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Australian Government

Department of the Prime Minister and Cabinet

Allan McKinnon
Deputy Secretary

Dear Prime Minister

You asked for confirmation of the circumstances in which Ministers and their staff may use non-official communication systems to convey official information. After consultation with the Australian Signals Directorate which has responsibility for the Information Security Manual (ISM) which governs information security, I can confirm that official Government information may be conveyed on non-government devices and systems that are not subject to ISM controls in cases where that information is unclassified, not sensitive and not otherwise caveated with distribution limiting instructions such as "Not for Release".

Even unclassified official information that is sensitive or otherwise caveated can be conveyed on non-government devices and systems if done so in accordance with ISM controls. For example, ASD's website provides a list of certified cloud services. These services can be used in relation to sensitive unclassified information.

In practice, this means a wide variety of information can be conveyed on private systems. Indeed, this is absolutely necessary for the smooth operation of the Government as it interacts with and exchanges information with the private sector, foreign governments and members of the public, none of whom are operating on secure Australian Government information systems. The sensible application of the ISM guidelines facilitates such interactions.

Any documents in your possession that relate to your ministerial duties are subject to the *Freedom of Information Act 1982* (FOI Act), regardless of what system they are held in. The FOI Act does not apply to documents of a party political nature, documents held in your capacity as a local member, or your personal documents.

A framework for the management of records relating to the official business of government is provided by the *Archives Act 1983* which provides for the creation, destruction and archiving of Commonwealth records. This would not ordinarily cover documents related to your personal or private affairs, party political matters or correspondence with constituents about local matters.

Allan McKinnon
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Senate F&PA Committee

Tabled Document

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