



THE HON PETER DUTTON MP MINISTER FOR HOME AFFAIRS

Minister for Home Affairs – Ministerial Direction to Australian Federal Police Commissioner relating to investigative action involving a professional journalist or news media organisation in the context of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer

This Ministerial Direction is issued under subsection 37(2) of the *Australian Federal Police Act 1979* (the AFP Act). This Ministerial Direction is intended to complement any previous Ministerial Direction issued under subsection 37(2) with effect from the date this Ministerial Direction commences. This Ministerial Direction does not constrain investigation by the Australian Federal Police (AFP) of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

This Ministerial Direction outlines the Government's expectations for the AFP in relation to investigative action involving a professional journalist or news media organisation in the context of an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

A key function of the AFP is, and must remain, the enforcement of the criminal law, without exception. In its performance of this function, however, I expect the AFP to take into account the importance of a free and open press in Australia's democratic society and to consider broader public interest implications before undertaking investigative action involving a professional journalist or news media organisation in relation to an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer.

In particular, where consistent with operational imperatives, I expect the AFP to exhaust alternative investigative actions, including in relation to any other persons that may be involved in the matter, prior to considering whether any investigative action involving a professional journalist or news media organisation is necessary. Where possible, I also expect the AFP to continue to seek voluntary assistance, if relevant, from professional journalists or news media organisations.

I also expect the AFP to strengthen its guidance and processes about the types and level of information required from a Government department or agency in referring an unauthorised disclosure of material made or obtained by a current or former Commonwealth officer to the AFP for investigation. This should include an explicit requirement that the referring department or agency provides a harm statement indicating the extent to which the disclosure of the material would be expected to significantly compromise Australia's national security.

This stronger framework around the referral process should enable the AFP to comprehensively assess all relevant information and make an informed decision about whether and in what way to proceed with a criminal investigation, having due regard to relevant public interest considerations. In undertaking that assessment, the AFP must have regard to any whole-of-government guidance that may be issued concerning the levels of harm caused to Australia's national interest by disclosure of the various types of information held across Government.

Dated 8th August 2019

Peter Dutton

The Hon Peter Dutton MP
Minister for Home Affairs