



**OFFICE OF THE HON PETER DUTTON MP
MINISTER FOR DEFENCE**

DMO FOI 004/20/21

Mr Ben Fairless
Right to Know
foi+request-7341-fcabe098@righttoknow.org.au

Dear Mr Fairless

I refer to your application under the *Freedom of Information Act 1982* (FOI Act) for access to:

"I request a screen shot of each screen on the Minister's phone which shows the applications installed on the phone. This is commonly referred to as the "Home Screen."

DECISION MAKER

I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

DOCUMENTS IDENTIFIED

I identified documents as matching the description of the request.

DECISION

I have decided to deny access to the documents in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the information is considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act; and

Material taken into account

In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in the FOI Act; and
- d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

REASONS FOR DECISION

Section 47F – Personal Privacy

Section 47F of the FOI Act states:

“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).”

‘Personal information’ is defined in section 4 of the FOI Act as the same meaning as the in *Privacy Act 1988* as:

‘information or an opinion about an identified individual, or an individual who is reasonably identifiable

- (a) whether the information or opinion is true or not; and*
- (b) whether the information or opinion is recorded in a material form or not.’*

I found one document contains personal information regarding an individual. This information would reasonably identify an individual, and satisfies the definition of ‘personal information’ in section 47F of the FOI Act.

The test of ‘unreasonableness’ implies a need to balance the public interest in disclosure of government-held information and protecting the privacy of individuals. I found, for the reasons set out below, that the disclosure of the above mentioned ‘personal information’ would be considered to be unreasonable.

The Guidelines note that *‘the personal privacy exemption is designed to prevent the ‘unreasonable’ invasion of third parties’ privacy’*. In accordance with section 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, I had regard to:

- 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 documents;
- c. the availability of the information from publicly accessible sources; and
- d. any other matters that the agency considers relevant.

Against those criteria, I found that:

- a. the specific information and details relating to the individuals is not well known to the broader community;
- b. the specific information is not readily available from publicly accessible sources; and
- c. the specific information is information that individuals would not wish to have disclosed without their consent.

Taking into account the above factors, I consider that the release of the information would be an unreasonable disclosure of personal information and is conditionally exempt under section 47F of the FOI Act.

Section 47F - Public interest considerations

I have found that material contains conditionally exempt material under section 47F of the FOI Act. Section 11A(5) provides that, if a document is conditionally exempt, it must be disclosed 'unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest'.

I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factor being that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.

However, disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).

Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice:

- a. the protection of an individual's right to privacy;
- b. the interests of an individual or a group of individuals;
- c. an agency's ability to obtain similar information in the future; and
- d. the management function of an agency;

It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F(1) of the FOI Act.

None of the factors listed in section 11B(4) [Irrelevant Factors] were taken into account when making my decision.

Yours sincerely



Alexander Dagleish
Accredited Decision Maker
Office of the Minister for Defence

28 June 2021