



**Australian Government**  
**Department of Defence**

**FOI 033/17/18 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT**

1. I refer to the application by [REDACTED] under the *Freedom of Information Act* 1982 (FOI Act), for access to:

*1. A copy of the recently cancelled Defence Instruction (General) Personnel 53-1, ADF Recognition of Interdependent Partnerships, as originally promulgated in December 2005.*

*2. I would also like to request any documents, including internal correspondence, relating to the formulation and development of the definition of interdependent partnerships as no longer having to be members of the opposite sex.*

*3. Any documents, including internal correspondence, relating to the formulation and development of Defence Instruction (General) Personnel 16-16, Trans-gender Personnel in the Australian Defence Force back in 1999-2000.*

*Excluding personal email addresses, signatures, personnel (PMKeyS) numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request.*

**FOI decision maker**

2. I am the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

**Documents identified**

3. I identified one document as matching the description of the request.

**Decision**

4. I have decided to:

- a. release one document in full for Item 1; and
- b. refuse access to documents of Items 2 and 3 of the request under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

**Material taken into account**

5. In making my decision, I had regard to:

- a. the terms of the 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); and
- e. advice provided by Personnel Policy and Employment Conditions Branch.

## Reasons for decision

### Section 24A – Request may be refused if documents cannot be found, do not exist or have not been received

6. Section 24A(1) of the FOI Act states:

(1) *an agency or Minister may refuse a request for access to a document if:*

(a) *all reasonable steps have been taken to find the document; and*

(b) *the agency or Minister is satisfied that the document:*

(i) *is in the agency's or Minister's possession but cannot be found; or*

(ii) *does not exist.*

7. Searches were conducted in Personnel Policy and Employment Conditions Branch for documents meeting the scope of Items 2 and 3 of the request.

8. In relation to Item 2, while there are a number of documents on Objective, Defence's official records management database, related to interdependent partnerships, no documents could be located that specifically advise which information was used in the formulation and development of the definition of interdependent partnerships. As such, it is impossible to speculate which documents, if any, may have been used to develop the definition found in Defence Instruction (General) Personnel 53-1.

9. In relation to Item 3, searches were conducted on both electronic files held on Objective and physical files located on site and Defence Archives. Similarly, no documents could be located that advise which information was used in the formulation or development of Defence Instruction (General) Personnel 16-16 in 1999-2000.

10. Based on the above, I am satisfied that no documents exist that meet the scope of Items 2 and 3. I am satisfied that all reasonable steps have been taken to locate the requested documents.

11. I have therefore decided to refuse access to the documents requested under section 24A(1) of the FOI Act.

**melanie.beacroft**

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Dr Melanie Beacroft  
Accredited Decision Maker  
Associate Secretary Group