



Our reference: FOI 122/15/16



By email: 

Dear 

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your request of 22 October 2015 in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

“...the schedule and flight manifest of all special purpose flights undertaken between Wednesday October 12 and Sunday October 18, 2015, inclusive.”

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. Group Captain CM Wallis, Director, Corporate and Community Relations – Air Force was the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

4. Group Captain Wallis identified six documents which match the scope of your request.

Decision

5. Group Captain Wallis decided to partially release the identified documents with deletions, in accordance with section 22 [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

6. In making her decision, Group Captain 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. principles on open public sector information issued by the Information Commissioner.

Reasons for decision

Section 47F of the FOI Act

7. Upon examination of the documents, Group Captain Wallis identified mobile phone numbers, dietary requirements, names and agency details of persons other than you. She considered the disclosure of this information would constitute an unreasonable disclosure of personal information of a person other than you.

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

9. Against those criteria, Group Captain Wallis found that:

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

Section 11A of the FOI Act

10. 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

11. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Group Captain 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, Group Captain Wallis did not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

12. Group Captain Wallis noted that 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 your own personal information. Further, she considered that the protection of an individual's right to privacy outweighs any public interest there may be in the release of this material.

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

Payment of Charges

14. In our letter dated 23 October 2015, it was estimated that the processing of your request would be [REDACTED]. The estimated cost has now been calculated to reflect the actual time it took to process the request, after deducting the free decision making time the cost came to [REDACTED]. On this occasion, I have decided to exercise my delegation and to waive any charges that would have been payable as the administrative cost to collect the charge amount would exceed the amount to be collected.

15. Accordingly, please find attached at Enclosure 1 the documents in the form approved for release.

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 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

14. 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

15. 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

16. 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
CP1-6-14
PO Box 7911
CANBERRA BC ACT 2610

17. 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

18. Contact details for the Information Commissioner are above.

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

Yours sincerely



Theresa Stinson
Assistant Director – Media Case Management

20 November 2015

Enclosure:

1. Documents in form approved for release