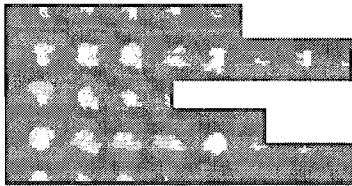




Our reference: FOI 089/14/15



Dear 

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

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

Copies of Special Purpose Aircraft Request Forms that include Education Minister Christopher Pyne as an entitled person or passenger that were lodged anytime during the period of January 1 to August 31 2014. [Item 1]

The catering profile for Mr Pyne. [Item 2]

Background

2. The purpose of this letter is to provide you with the decision relating to your request.

FOI decision maker

3. Group Captain CM Wallis, Director, Coordination Air Force, is the accredited decision maker, under the FOI Act, in relation to your request.

Identified document

4. Group Captain Wallis identified one document matching the scope of Item 1 of your request, being a Special Purpose Aircraft (SPA) request form. 34 Squadron, who manage SPA, advised that Mr Pyne had only travelled on the aircraft on one occasion.

Decision

5. Group Captain Wallis decided to release the identified document intact, after removal of some material that did not specifically meet the terms of the request. The material was removed in accordance with section 22(1)(a)(ii) [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act. She also decided to refuse access to Item 2 of your request under section 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

6. In making her decision Group Captain Wallis had regard 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. the Principles on open public sector information issued by the Information Commissioner.

Reasons for decision

Section 24A of the FOI Act

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

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

Document lost or non-existent

- (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*
 - (j) *does not exist.*

8. Paragraph 8.41 of the Guidelines also give guidance as to what is required to be included within this statement of reasons to refuse a request under section 24A(1):

8.41 The statement of reasons given to the applicant 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 statement should describe the steps the agency took to search for it.

9. Staff Officer 34 Squadron confirmed there is no catering profile for Mr Pyne and that he ate from the menu which was provided to all passengers. There was no meal prepared specifically for him.

10. Group Captain Wallis was satisfied that “all reasonable steps” had been taken to locate the document. She was satisfied that the document does not exist, and decided to refuse access to Item 2 under section 24A of the FOI Act.

11. A copy of the document in the form approved for release is at Enclosure 1.

Rights of review

12. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, “Freedom of Information – Your Review Rights” is at Enclosure 2.

FOI Disclosure Log

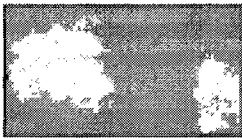
13. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence will publish the identified documents relating to this request within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions. This request will be published on Defence’s FOI Disclosure Log on 4 November 2014.

Further advice

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

15. This completes the department’s action on your request. Should you have any questions, please contact this office.

Yours sincerely



Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

28 October 2014

Enclosures:

1. Document in form for release
2. Fact Sheet: Freedom of Information – Your Review Rights