



OFFICIAL

## Freedom of Information (FOI) request

### Notice of Decision

References: FOI/2022/252

To: BE  
Foi+request-9326-80283f98@righttoknow.org.au

Dear BE,

I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 30 August 2022.

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

### Scope of request

On 30 August 2022 you set out your request in the following terms:

*I seek documents relating to the meeting and press conference attended by the Prime Minister, Minister Burney and Shaquille O'Neal and press conference held on 27 August 2022 (<https://www.pm.gov.au/media/press-conference-sydney-3>).*

*In particular I seek all communication (including emails, messages, advice, briefings, talking points etc) between the Department and the Prime Minister or Minister Burney (or their respective offices) in relation to the meeting or the press conference.*

### 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 and inquiries undertaken by the Department

- the documents relevant to your request
- the FOI Act
- the Guidelines issued by the Information Commissioner<sup>1</sup> (the FOI Guidelines)

## Documents in scope of request

The Department has identified four documents that fall within the scope of your request.

These documents are set out in the Schedule of Documents at **Attachment A**.

## Decision

I have decided to grant access to one document in full, with irrelevant material deleted, and to three documents in part, with exempt and irrelevant material deleted, on the basis that the documents contain information exempt under:

- Section 22 of the FOI Act (irrelevant material), and
- Section 47F of the FOI Act (personal privacy)

## Reasons for decision

My findings of fact and reasons for deciding that certain information is exempt or irrelevant are set out below.

### 1. Personal privacy (section 47F of the FOI Act)

Section 47F(1) of the FOI Act provides:

*(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person*

...

For the purposes of the FOI Act, I note that 'personal information' has the same meaning as in the Privacy Act 1988 (*Privacy Act*).

I have identified third party 'personal information' within the documents, and considered the provisions of section 47F(2), which require me to have regard to:

- (a) the extent to which the information is well known;*
- (b) whether the person is known to be associated with the matters in the document*
- (c) the availability of the information from a public source; and*
- (d) any other matters relevant, for example if it is reasonable to suspect the person would expect their information to be released as part of an FOI request.*

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

Documents 2-4 contain the name, title, employer and contact details of a person who is not associated with the Department. I have considered the circumstances and find that the identified personal information is not well known and this information is not currently available through a public source. I am satisfied the individual concerned would not reasonably expect their information to be released by the Department.

I am satisfied that the parts of documents 2-4 identified as 'personal information', are conditionally exempt from release under section 47F(1) of the FOI Act.

## 2. 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>2</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 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 section 11B(4) of the FOI Act.

In applying the public interest, I have noted the objects of the FOI Act<sup>3</sup> and the factors favouring access as listed in s 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>4</sup>
- access may inform debate on a matter of public importance

The FOI Act does not set out any public interest factors against disclosure and require that agencies are to have regard to the FOI Guidelines in order to work out if disclosure would, on balance, be contrary to the public interest. The FOI 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 material I found to be conditionally exempt under section 47F(1) of the FOI Act, I consider that the following factor weighs against disclosure:

- Disclosure could reasonably be expected to prejudice an individual's personal privacy.

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 personal information within the requested documents would be contrary to the public interest.

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<sup>2</sup> s 11A(5) of the FOI Act

<sup>3</sup> s 3 of the FOI Act

<sup>4</sup> s 11B(3)(a) of the FOI Act

### 3. Deletion of irrelevant matter

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would be reasonably regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonable be regarded as irrelevant to the request.

Document 1 contains information which is not related to the terms of your request. The irrelevant material comprises briefing which is not related to Mr Shaquille O'Neal's visit to Australia, or his meeting with the Prime Minister. I consider this unrelated information to be irrelevant to your request and have prepared an edited copy of the documents, with the irrelevant information deleted.

On 1 September 2022, the Department advised you of its policy to exclude the personal and direct contact details of officers not in the Senior Executive Service (SES) and any Ministerial staff, as well as any person's signature, and the mobile or direct numbers of SES officers, which are contained in documents that fall within the terms of an FOI request. This category of information is identified as irrelevant and documents can be modified by the Department to delete the irrelevant material.

Accordingly I am satisfied that parts of the documents are irrelevant under section 22(1)(a)(ii) of the FOI Act. The remainder of the documents have been released to you.

## 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 is available [here](#).<sup>5</sup>

## 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 [here](#).<sup>6</sup>

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

Yours sincerely



Kimberley McDonald  
Assistant Secretary  
Social Policy Division  
Department of the Prime Minister and Cabinet  
28 September 2022

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<sup>5</sup> <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review>

<sup>6</sup> <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint>