



Australian Government
Department of Defence

Freedom of Information
CPI-6-001
PO Box 7910
CANBERRA BC ACT 2610
Tel: 02 626 62200
Fax: 02 626 62112
FOI@defence.gov.au

Our reference: FOI 061/15/16

[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

I refer to your correspondence, dated 2 September 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

“Copies of Special Purpose Aircraft Request Forms that include Former Minister of Defence Senator David Johnston as an entitled person or passenger that were lodged anytime during the period of July 1 to August 1 2014.”

Background

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

GPCAPT Catherine Wallis, Director of Corporate and Community Relations, Air Force is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

GPCAPT Wallis identified five 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. The decision maker has added an FOI Item number to each of the documents, which corresponds with the schedule.

Decision

GPCAPT Wallis has decided to partially release documents with deletions made in accordance with subsection 22(1) [Access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

Material taken into account

In making her decision, she had regarded to:

- a. the terms of the request;
- b. the content of the identified document 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 previously provided for this type of documents from other agencies.

Reasons for decision

Section 47F – Personnel privacy

Upon examination of the document, GPCAPT Wallis identified contact details, phone numbers, signatures and agency details of persons other than you. GPCAPT Wallis considered the disclosure of this information would constitute an unreasonable disclosure of personal information of a person other than you.

The Guidelines note that *'the personal privacy exemption is designed to prevent 'unreasonable' invasion of third parties privacy'*. In accordance with subsection 47F(2), in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, GPCAPT Wallis 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 document;
- c. the availability of the information from publicly accessible sources; and
- d. any other matters that the agency considers relevant.

Against those criteria, GPCAPT Wallis found that:

- a. the specific personal information is not well known;
- b. the people to whom the information relates are not known to have been associated with the matters dealt with in the documents;
- c. the personal information is not readily available from publicly available sources; and
- d. the material considered to be exempt is information that the individuals would reasonably be expected not to have disclosed to a third party without their consent.

Rights of access – section 11A

Subsection 11A(5) of the FOI Act provides that conditionally exempt matter must be released unless, in the circumstances, access to that document at this time would, on balance, be contrary to the public interest. The Guidelines state (at 6.8-6.9):

...The term 'public interest' is necessarily broad and non-specific because what constitutes the public interest depends on the particular facts of the matter and the context in which it is being considered...

To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is

outweighed by the benefit to the public of withholding the information. The decision maker must analyse, in each case, where on balance the public interest lies, based on the particular facts of the matter at the time the decision is made.

Public interest considerations

In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, GPCAPT Wallis considered the range of relevant factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. While disclosure may promote some of the objects of the FOI Act, GPCAPT Wallis did not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

While release of the information may be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of this specific information would not promote oversight of public expenditure, nor would it allow you access to the applicant's own personal information. Further, GPCAPT Wallis considered that the protection of an individual's right to privacy outweighs any public interest there may be in the release of this material.

In coming to the above decision, GPCAPT Wallis also considered subsection 11B(4) [public interest exemptions - irrelevant factors] of the FOI Act. None of the factors considered were those listed in subsection 11B(4).

Therefore, GPCAPT Wallis decided that it would be contrary to the public interest to release the information considered exempt under section 47F(1) of the FOI Act.

FOI Disclosure Log

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.

Your Review Rights

Internal Review

Under the provisions of section 54 of the FOI Act, you are entitled to request a review of this decision. You must request a review, in writing, within 30 days of the date of this letter, or the date you receive the documents. Requests can be sent to:

Email: FOIReview@defence.gov.au

Fax: 02 626 62112

Post: Freedom of Information Directorate - Reviews

Department of Defence

CP1-6-029

PO Box 7910

CANBERRA BC ACT 2610

Australian Information Commissioner

Under the provisions of section 54 of the FOI Act, you are also entitled to request an external review of this decision by the Australian Information Commissioner. You have 60 days to lodge such a request, using one of the contact methods below:

Email: enquiries@oaic.gov.au
Phone: 1300 363 992
Fax: 02 9284 9666
Post: GPO Box 2999
Canberra ACT 2601

Complaints

You may complain to Defence, the Information Commissioner or the Commonwealth Ombudsman about an action taken by Defence in the exercise of its power or the performance of its functions under the FOI Act. There is no fee for making a complaint. Should you wish to complain to the Department of Defence, your complaint can be addressed to Mr Tony Corcoran using the contact details below:

Email: tony.corcoran@defence.gov.au
Post: Tony Corcoran
Assistant Secretary Information Management and Access Branch
CPI-6-14
PO Box 7911
CANBERRA BC ACT 2610

Contact details for the Commonwealth Ombudsman are below:

Phone: 1300 362 072)
Fax: 02 6276 0123
Post: Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Contact details for the Information Commissioner are above.

Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Andrea Sansom
Assistant Director
Freedom of Information

2 October 2015

Enclosures:

1. Schedule of documents
2. Documents in the form for release