



DGHC/OUT/2017/R29048446

**FOI 186/16/17 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:

2. *I request a copy of the following documents:*

*[Item 1] (a) DI(G) ADMIN 24-3—Conduct of Human Research in Defence;*

*[Item 2] (b) DI(G) PERS 16-1—Health Care of Defence Force Personnel;*

*[Item 3] (c) DI(G) PERS 16-20—Privacy of health information in Defence;*

*[Item 4] (d) DI(G) PERS 16-29—Supply, control, carriage, issue and administration of pharmaceuticals;*

*[Item 5] (e) HD 229—Provision of pharmaceutical services;*

*[Item 6] (f) HD 311—Use of medications by aircrew and aircraft controllers;*

*[Item 7] (g) HD 610—Privacy of health information of Defence members and Defence candidates;*

*[Item 8] (h) HD 705—Provision of medicines to Australian Defence Force members; and*

*[Item 9] (i) HLTHMAN Volume 5—Immunisation.*

3. *If any document listed in paragraph 2 has been replaced by, or its content incorporated into, another document, I also request a copy of that other document.*

4. *I also request a listing of the numbers and titles of:*

*[Item 10] (j) all Defence Instructions (General) in the PERS 16 series currently in effect;*

*[Item 11] (k) all Health Directives currently in effect; and*

*[Item 12] (l) all volumes of the Health Manual currently in effect.*

*excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI 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 nine documents as matching the description of the request. This included the generation of two lists of records consistent with the provisions of Section 17(1) (b) [requests

involving use of computers etc.] of the FOI Act where the request is for information that is not available in discrete form.

4. The decision in relation to each document is detailed in a schedule of documents.

### **Decision**

5. I have decided to:
- a. release 7 documents in full; and
  - b. partially release 2 documents 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 47E(d) [public interest conditional exemptions-certain operations of agencies] of the FOI Act.

### **Material taken into account**

6. 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 provided by Joint Health Command policy staff in the course of the review of the requested documents. Most notably this entailed advice regarding the listing of documentation, determination of versions and the migration of current documents across the range of health policy records into the one newly combined Defence Health Manual (DHM) where the DHM had not changed the content of the previously standalone document.

### **Reasons for decision**

#### **Section 47E – certain operations of agencies**

7. Section 47E(d) of the FOI Act states:

*A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:*

*...(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency...*

8. Where access has been denied to information under section 47E(d) of the FOI Act, I considered that the material could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of Defence.
9. I note that use of the word ‘could’ in this provision also requires no more than a degree of reasonableness to be applied in deciding whether disclosure would cause the consequences specified.
10. This information, if released, could affect the integrity and efficacy of Defence’s internal processes and procedures regarding specific treatments and the maintenance of operation tempo by the ADF. While I do note that there is extensive literature in the public domain relating to the subjects that have been omitted, the information that has been denied is not itself readily available in the public domain and could reasonably cause an adverse effect on Defence’s ability to conduct health procedures in an operational setting.

11. I am satisfied that the expected effect of disclosing to the material identified could adversely effect the proper and efficient conduct of the operations of Defence and have decided that the specified material is conditionally exempt pursuant to subsection 47E(d) of the FOI Act.

**Public interest considerations – section 47E**


12. Section 11A(5) provides that if a document is conditionally exempt, it must be disclosed “unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest”.

13. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the Guidelines together with a range of factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act.

14. Disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, disclosure of specific health information, including information on vaccinations and the conduct of day to day operational matters in relation to aircrew management in operational environments could potentially contribute to the building of a wider picture of current deployed operations and preparedness procedures.

15. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents. Therefore, I have decided that it would be contrary to the public interest to release the information considered exempt under section 47E of the FOI Act.

16. None of the factors listed in section 11B(4) [irrelevant factors] were taken into account when making my decision.



Paul Naveau  
Director Health Materiel Logistics and Pharmacy  
Joint Health Command  
Accredited Decision Maker

8 March 2017