



**Australian Government**  
**Department of Defence**  
Defence Support and Reform Group

Ministerial and Information  
Management Branch  
Department of Defence

CP1-6-001  
PO Box 7910  
CANBERRA BC ACT 2610  
Tel: 02 626 62200  
Fax: 02 626 62112  
FOI@defence.gov.au

Our reference: FOI 103/13/14

By email: [REDACTED]

Dear [REDACTED]

1. On 9 September 2013, you sought guidance from Ms Andrea Sansom on a request you wished to submit to the department. After obtaining guidance you proceeded to make a request for access, under the *Freedom of Information Act 1982* (FOI Act), to:

*"1. A copy of the Divisional Officer Handbook provided to Australian Defence Force Academy staff.*

*2. A copy of the ADFA Staff Handbook provided to Australian Defence Force Academy staff.*

*3. Any specific guidance (Legal or Policy) provided to [REDACTED] with regard to the management [REDACTED]*

*4. Any guidance or requirements provided to [REDACTED] on how to manage her time regarding her primary role (ADFA Staff) with her personal studies.*

*5. The six 25 Division Tattoos of 19, 22, 23, 24, 25 and 26 October 2012 mentioned on page 1 of Item 4, Serial 7 of the response to FOI 55/13/14."*

**Background**

2. On the 23 September 2013, based on advice provided by our office you agreed to withdraw Item 3 and Item 4 of your FOI request, therefore our office processed your request for:

*"1. A copy of the Divisional Officer Handbook provided to Australian Defence Force Academy staff.*

*2. A copy of the ADFA Staff Handbook provided to Australian Defence Force Academy staff.*

*3. The six 25 Division Tattoos of 19, 22, 23, 24, 25 and 26 October 2012 mentioned on page 1 of Item 4, Serial 7 of the response to FOI 55/13/14."*

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. Mrs Julie Clifton, Australian Defence College, Vice Chief of Defence Force Group, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

### **Documents identified**

5. Mrs Clifton identified 14 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. Mrs Clifton has decided to:

- a. refuse access to 1 document, under section 24A(1)(b)(ii) [documents do not exist];
- b. release 8 documents in full; and
- c. partially release 6 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 sections 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

### **Material taken into account**

7. In making her decision Mrs Clifton 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);
- e. the Principles on open public sector information issued by the Information Commissioner; and
- f. advice received from members of the department

### **Item 1 - Reasons for Decision - Section 24A(1) of the FOI Act – Documents do not exist**

8. Mrs Clifton has refused access to the document requested, under section 24A(1)(b)(ii)[documents do not exist] of the FOI Act. Section 24A(1) of the FOI Act states:

**24A 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
    - (ii) does not exist.

9. Paragraph 8.41 of the Guidelines also gives 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.*

10. Searches were undertaken within the Australian Defence Force Academy which advised that a Divisional Officers handbook no longer exist. Staff are now provided with a ADFA staff handbook which is provided at Item 2.

11. In light of this, Mrs Clifton can not grant access to the requested documents under section 24A(1)(b)(ii) of the FOI Act.

**Item 2**

12. Mrs Clifton has provided copies of the ADFA Staff handbook for the years that ██████ attended ADFA, 2011, 2012 and 2013 intact.

**Item 3 - Reasons for decision Section 47F – Personal Privacy**

13. Upon examination of Item 3, Mrs Clifton found that the documents contained personal information such as names and employee identification details belonging to Defence employees. In accordance with subsection 47F(2) of the FOI Act, in determining whether the disclosure of the information would involve the reasonable disclosure of personal information, Mrs Clifton 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 the documents; and
- c. the availability of the information from publicly accessible sources.

14. Against those three criteria, Mrs Clifton found that:

- a. the specific pieces of personal information relating to the Defence official are not well known to the general public;

- b. the persons 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. this specific information is not readily available from publicly accessible.

15. Noting the above findings, Mrs Clifton has decided that disclosure of the specific information would be an unreasonable disclosure of personal information belonging to other people. Accordingly, Mrs Clifton considered that the material is conditionally exempt under section 47F of the FOI Act.

16. 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**

17. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Mrs Clifton considered the guidelines provided by the Australian Information Commissioner, together with a range of factors that favour access to a document as set out in section 11B(3) [public interest exemptions - factors favouring access] of the FOI Act.

18. Mrs Clifton considered that the public interest in promoting the objects of the FOI Act have been satisfied and does not believe that the release of personal information would inform public debate on any matter of public importance in a meaningful way.

19. Additionally, disclosure of this information would not promote oversight of public expenditure, nor would they allow you to have further access to your own personal information.

20. In coming to the above decision, Mrs Clifton also considered subsection 11B(4) [public interest exemptions - irrelevant factors] of the FOI Act. Accordingly, Mrs Clifton is satisfied that on balance the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents.

#### **Rights of review**

21. 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**

22. 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**

23. The FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2011C00803>.

24. 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



Bree Faehrmann  
Case Manager  
Freedom of Information

9 October 2013

Enclosures:

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