

JAN MAREK KANT

Applicant

AUSTRALIAN INFORMATION COMMISSIONER

Respondent

Applicant's list of issues

Issues (as questions)

1. Was the original request a complaint about the *Australian Security Intelligence Organisation (ASIO)* in which the Applicant claimed ASIO had mishandled his personal information?
2. Was the original request refused for reasons as stated in the 12 Sep 2023 notification?
3. Is the refusal decision in accordance with the law?
4. Can the Respondent investigate an alleged interference with privacy not being an "interference with privacy" in meaning of Part III of the Privacy Act?
5. Is ASIO exempt from operation of the Privacy Act?
6. Does the Respondent have authority to investigate the handling of personal information by ASIO?
7. Does the law Require the Respondent also investigate any interference with the Applicant's ICCPR rights by ASIO?
8. Was the refusal decision designed to fail against judicial review?
9. Did the Respondent contrive for a judgement favouring the Applicant?
10. Did the Respondent contrive for the proceeding to continue after the Applicant proposed to discontinue it?
11. Is the Respondent in his official capacity guilty of an offence against the Privacy Act?
12. Is the Commonwealth guilty of an offence against the Privacy Act?
13. Did the Respondent attempt "serious interference with the privacy" of the Applicant? If so:
 - 13.1. Is attempted "serious interference with the privacy of an individual" punishable like successful "serious interference with the privacy of an individual"?
14. Is conduct of the Respondent punishable as "serious interference with the privacy of an individual"? If so:

- 14.1. Is the Applicant entitled to award of the pecuniary penalty? If so:
14.1.1. What amount is to be awarded?
15. Did conduct of the Respondent amount to *disprivacy*? If so:
15.1. Is the Applicant entitled to damages?
16. Did conduct of the Respondent amount to tortious use/abuse of the process of the Court? If so:
16.1. Is tortious use/abuse of the process of the Court actionable per se?
16.2. Is the Applicant entitled to damages?
17. How, if at all, should the Applicant's circumstances and/or the Respondent's conduct of the proceeding affect the assessment of costs in the proceeding?
18. Who should pay the costs of the proceeding?

Evidence

19. For purposes of items [1 – 3, 7] above, evidence includes:
a. The Respondent's 23 Feb 2024 *Tender Bundle*
b. The affidavits enclosing "JMK-10" and "JMK-34"
20. For purposes of items [8 – 16] above, evidence includes:
a. The Respondent's 23 Feb 2024 *Tender Bundle*
b. The affidavits enclosing "JMK-8", "JMK-10" through "JMK-22", "JMK-24", "JMK-25", "JMK-27" through "JMK-30", "JMK-43", "JMK-46", "JMK-48", and "JMK-49"
21. For purposes of item [14.1.1] above, evidence includes the affidavits enclosing "JMK-1", "JMK-8" and "JMK-11"
22. For purposes of item [16.1, 16.2] above, evidence includes the affidavit enclosing "JMK-26"
23. For purposes of item [17] above, evidence includes the affidavits enclosing "JMK-1" through "JMK-5", "JMK-8", "JMK-9", "JMK-11", "JMK-13" through "JMK-16", "JMK-18", "JMK-19", "JMK-21" through "JMK-46", "JMK-48", "JMK49" and "JMK-51" though "JMK-55"

Prepared by: Jan Marek Kant, Applicant

02 May 2025