



**OFFICE OF THE HON CLARE O'NEIL MP  
MINISTER FOR HOME AFFAIRS  
MINISTER FOR CYBER SECURITY**

**In reply please quote:**

FOI Request: MO24/05/00002  
File Number: ADF2024/126044

Oliver Smith  
Email: [foi+request-11466-65a007c2@righttoknow.org.au](mailto:foi+request-11466-65a007c2@righttoknow.org.au)

Dear Oliver Smith

**Freedom of Information (FOI) request – Access Decision**

I refer to your correspondence received on 30 May 2024 seeking access to documents held by the Office of the Minister for Home Affairs (the Minister), under the *Freedom of Information Act 1982* (the FOI Act).

**Scope of request**

You have requested access to the following:

*Under the FOI act, I am seeking all correspondence, including emails, from the offices of the Minister for Home Affairs and the Minister for Immigration, Citizenship and Multicultural Affairs sent from 1 January 2024 that references "Peter Dutton".*

The purpose of this letter is to provide you with a decision on your request.

**Authority to make decision**

I am authorised under section 23 of the FOI Act to make decisions on requests to access documents or to amend or annotate records.

**Relevant material**

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)

## Documents in scope of request

I identified two documents as falling within the scope of your request. The documents were in the possession of the Minister's Office on 30 May 2024 when your FOI request was received.

## Decision

The Minister's decision in response to your request is:

- Release two documents in part.

## Reasons for Decision

### ***Section 22 of the FOI Act – irrelevant to request***

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

It is the Minister's policy to exclude the personal details of officers not in the Senior Executive Services (SES) of the Office of the Minister of Home Affairs, as well as the mobile and work telephone numbers of SES staff, contained in the documents that fall within the scope of an FOI request.

I have decided that parts of the documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. I have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the documents have been considered for release as this information is relevant to your request.

### ***Section 47F of the FOI Act – Personal Privacy***

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see section 4 of the FOI Act and section 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties.

The FOI Act states that when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to the following four factors set out in s47F(2) of the FOI Act:

- (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 matter dealt with in the document;
- (c) The availability of the information from publicly accessible sources; and
- (d) Any other matters that the Minister considers relevant.

Having considered each of these factors, I consider the information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources. I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about the third parties.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

#### ***The public interest – section 11A of the FOI Act***

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part. In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the documents would do any of the following:

- (a) Promote the objects of the Act (including all the matters set out in sections 3 and 3A)
- (b) Inform debate on a matter of public importance;
- (c) Promote effective oversight of public expenditure;
- (d) Allow a person to access his or her own personal information.

Having regard to the above I am satisfied that:

- Access to the documents would promote the objects of the FOI Act.
- The subject matter of the documents may have a general characteristic of public importance.
- No insights into public expenditure will be provided through examination of the documents.
- You do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- Disclosure of personal information which is conditionally exempt under section 47F of the FOI Act could reasonably be expected to prejudice the protection of third parties' right to privacy. It is firmly in the public interest that the Minister's Office uphold the rights of individuals to their own privacy, and this factor weighs strongly against disclosure.
- I am satisfied that if I were to release personal information without that person's express consent to do so, it would seriously undermine public confidence in the Minister's Office's ability to receive, retain and manage personal information. I consider such a loss of confidence to be against the public interest, and this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- (a) Access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of 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 document was (or is) of high seniority in the agency to which the request for access to the document was made;
- (d) Access to the document could result in confusion or unnecessary debate.

Upon balancing all the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

## Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

## Your Review Rights

### Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice.

For further information about review rights and how to submit a request for a review to the OAIC, please see <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/internal-review>.

## Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Office of the Minister in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Minister of Home Affairs as the relevant agency.

## Contacting the Office of the Minister

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au) quoting reference MO24/05/00002.

Kind regards

Authorised decision maker  
The Office of the Minister for Home Affairs  
[foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au)

29 July 2024