



Australian Government
Department of Defence
Defence Support and Reform Group

Ministerial and Information
Management Branch
Department of Defence

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Our reference: FOI 246/13/14

[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

1. I refer to your email of 22 January 2014 to the Department of Foreign Affairs and Trade, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"...documents or cables from the Government of the United Kingdom, to the Australian Government, that refer to the offer to the ADF Contingent of OP PROVIDE COMFORT/OP SAFE HAVEN, who were under command from the HQ 3rd Commando Brigade, Royal Marines during the period 16 May 1991 to 30 June 1991, of the General Service Medal [GSM] 1962 Clasp ['Bar'] "N.IRAQ & S. TURKEY""

2. On 23 January 2014, your FOI request was transferred, under section 16 of the FOI Act, to the Department of Defence.

Background

3. On 7 February 2014, our office informed you that the decision maker had determined that there was a requirement to consult with a foreign government under section 15(8) of the FOI Act, before finalising the decision. As such, in accordance with section 15(8) of the FOI Act, the statutory timeframe was extended to **23 March 2014**.

4. 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

5. Mrs Helen Gouzvaris, Director Honours and Awards, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

6. Mrs Gouzvaris identified two documents that fall within the scope of your request.

Decision

7. Upon inspecting the documents, Mrs Gouzvaris decided to:
- a. release one document intact; and
 - b. release one document with deletions under section 22 [Access to edited copies with exempt or irrelevant matter deleted] of the FOI Act, on the grounds that the deleted material is exempt under section 47F [Public interest conditional exemptions - personal privacy].

Material taken into account

8. In making her decision Mrs Gouzvaris had regard to:
- a. the terms of your request;
 - b. the content of the documents in issue;
 - c. relevant provisions in the FOI Act;
 - d. the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act; and
 - e. advice received from the consulted third party.

Reasons for decision**Exemption claim - Section 47F(1) of the FOI Act**

9. Upon examination of the document, Mrs Gouzvaris found that it contained signatures of persons other than you. 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, Mrs Gouzvaris had regard to the criteria specified in section 47F(2) of the FOI Act:

- 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; and
 - c. the availability of the information from publicly accessible sources.
10. Against these three criteria, Mrs Gouzvaris found that:
- 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 documents; and
 - c. the information is not readily available from publicly accessible sources.

11. With reference to the assessment above, Mrs Gouzvaris considered that the release of signatures of persons other than you would be an unreasonable disclosure of personal information and was 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

Rights of access - section 11A

13. 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 - section 47F

14. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, Mrs Gouzvaris considered the range of factors that favour access to a document set out in subsection 11B(3) [public interest exemptions - factors favouring access] of the FOI Act. Mrs Gouzvaris noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, the disclosure of this information would not increase public participation in Government processes, nor would it increase scrutiny or discussion of Government activities.

15. Mrs Gouzvaris noted that the release of this material may be of some interest to you; however it would not inform public debate on any matter of public importance in any meaningful way. Additionally, the deleted material would not allow you any further access to your own personal information.

Irrelevant factors - section 11B (4)

16. In coming to the above decision, Mrs Gouzvaris had regard to subsection 11B(4) [irrelevant factors] of the FOI Act, which lists factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. None of the factors Mrs Gouzvaris took into account were listed under subsection 11B(4) of the FOI Act.

17. Accordingly, Mrs Gouzvaris considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the exempt material contained in the documents. Therefore, Mrs Gouzvaris decided that it would be contrary to the public interest to release the information considered under subsection 47F of the FOI Act.

Payment of Charges

18. In our letter, dated 24 January 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 on 24 January 2014.

19. Upon completion of your request, after deducting the free decision making time, the actual amount for processing exceeded the original estimate provided to you. However, as explained in the above mentioned letter the amount payable can only be more than the preliminary assessment if the decision is to release all of the documents requested in full. Accordingly, you are only required to pay the original amount of [REDACTED] (noting that no deposit was required) in order to finalise your request.

20. Please find attached at Enclosure 1 the Payment Authorisation Form for the balance. Once you have completed the form please return to foi@defence.gov.au.

FOI Disclosure Log

21. 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 this request within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further information

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

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

Yours sincerely



Phillip Connelly
Case Officer
Freedom of Information

21 March 2014

Enclosures:

1. Payment authorisation form.