



Our reference: FOI 155/14/15



By email: 

Dear 

## NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your email dated 17 November 2014, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to documents relating to recording the Body Mass Index of members of the Australian Defence Force.

2. Following discussions with you, on 9 December 2014 you agreed to proceed with the following revised scope:

**[Item 1]** *Statistical data outlining obesity rates in the ADF, specifically data from 1 January 2011 to date which breaks down the data to include service, gender and BMI rating;*

**[Item 2]** *The most recent Senate Estimates Brief prepared which relates to obesity in the ADF; and*

**[Item 3]** *Statistical data outlining the number of ADF members who were discharged due to obesity, i.e.: no longer fit for service.*

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. Mr Paul Naveau, Director Health Materiel, Logistics and Pharmacy, Joint Health Command, Vice Chief of the Defence Force Group is the accredited decision maker, under the FOI Act, in relation to your request.

### Documents Identified

5. Mr Naveau advised that despite extensive searches for documents matching the scope of this request, no *previously* created relevant documents were identified with regard to Item 1 of the request. However, data was located in Defence data stores (databases) that would in his view be consistent with data sought by you and available in line with Section 17 (1) of the FOI Act. Accordingly, Mr Naveau identified five reports that match the scope of Item 1 of your request, along with the Senate Estimates Brief requested at Item 2 of your request.

6. It should be noted, in regards to Item 1 of your request, that in 2014 the Defence Electronic Health System (DeHS) was introduced, hence two reports for 2014 have been provided.

### Material taken into account

7. In making his decision, Mr Naveau had regard to:
- a. the terms of the FOI request;
  - b. the content of the documents (and assembly of existing data into documentation) in issue;
  - c. relevant provisions in the FOI Act;
  - d. Defence guidance material on the FOI Act and the guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the guidelines); and
  - e. advice provided by the area whose duties relate to the requested documents.

### Decision

8. Mr Naveau found that the documents identified as matching the scope of Items 1 & 2 of your request could be released intact. Copies of the document in the form approved for release are at Enclosure 1.

9. With regard to Item 3 of your request Mr Naveau advised that feedback from Single Service representatives during the document examination phase indicates that there is a substantial volume of staff effort required by multiple staff across multiple agencies to create a document to satisfy this item of your request and that there is no single document in existence to deal with this part of the request.

10. Mr Naveau decided that a practical refusal reason exists in relation to Item 3 of your request under section 24AA [practical refusal reason] of the FOI Act.

### Section 24AA(1)(a)(i) of the FOI Act – *practical refusal reason*

11. Section 24AA(1)(a)(i) of the FOI Act states:

**24AA (1)** For the purposes of section 24, a **practical refusal reason** exists in relation to requests for a document if either (or both) of the following applies:

- (a) the work involved in processing the request:

- (i) in the case of an agency – would substantially and unreasonably divert the resources of the agency from its other operations; or
- (ii) in the case of a Minister – would substantially and unreasonably interfere with the performance of the Minister’s functions;

12. Mr Naveau determined that the provision within 24AA(1)(a)(i) applied to Item 3 of your request.

**Consultation**

13. Consequently, in accordance with section 24AB of the FOI Act, Defence is required to consult with you advising of the intention to refuse access to your request in its current form.

14. In accordance with paragraph 24AB(2)(c) of the FOI Act, I am the nominated person with whom you should contact with a view of agreeing to one of the following options:

- a. withdraw your request;
- b. revise your request; or
- c. indicate that you do not wish to revise your request.

15. You must advise our office within 14 days of the date of this letter your intention with regard to Item 3 of your request. Your request will be held in abeyance in the meantime.

**Payment of Charges**

16. In our letter, dated 15 December 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 amount of [REDACTED] was received on 8 January 2015.

17. Upon completion of your request, after deducting the free decision making time, the actual amount for processing was calculated to be [REDACTED]. On this occasion I have decided to exercise my delegation and cap the charges amount at the deposit amount already paid.

**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 2.

**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 Items 1 & 2 of 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 2 February 2015.

**Further advice**

19. The FOI Act may be accessed online at: <http://www.comlaw.gov.au/Details/C2014C00673>
20. Should you have any questions, please contact this office.

Yours sincerely



Theresa Stinson  
Assistant Director – Media Case Management  
Freedom of Information

23 January 2015

Enclosures:

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