



Australian Government

Department of the Environment and Energy

Office of the Australian Information Commissioner

Disclosure of public servants' names and contact details

Submission by the Department of the Environment and Energy

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1. INTRODUCTION

The Department of the Environment and Energy (the Department) delivers major Australian Government initiatives to promote the conservation and sustainable use of Australia's natural resources and to ensure community and industry energy needs are met through the efficient use and adequate, reliable and competitive supply of energy. These initiatives deliver outcomes across four purposes: environment and heritage, Antarctica, climate change, and energy.

In the financial year 2018-9, the Department processed 274 requests under the *Freedom of Information Act 1982 (Cth)* (the FOI Act).

- These included requests relating to high profile matters such as environmental approvals for coal mines, the Great Barrier Reef, wind farm development and energy security.
- Documents disclosed by the Department under the FOI Act are regularly referenced in headline news articles and are sometimes referred to in parliamentary processes, including Senate Estimates.

The environment or energy issues to which the FOI Act requests relate tend to elicit strong sentiment, and divide views in the general public.

2. THE DEPARTMENT'S APPROACH TO REDACTION OF PUBLIC SERVANTS' NAMES AND CONTACT DETAILS

General approach

The Department's approach to managing disclosure of public servants' names and contact details in FOI requests is as follows.

The Department informs each FOI applicant that their request will be treated as excluding non-SES names and contact details, and SES contact details, from the scope of the request unless the applicant specifically informs us otherwise. The Department includes this in its acknowledgement of receipt of FOI requests:

The Department makes two assumptions that affect the scope of the request. These are set out below.

It is the usual practice of the Department:

- *not to disclose the personal information of junior officers or the personal contact details of senior officers of the State or Federal governments (including those of the Department). The names of senior officers will generally be released. Your request will be processed on the assumption that you do not intend to capture these details within its scope.*
- *not to release duplicates of any document captured within the scope of the request. Further, where two documents fall within the scope one differs from the other only with respect to minor editorial changes (such as spelling or grammar corrections), only the later version of the document will be treated as within scope. Your request will be processed on the assumption that you do not intend to capture duplicates or documents that the Department considers duplicates (as per the above explanation) within the scope of your request.*

Please inform us if you do not agree to the request being processed by the Department on the above assumptions.

Please note that information released under the FOI Act may later be published online on our disclosure log.

In the infrequent event that the applicant advises that they are seeking non-SES names and contact details, or SES contact details:

- we find that this is often specifically for the purposes of contacting those particular staff members, generally to harass or intimidate them; and
- the delegate might then consider applying the personal information exemption (section 47F) so that the information is protected from disclosure.

SES public servants' names will *not* be considered out of scope, and *will* be released in the ordinary course.

Reasons for taking this approach

The rationale for releasing the names of SES officers is that their names and responsibilities are a matter of public record.

With respect to the names and details of non-SES level public servants, the Department acts from a position of caution. The Department takes its work, health and safety duties to employees very seriously, just as it takes seriously its role to appropriately allow scrutiny, discussion, comment and review of the Government's activities.

Given the highly sensitive, and often politically charged nature of the subjects to which the Department's FOI requests relate, the Department strikes the balance by seeking – where possible – to protect the names and details of non-SES level staff.

The Department finds that the large majority of applicants do not consider non-SES names and contact details to be in scope of their FOI request. In this way, the redaction of these details does not affect an applicant's access to information about government decision making and is not inconsistent with the other objects of the FOI Act.

- **Current internet and media landscape**

One of the objects of the FOI Act is to promote Australia's representative democracy by increasing scrutiny, discussion, comment and review of government activities. Indeed, FOI documents have often featured in media articles.

Different issues now arise with the advent of social media and online media articles. The Department now observes that FOI documents themselves are being partly or wholly reproduced in media articles, and these are preserved in a searchable format and available in perpetuity. This is particularly the case for the Department, as the majority of requests that the Department receives are from journalists or environmental protection groups that publish or embed the documents in articles or on their websites.

Disclosed documents are also uploaded to the Disclosure Log on the Department's website. In the same way, this process means that documents are freely available in a way that was not the case when the FOI Act commenced. It means that if public servants' details are included in documents, they can be located using online searches.

- **Personal scrutiny of public servants**

The Department has also observed an increase in the personal scrutiny of individual employees who work on contentious matters that are reported in the media. There have been instances where individual employees have been harassed on a continual basis, such as through regular phone calls to their listed work number or through repeated emails direct to their work email address.

Given the availability of information on the internet, armed with just a name, it is much easier for members of the public to track down personal information of employees than it previously was. For instance, it is now easier to track the location of home addresses, interests and other personal information of employees. In taking this approach, the Department aims to decrease the possibility that employees' information could be used in adverse ways.

3. CONSIDERATIONS TO BE BALANCED

The Department has taken the approach that junior officers' names and contact details and SES contact details will be considered out of scope, unless otherwise advised. The Department considers that this is a fair and reasonable approach, particularly given that junior officers do not generally drive the policy or outcome of the work they do. In those circumstances, providing the names of junior officers will not add anything to the informative value of the documents.

The Department has not taken this decision lightly. As a practical matter, it takes time to redact the names and contact details of public servants, and this in turn increases the time spent on FOI requests. This investment, however, reflects a careful balance of the Department's obligations, and assists to keep our people safe.