



Australian Government
Department of Defence
Defence Support and Reform Group

Ministerial and Information
Management Branch
Department of Defence

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Our reference: FOI 026/14/15



By email: 

Dear 

1. I refer to your email, dated 23 July 2014, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"Documents from The United Nations to the Australian Government relating to the offer of the Dag Hammarskjold Medal [For UN personnel killed on UN Duty]. It is assumed that this offer was made in 2001. [Item 1]

Documents from the Australian Government to the United Nations relating to the offer of the Dag Hammarskjold Medal. [Item 2]

Any decision-making documents that relate to the Dag Hammarskjold Medal as a result of the original offer from the United Nations by the ADF. [Item 3]"

Background

2. I refer to my email dated 07 August 2014, in which I sought an extension of time with agreement under section 15AA of the FOI Act. On 20 August 2014 you agreed to a seven day extension which changed the due date for a decision in relation to your request to Friday 29 August 2014.

3. The purpose of this letter is to provide you with the decision relating to the documents that are the subject of your request.

FOI decision maker

4. Ms Helen Gouzvaris, Director, Directorate of Honours and Awards, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

5. Ms Helen Gouzvaris, identified seven documents as matching the description of your request. A schedule of documents is at Enclosure 1. Documents in the form approved for release are at Enclosure 2. For ease of reference and for the purpose of processing this request, the decision maker has added an FOI Item number to each of the documents, which corresponds with the schedule.

Decision

6. Ms Gouzvaris has decided to:
- a. refuse access to items 1 and 2 under section 24A [document cannot be found or do not exist] of the FOI Act; and
 - b. partially release three documents with deletions made in accordance with section 22 [Access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is conditionally exempt under section 47F [Public interest conditional exemptions—personal privacy] of the FOI Act.
 - c. release in full four documents.

Material taken into account

7. In making her decision Ms Gouzvaris had regard to:
- a. the terms of the FOI request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions in the FOI Act,
 - d. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the guidelines);
 - e. advice received from consultation with the Department of Prime Minister and Cabinet (PM&C).

Reasons for decision Section

Section 22 (Irrelevant)

8. Upon examination of the documents Ms Gouzvaris found documents identified as “*IDC Agenda 30 July 2001*” and “*IDC Minutes 30 July 2001*” on the schedule of documents contained material regarding matters which does not relate to the Dag Hammarskjold Medal. Ms Gouzvaris considered that the material would disclose information that would be reasonably be regarded as irrelevant to the scope of your request. As such, in accordance with subparagraph 22(1)(a)(ii) of the FOI Act, Ms Gouzvaris decided to remove the material.

Section 24A—Requests may be refused if documents cannot be found, do not exist or have not been received

9. Section 24A(1)(b)(i) of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document is in the agency’s possession but cannot be found.

10. Paragraph 8.41 of the Guidelines also provides that if a document cannot be found or does not exist the statement of reasons should sufficiently identify the document and give reasons as to why it cannot be found, or why it is known that it no longer exists. The Guidelines further provide that the statement should describe the steps the agency took to search for the document.

Searches conducted

11. Electronic searches were conducted utilising the Defence Records Management System (DRMS). The following search parameters were utilised in the DRMS searches:

- a. Search by file type:
 - i. Corporate Files
 - ii. Documents
 - iii. Folders
 - iv. Incoming physical documents
 - v. Outgoing physical documents
 - vi. Scanned documents
- b. Search criteria:
 - i. 'Corporate File' + Name Contains:
 1. Dag Hammarskjold Medal;
 2. Dag Hammarskjold; and
 3. Hammarskjold.

12. Hard copy searches were conducted of files held within Directorate of Honours and Awards.

Outcome of searches

13. Despite thorough and diligent searches being conducted as mentioned above, no documents matching the scope of the request could be located.

14. Ms Gouzvaris is therefore satisfied that all reasonable steps have been taken to locate the documents requested and that no documents could be found. Therefore, Ms Gouzvaris has refused access to the requested documents, under section 24A of the FOI Act.

Section 47F – Personal Privacy

15. Upon examination of the documents, Ms Gouzvaris identified information, specifically, names, contact details, signatures and other personal information belonging to people other than the applicant. On advice from PM&C it is departmental policy to redact any names and contact details of employees below Senior Executive Staff (SES) level. If an applicant submits an FOI request direct to PM&C they will be advised of this policy. Ms Gouzvaris has taken into account the advice from PM&C and redacted names, signatures and contact details of PM&C employees below SES level. This material satisfies the definition of personal information in section 4 of the FOI Act. In accordance with section 47F(2) of the FOI Act, in determining whether the disclosure of the identified personal information would be unreasonable, Ms Gouzvaris had regard to:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates is known to be, or to have been, associated with the matters dealt with in the documents; and
- c. the availability of the information from publicly accessible sources.

16. Against those criteria, Ms Gouzvaris found that:

- a. the specific personal information is not well known to the general community;
- b. the person to whom the information relates is not known to be, or to have been, associated with the matters dealt with in the documents; and
- c. the specific information is not readily available from publicly accessible sources.

17. Noting the findings against the above criteria, Ms Gouzvaris decided that the disclosure of this information would constitute an unreasonable disclosure of personal information belonging to a person other than you. Accordingly, Ms Gouzvaris considered this material to be conditionally exempt under section 47F of the FOI Act.

18. Subsection 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

Public interest considerations – section 47F

19. Ms Gouzvaris noted that conditionally exempt documents carry a public interest test. Ms Gouzvaris considered section 11B of the FOI Act which sets out factors favouring access and irrelevant factors when considering the public interest test.

20. Subsection 11B(3) states factors favouring access to the document in the public interest include whether access to the document would do any of the following:

- a. promote the objects of this Act
- b. inform debate on a matter of public importance
- c. promote the effective oversight of public expenditure; and
- d. allow a person to access his or her own personal information.

21. Ms Gouzvaris considered that the public interest in promoting the objects of the Act have been satisfied as, in her opinion, merely removing names, contact details, signatures and personal information from the document does not detract from public disclosure of government-held information.

22. Ms Gouzvaris did not consider that the final two considerations were relevant in this instance as the information does not deal with public expenditure or relate to your own personal information.

23. Taking all of the above into consideration, on balance, Ms Gouzvaris considered that disclosure of the signatures, contact details and mobile telephone numbers, would be contrary to the public interest.

24. In coming to the above decision, Ms Gouzvaris had regard to subsection 11B(4) [irrelevant factors] of the FOI Act, which lists factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. None of the factors Ms Gouzvaris took into account were listed under subsection 11B(4) of the FOI Act.

25. Accordingly, Ms Gouzvaris considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the documents that match the scope of this request. Therefore, Ms Gouzvaris decided that it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

Rights of review

26. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, "Freedom of Information – Your Review Rights", setting out your rights of review is at Enclosure 3.

FOI Disclosure Log

27. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further information

28. FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2014C00122>.

29. All departmental action on your request is now complete. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Natalie Carpenter
Assistant Director
Freedom of Information

26 August 2014

Enclosures:

1. Schedule of documents
2. Documents in the form for release
3. Fact Sheet: Freedom of Information – Your Review Rights