numbers) and email addresses of certain individuals.
12. Disclosure of the personal information contained in these documents would enable the identity of the relevant individuals to be reasonably ascertained. I am satisfied that these details constitute 'personal information' for the purposes of section 4 of the FOI Act.

#### *Conditionally exempt material*

13. In determining whether disclosure of the above information would involve the unreasonable disclosure of personal information, I have considered the following matters, consistent with subsection 47F(2) of the FOI Act:
- the personal information contained in these documents is not 'well known';
  - it is unlikely that the people to whom the personal information relates are known to be associated with the matters dealt with in the documents; and
  - the personal information contained in the documents is not available from publicly accessible sources.
14. After consideration of the above matters, I find that the release of this information would involve the unreasonable disclosure of personal information.

15. My decision that release of certain material contained in the documents would be an unreasonable disclosure of personal information is further supported by the fact that information released under FOI is not subject to any confidentiality conditions. Disclosure of information under FOI is effectively disclosure to the world at large.
16. I therefore find that the documents **11, 15, 16, 19, 30, 31, 34, 39, 43, 44, 45** and **47** contain material which is conditionally exempt under section 47F of the FOI Act.

*Overview of the public interest test in relation to the documents*

17. Section 11A of the FOI Act relevantly provides:

- (5) *The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.*
- (6) *Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:*
  - (a) *a conditionally exempt document; and*
  - (b) *an exempt document:*
    - (i) *under Division 2 of Part IV (exemptions); or*
    - (ii) *within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).*

18. In applying the public interest test, I am required to have regard to subsection 11B(3) of the FOI Act, which sets out factors favouring access in the public interest, including where access would:

- promote the objects of the FOI Act;
- inform debate on a matter of public importance;
- promote effective oversight of public expenditure; and
- allow a person to access his or her own personal information.

*Public interest considerations*

19. To determine if the disclosure would be contrary to the public interest, I have weighed up the public interest for and against disclosure in accordance with subsection 11A(5) of the FOI Act, and have taken into account:
  - the extent to which disclosure would promote the objects of the FOI Act;
  - the extent to which disclosure would assist in informing debate on a matter of public importance;
  - the extent to which disclosure would promote effective oversight of public expenditure;

- the extent to which disclosure would allow a person to access his or her own personal information; and
  - the extent to which disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy.
20. In relation to the first two dot points in paragraph 19 above, I consider that the conditionally exempt personal information does not appear to be material to understanding the subject matter contained in the documents and withholding the personal information does not appear to diminish the ability to understand the relevant documents. Therefore, withholding the personal information does not detract from the ability of the documents to assist in informing debate on a matter of public importance and would only have marginal, if any, value in promoting the objects of the FOI Act.
  21. In relation to the third dot point in paragraph 19 above, I consider that the disclosure of the conditionally exempt personal information would not appear to promote effective oversight of public expenditure.
  22. In relation to the fourth dot point in paragraph 19 above, I consider that the disclosure of the conditionally exempt personal information would not allow a person to access his or her own personal information.
  23. In relation to the fifth dot point in paragraph 19 above, I consider that disclosing the conditionally exempt personal information could reasonably be expected to prejudice the protection of an individual's right to privacy.
  24. Following consideration of these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the conditionally exempt personal information that is contained in the documents is outweighed by the public interest against disclosure. This is primarily because, on balance, very limited public purpose would be achieved through the release of this information and the release of the information could reasonably be expected to prejudice the protection of an individual's right to privacy.
  25. Therefore, I have decided that it would be contrary to the public interest to give access to the conditionally exempt personal information that is contained in documents **11, 15, 16, 19, 30, 31, 34, 39, 43, 44, 45** and **47** and that this material is exempt under subsection 47F(1) of the FOI Act. As discussed below, I have decided to release these documents with the exempt matter redacted.

## ***Section 22 – Access to edited copies with exempt or irrelevant material deleted***

26. Section 22 of the FOI Act provides in effect that, if the Department decides that granting access to a document would disclose information that would be exempt or would reasonably be regarded as irrelevant to the request, then, where it is reasonably practicable to prepare a copy with deletions, such a copy should be provided.
27. In deciding whether the documents contain information that could reasonably be regarded as irrelevant to your FOI request, I have considered the Department's general policy that where personal details of non-SES staff are not necessary to understand the context or subject matter of a document, those details will be considered irrelevant.

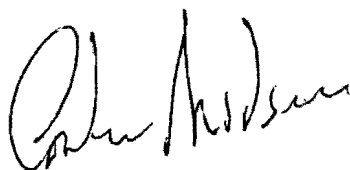
28. I find that all of the documents listed in the Schedule at **Attachment A** (except for document 2, which is to be released in full) contain information that could reasonably be regarded as irrelevant to your FOI request, including details of non-SES staff of the Department and lodgement reference ID numbers.
29. For the reasons discussed above, I have also found that documents **11, 15, 16, 19, 30, 31, 34, 39, 43, 44, 45** and **47** contain exempt matter under the FOI Act.
30. I have decided to apply section 22 of the FOI Act to delete irrelevant or exempt matter in respect of the above documents in order to facilitate the release of the remainder of those documents, as set out in the Schedule of Documents at **Attachment A**.

**E. PROVISION OF DOCUMENTS**

31. Documents to be released to the Applicant are provided with this decision.

**F. REVIEW RIGHTS**

32. This decision is subject to review under section 54 and/or 54L of the FOI Act. The Office of the Australian Information Commissioner's *FOI Fact Sheet 12 – Your review rights* is attached for your information.



Andrew Madsen  
Assistant Secretary  
Governance Branch

19 December 2012