



9 August 2019

Ms Angeline Falk
Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

Dear Ms Falk

CONSULTATION PAPER - RELEASE OF STAFF NAMES

Thank you for the opportunity to provide comments to the issues raised in the OAIC discussion paper "Disclosure of public servants' names and contact details."

For some years now it has been the practice of the Treasury not to release the names of non-SES staff that appear in documents released under the FOI Act. We advise applicants that we do not propose to release staff names as we consider them irrelevant to the request, but give them the opportunity to advise us that they require staff names to be considered for release. It is very rare for applicants to ask for staff names. Further, the redaction of staff names from documents released has not been raised with us by applicants, either on review or informally.

In answer to your questions, we provide the following responses.

1. *Does your agency have concerns about releasing the names and contact details of staff in response to FOI requests? If so, what are your concerns? Has your agency experienced any specific work health and safety issues as a result of a person's name or contact details being released in response to an FOI request?*

The Treasury's concerns about release of staff names arise from work health and safety considerations and from a desire to protect staff from media exposure in the context of political debates surrounding our work.

There have been some instances where work health and safety issues have arisen in connection with release staff names. On one occasion, a junior officer was subject to a large volume of nuisance calls after their name appeared in documents released under FOI in connection with a contentious policy issue. This incident was important in establishing our practice of removing staff names from documents released. There have also been instances of SES officers in the Treasury being subject to threatening conduct.

In relation to the exposure issue, the context is that the bulk of FOI requests received by the Treasury are submitted by journalists seeking information that is often politically charged or highly sensitive in nature. This information is potentially subject to wide media exposure. Our concern with the release of staff names is to protect staff from their names becoming associated with these matters and being subject to that exposure. In our view, the release of the names of staff that appear on the documents being released does not add to public debate or the public accountability of the Treasury.

By contrast, the names of SES staff are already publicly available, and the same sensitivity does not apply to them. We consider the risk of harassment or threatening conduct for SES officers on a cases by case basis.

2. *Have your agency's views on this issue changed over time? If so, please describe any factors that have affected your agency's approach, including technological, environmental or legal factors.*

It has been the longstanding practice of the Treasury to redact the names of junior officers in material released to FOI applicants. As mentioned above, this practice was initially introduced following an instance of harassment of a Treasury official following release of their name connected with a contentions policy issue.

3. *Does your agency advise staff, including contractors undertaking functions on behalf of the agency, that names and contact details may be released in response to an FOI request as part of your agency's training and induction programs?*

Our training and induction programs do not include information about our policies in connection with staff names and FOI, but this is provided on a case by case basis to staff affected.

4. *How do you balance work health and safety considerations with the objects of the FOI Act, which include increasing public participation in Government processes with a view to promoting better-informed decision making and increasing scrutiny, discussion, comment and review of the Government's activities?*

Our practice of routinely advising applicants that we propose not to release staff names means that work health and safety issues are now not a significant factor in the Treasury's decisions concerning release of staff names under FOI. It remains a consideration in relation to SES officers, but it does not usually arise. If work health and safety issues did arise in the context of a particular request (which may arise if an applicant advised that they did not agree with our proposal to remove staff names), it is likely that we would consider the release of staff names an unreasonable disclosure of personal information (and so the name would be conditionally exempt under s 47F). The threat to the health and safety of Treasury staff arising in such a matter would likely outweigh public interest factors in favour of release in such a situation.

5. *If your agency considers that disclosure of a public servant's name or contact details will negatively impact their health or safety, what evidence do you require before deciding that their name or contact details are exempt from disclosure?*

The evidence required to be persuaded there was a health and safety risk is likely to vary from case to case, but would have to be enough for the officer considering the issue to be reasonably satisfied that there is a real risk.

6. *Do you consider the FOI Guidelines provide enough guidance for agencies when considering these issues?*

Yes.

7. *In what circumstances do you consider that a public servant's personal information (name and contact details) are irrelevant to the FOI request?*

The Treasury considers that the names and contact details of non-SES staff are irrelevant to the usual requests we receive concerning the policy, advising and legislation development activities of the Treasury, which form the vast majority of the requests we receive.

8. *Where you have withheld the names and contact details of public servants, what impact does deleting this information from documents have on the time it takes to process FOI requests?*

The practice of redacting the names of junior Treasury officers has some impact on the time it takes to process FOI requests, but we do not consider it burdensome.

I would be happy to provide you with more information or answer any questions arising from our response.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. W. T." with a period at the end. The letters are stylized and connected.

Simon Writer
Division Head
Law Design Office

