



Australian Government
Department of Defence

Reference: R28137524

FOI 180/15/16 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act), for access to:

“I am requesting the original application documents, approved protocols and any documented amendments relating to ADHREC protocols numbered 249/01, 216/00 and 292/02.

Excluding the personal details of Defence officers, such as names, signatures and mobile telephone numbers, contained in documents that fall within the scope of this request.”

FOI decision maker

2. I am the accredited officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified three documents as matching the description of the request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and item number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:
 - a. partially release three documents in accordance with section 22(1)(a)(ii) [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; and
 - b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(a)(ii) of the FOI Act.

Material taken into account

7. In making my decision, I 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. advice received from third parties.

Reasons for decision

Exemption claim - section 47F - personal privacy

8. The document contains the names and actions undertaken by persons other than the applicant. This information could be used to reasonably ascertain the identity of an individual and therefore satisfies the definition of personal information in section 4 of the FOI Act. To determine whether the disclosure of the identified personal information was unreasonable, I had regard to the criteria specified in section 47F(2) of the FOI Act.

9. Section 47F(2) states:

In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:

- (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 document;*
- (c) *the availability of the information from publicity accessible sources;*
- (d) *any other matters that the agency or Minister considers relevant.*

10. Against these criteria, I found:

- a. the specific personal information listed is not well known;
- b. the individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the document; and
- c. the information is not readily available from publicly accessible sources.

11. With reference to the assessment above, I consider that the release of names of personnel acting outside the course of their duties would be an unreasonable disclosure of personal information and is therefore conditionally exempt under section 47F(1) of the FOI Act.

12. Section 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless access to the document would be contrary to the public interest.

Public interest considerations – section 47F

13. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors are that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.
14. However disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).
15. Paragraph 6.29 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factor I find particularly relevant to this request is that release of this information could reasonably be expected to prejudice the protection of an individual's right to privacy.
16. Releasing details that would identify individuals acting outside the course of their duties could reasonably be expected to cause significant harm to the individuals involved by compromising their privacy and their involvement in a drug study.
17. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F of the FOI Act.
18. None of the factors listed in section 11B(4) [Irrelevant Factors] were taken into account when making my decision.

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