



OFFICIAL

## Freedom of Information (FOI) request

### Notice of Decision

Reference: FOI/2022/223

To: Blair

Email: [foi+request-9277-34b331ce@righttoknow.org.au](mailto:foi+request-9277-34b331ce@righttoknow.org.au)

Dear Blair

I refer to your email of 16 August 2022 in which you made a request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

### Scope of request

*I am seeking all current Organisation Charts and Contact Lists for staff in the Communications Branch of the Department of Prime Minister and Cabinet.*

*I am not seeking the general chart available on the Department's website  
<https://www.pmc.gov.au/sites/default/files/pmc-org-chart-080822.pdf>*

### Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

### Material taken into account

In reaching my decision I referred to the following:

- the terms of your request
- searches undertaken by the Department
- my knowledge of the subject matter
- the FOI Act
- the FOI Guidelines issued by the Information Commissioner<sup>1</sup> (the Guidelines)

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<sup>1</sup> s 93A of the FOI Act

## Decision

Section 17 of the FOI Act provides as follows:

(1) *Where:*

- a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;*
- b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and*
- ba )it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and*
- c) the agency could produce a written document containing the information in discrete form by:*
  - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or*
  - (ii) the making of a transcript from a sound recording held in the agency;*

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

The document you requested did not exist in a discrete form at the time of your request. Following reasonable searches of systems ordinarily used by the Department, the Department has produced a document containing the information you have requested.

I have decided to treat your request as if it were a request for access to the document created in accordance with section 17 of the FOI Act. I have decided to release this document to you in part.

My findings of fact and reasons for deciding that parts of the document are exempt are set out below.

### Reason for decision

#### 1. Section 47E – Public interest conditional exemption – certain operations of agencies

Subsection 47E(d) of the FOI Act provides:

*A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to ...*

- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

The Guidelines explain that a decision maker is required to assess whether ‘the predicted effect needs to be reasonably expected to occur.’<sup>2</sup>

The release of these the staff internal phone numbers would reasonably be expected to result in non-official communications or public inquiries via these numbers, effectively bypassing established channels for members of the public to contact and make enquiries to the Department.<sup>3</sup> These centralised contact measures have been established to ensure that that individual units within the Department are able to efficiently undertake their day to day operations. Disclosure of these contact details would not only result in unnecessary and wasteful duplication of process, but would place additional pressures on the Communications Branch which is not resourced to triage and manage direct contact and inquiries from members of the public. Disclosure would reasonably expected adversely affect the Department’s ability to respond effectively to urgent official communications that form part of its day to day operations.

I am satisfied that a diversion of the Department’s resources to manage non-official communications could reasonably be expected to have an adverse effect on the proper and efficient conduct of its operational responsibilities, and that the parts of the document containing this material is conditionally exempt in part under subsection 47E(d) of the FOI Act.

## 2. Section 47F – Conditional exemption – personal privacy

Section 47F(1) provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.

### Personal information

I am satisfied that the document contains the personal information of members of staff of the Department’s Communications Branch and from which individual staff members can be readily identified within the context of their roles within the Communications Branch.

### Unreasonable disclosure

The Guidelines issued by the Australian Information Commissioner note at paragraph 6.138 that “the test of ‘unreasonableness’ implies a need to balance the public interest in disclosure of government – held information and the private interest in the privacy of individuals”, however “it does not amount to the public interest test at section 11A(5), which follows later in the decision making process.” The Guidelines also note that what is considered unreasonable requires a consideration of all the circumstances.

Section 47F(2) lists factors an agency must have regard to in determining whether disclosure would be unreasonable:

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<sup>2</sup> 6.101 of the Guidelines

<sup>3</sup> [PMC website contact page](#)

- 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 considers relevant.

The Guidelines also note other key factors for determining whether disclosure is unreasonable include

- a) the documents contain third party personal information
- b) release of the document would cause stress on the third party
- c) no public purpose would be achieved through release

I note that the Commissioner's Guidelines at par 6.153 state that where public servants' personal information is included in a document because of their usual duties or responsibilities, it would not be unreasonable to disclose unless special circumstances existed. I am of the view that the document does not contain any information that relates to departmental business other than an internal organisational structure of a business unit, and that release of a document that contains only the personal information of Communications Branch staff would not provide any details about the carriage of their usual duties or responsibilities. The personal information contained in the document is not well known outside the Department and is not publicly available from any other source.

In this instance, and with regard to the factors given in the Commissioner's Guidelines, I am satisfied that release of the personal information would be unreasonable in this instance and the document is exempt.

### **Public interest**

The FOI Act provides that a conditionally exempt document must nevertheless be disclosed unless its disclosure would, on balance, be contrary to the public interest<sup>4</sup>. In determining whether its disclosure would be contrary to the public interest, the FOI Act requires a decision-maker to balance the public interest factors.

As I have decided that parts of the documents are conditionally exempt I am now required to consider the public interest factors. In doing so I have not taken into account the irrelevant factors as set out in subsection 11B(4) of the FOI Act, which include that:

- a) *access to the document could result in embarrassment to the Commonwealth Government, or cause a loss in confidence in the Commonwealth Government*
- b) *access to the document could result in any person misinterpreting or misunderstanding the document*
- c) *the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made*

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<sup>4</sup> subsection 11A(5) of the FOI Act

*d) access to the document could result in confusion or unnecessary debate*

In applying the public interest test, I have noted the objects of the FOI Act<sup>5</sup> and the factors favouring access as listed in subsection 11B(3) of the FOI Act. Having regard to the material before me and the circumstances of the documents found to be conditionally exempt I am satisfied of the following:

- access would promote the objects of the FOI Act<sup>6</sup>
- the subject matter of the documents in which the conditionally exempt material is located may inform debate on a matter of public importance; however, the conditionally exempt elements of the documents do not seem to have the character of public importance, being limited to names and contact details which may only be of interest to a narrow section of the public
- the conditionally exempt material in the documents does not offer any insights into public expenditure
- I am satisfied that your personal information is not contained within the conditionally exempt documents and therefore paragraph 11B(3)(d) is not a relevant factor to favour access

The FOI Act does not set out any public interest factors against disclosure and require that agencies are to have regard to the Guidelines in order to work out if disclosure would, on balance, be contrary to the public interest<sup>7</sup>. The Guidelines contain a non-exhaustive list of factors that, depending on the circumstances of the documents found to be conditionally exempt, may weigh against disclosure.

In relation to the information in the documents that I have found to be conditionally exempt under subsection 47E(d) of the FOI Act I consider the release of this material could reasonably be expected to prejudice the efficient and proper conduct of the Department's operations. This factors against disclosure.

In relation to the information in the documents I have found to be conditionally exempt under subsection 47F(1) the disclosure of the information could reasonably be expected to prejudice the protection of individuals' right to privacy. I give weight to this factor against disclosure

The disclosure of the limited amount of personal information in the form of names and contact numbers would not bring further clarity to operations of the Branch and not materially promote the objects of the FOI Act.

After careful consideration of all relevant factors I have decided that, on balance, the factors against disclosure outweigh those favouring disclosure. Accordingly, I am of the view that disclosure of the conditionally exempt material would be contrary to the public interest and this material is exempt under subsections 47E(d) and 47F(1).

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<sup>5</sup> section 3 of the FOI Act

<sup>6</sup> paragraph 11B(3)(a) of the FOI Act

<sup>7</sup> subsection 11B(5) of the FOI Act

## Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

### Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after the date of 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 from the date it is received.

Applications for review should be sent to [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

### Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days after the date of this letter.

More information about [Information Commissioner review<sup>i</sup>](#) is available at the Oaic website.

## FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. More information about complaints is available [on the FOI Commissioner's website<sup>ii</sup>](#).

If you wish to discuss any aspect of your request, you can contact the FOI Section by email at [foi@pmc.gov.au](mailto:foi@pmc.gov.au).

Yours sincerely



Dana Robertson  
Assistant Secretary  
Communications Branch | Ministerial Support Division  
Department of the Prime Minister and Cabinet  
7 October 2022

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<sup>i</sup> [www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/](http://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/)

<sup>ii</sup> [www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint](http://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint)