



Our reference: [REDACTED]



By email: [REDACTED]

Dear [REDACTED]

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your email, dated 9 October 2014, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

“I request access to the 52 military justice performance audits of ADF units completed by the Inspector-General of the ADF referred to in the 2012-13 Defence Annual Report.

I advise I am not interested in duplicate copies of documents or documents that have already been publicly released or media releases, media articles or media statements.”

Background

2. 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

3. Wing Commander D.J Turner, Assistant Inspector General Australian Defence Force (IGADF), is the accredited decision maker, under the FOI Act, in relation to your request.

Documents identified

4. Wing Commander Turner advised that the IGADF Annual Report for calendar year 2013, page 13, states that there were 50 ADF units audited under the military justice audit programme. Wing Commander Turner identified a total of 50 documents relevant to your FOI request. For ease of reference and for the purposes of processing this request, an FOI reference has been added to each document, which corresponds to the Schedule of documents at Enclosure 1.

Decision

5. Following examination of the 50 identified documents, Wing Commander Turner decided to partially release the documents with deletions made in accordance with section 22(1) [access to edited copies with exempt or irrelevant material 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

6. In making his decision Wing Commander Turner had regard to:
- a. the terms of the request;
 - b. the content of the identified documents;
 - c. relevant provisions in the FOI Act;
 - d. Defence's guidance material on the FOI Act;
 - e. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines);
 - f. the Principles on open public sector information issued by the Information Commissioner; and
 - g. advice received from officers within the Department.

Reasons for decision

Section 47F of the FOI Act

7. Section 47F of the FOI Act conditionally exempts the disclosure of a document if its disclosure under the Act would involve the unreasonable disclosure of personal information about any person, including a deceased person.

8. Upon examination of the documents, Wing Commander Turner found that all documents contained names, personal information and employee identification numbers belonging to people other than you. In accordance with sub section 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, Wing Commander Turner has 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 available sources.

9. Against those criteria, Wing Commander Turner found that:
- a. the specific information is not well known to the general community;
 - b. the person to whom the information relates is not known by the general community to have been associated with the matters dealt with in the documents; and
 - c. the personal information is not readily available from publicly accessible sources.

10. Noting the findings against the above criteria, Wing Commander Turner decided that disclosure of this information would constitute an unreasonable disclosure of personal information belonging to persons other than you. Accordingly, he considered the material to be conditionally exempt under section 47F of the FOI Act.

11. Subsection 11A(5) [access to documents on request] 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.

Section 47F – Public interest considerations

12. In assessing whether disclosure of the conditionally exempt material is, in balance, contrary to the public interest, Wing Commander Turner considered the range of relevant factors that favour access to a document as set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. He noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, the disclosure of this information would not increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

13. While Wing Commander Turner noted that the release of this 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 the information would not promote oversight of public expenditure, nor would it allow you access to your own personal information. Furthermore, he considered that the protection of an individual's right to privacy far outweighs any public interest there may be in the release of this material.

14. In coming to his decision, Wing Commander Turner considered subsection 11B(4) [public interest exemptions – irrelevant factors] of the FOI Act. Accordingly, he considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material. Therefore, he decided that it would be contrary to the public interest to release the information which he considered exempt under section 47F of the FOI Act.

Payment of Charges

15. In our letter, dated 13 October 2014, after deducting the free decision making time, the department estimated the cost associated with processing your request to be [REDACTED]. You agreed to pay charges for the administration of your request and the required deposit was received on 24 December 2014.

16. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. The remaining balance is the difference between actual charges and the deposit you have already paid.

17. Accordingly you are required to pay the remaining [REDACTED] in order to finalise your request. Please find attached at Enclosure 2 a Payment Authorisation Form for the balance. Once you have completed the form please return to foi@defence.gov.au.

Rights of review

18. 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 3.

FOI Disclosure Log

19. 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.

Further advice

20. The FOI Act may be accessed online at: <http://www.comlaw.gov.au/Details/C2014C00673>

21. Should you have any questions, please contact this office.

Yours sincerely



Theresa Stinson
Assistant Director – Media Case Management
Freedom of Information

8 January 2015

Enclosures:

1. Schedule of documents
2. Freedom of Information Payment Authorisation Form
3. Fact Sheet: Freedom of Information – Your Review Rights