



**Australian Government**  
**Department of Defence**

Reference: Objective Id: R30703288

**FOI 265/16/17 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT**

1. I refer to the email received on 3 July 2017, in which [REDACTED] sought an internal review under section 54 of the *Freedom of Information Act 1982* (FOI Act), of the accredited decision maker's decision dated 8 June 2017.

2. The applicant's request was for access to documents under the FOI Act relating to

*"...1. All correspondence between the Department of Defence and the Prime Minister's office between June 2014 and December 2015 pertaining to the 2014 Ebola outbreak in West Africa regarding any proposals and discussion for deploying Australian Defence Force personnel and assets to respond to the crisis;*

*2. All correspondence between the Department of Defence and the Department of Prime Minister and Cabinet between June 2014 and December 2014 pertaining to the 2014 Ebola outbreak in West Africa regarding any proposals and discussion for deploying Australian Defence Force personnel and assets to respond to the outbreak;*

*3. Documents produced by the Department of Defence between June 2014 and December 2014 related to an assessment of defence capabilities to respond to the 2014 West African Ebola outbreak.*

*This request relates to an Australian Research Council project that investigates military assistance in health emergencies."*

**Contentions**

3. In summary, the applicant requested an internal review of the original decision.

4. The applicant contended that further information should be released relating to the decision making process and options considered by the Australian Government in response to the 2014 Ebola Outbreak in West Africa.

5. The purpose of this statement of reasons is to provide the applicant with a fresh decision relating to the documents that are the subject of the internal review.

### **Reviewing officer**

6. I am authorised to make this internal review decision under arrangements approved by the Secretary for Defence under section 23 of the FOI Act.

### **Documents subject to internal review**

7. Noting the applicant's contentions, 19 documents are subject to internal review.

8. Please find attached a schedule of documents which details the documents subject to internal review. My internal review decision is highlighted in blue.

### **Internal review decision**

9. I have decided to uphold the original decision to:

- a. partially release 14 documents on the grounds that the deleted material is considered exempt under section 33 [Documents affecting national security, defence or international relations] and section 47F [Public interest conditional exemptions – personal privacy] of the FOI Act; and
- b. deny access to five documents under section 33 of the FOI Act.

10. Further to the above, material considered irrelevant to the scope of the request has been removed under paragraph 22(1)(b)(ii) of the FOI Act.

11. As I have upheld the decision to release the documents in the same form as provided previously to the applicant, I have not provided another copy of the documents.

### **Material taken into account**

12. In arriving at my decision, I had regard to:

- a. the terms of the applicant's request and subsequent internal review;
- b. the decision and documents that are the subject of the internal review;
- 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*; and
- e. advice from the Department of Foreign Affairs and Trade (DFAT).

### **Findings and reasons for the decision**

#### **Under section 33(a)(i) and 33(a)(iii) [Document affecting national security and international relations]**

13. Section 33(a)(i) of the FOI Act, provides that a document is exempt from disclosure if its disclosure under the FOI Act:

*'(a) would, or could reasonably be expected to, cause damage to:*  
*(i) the security of the commonwealth...*  
*(iii) the international relations of the Commonwealth.'*

14. The term ‘security of the Commonwealth’ is defined in section 4(5) of the FOI Act and broadly refers to the protection of Australia and its population from activities that are hostile to, or subversive of, the Commonwealth’s interests. The phrase ‘*international relations*’ has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations. The exemption is not confined to relations at formal diplomatic or ministerial level. It also covers relations between government agencies.

15. In evaluating potential harmful effects of disclosing information in the documents that would affect Australia’s security and international relations, I have also taken into account the intelligence technique known as the ‘mosaic theory’. This theory holds that individual pieces of information, when combined with other pieces, can generate a composite – a mosaic – that can damage Australia’s national security and/or international relations.

16. I identified material such as specific details of procedures to be put in place and information which relate to the courses of action and deliberations made by decision makers within the Commonwealth and other nations. I also identified information relating to Australia’s and other nations defence capabilities in particular when responding to emergency situations which, if disclosed, could assist others with the collection of intelligence.

17. I consider if this information was released, it would, or could reasonably be expected to cause damage to the security of the Commonwealth. Accordingly, I have decided to exempt some of the material in the documents under section 33(a)(i) of the FOI Act.

18. Some of the international relations information considered exempt relates to information provided by another country such as their knowledge and assessments of foreign governments, the identities of foreign officials and communications that were discussed in confidence. In my view, if this information were to be disclosed, it would likely cause damage to Australia’s relationships with other countries. Furthermore, any damage to international confidence and close relationships with other countries would affect Australia’s ability to deal with similar matters should they arise in the future.

19. Accordingly, I have decided to exempt some of the material in the documents under section 33(a)(iii) of the FOI Act.

### **Section 33(b)**

20. I found information contained in the documents which was communicated in confidence to Defence by a foreign government. The information was communicated in confidence whereby it implied there was an obligation of confidence. Furthermore, the information itself is of a confidential nature.

21. If this material were to be disclosed, without the agreement of the foreign government, it could harm the relationship which Australia has with that government. Therefore, I have decided to exempt some of the material in the documents under section 33(b) of the FOI Act.

## Section 47F

22. I identified personal information of individuals other than the applicant contained in the documents, such as names, photographs and other identifying information.

23. The Guidelines note that *'the personal privacy exemption is designed to prevent the 'unreasonable' invasion of third parties' privacy'*.

24. 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, I had 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 with in the documents;
- c. the availability of the information from publicly accessible sources; and
- d. any other matters that the agency considers relevant.

25. Against those criteria, I found that:

- a. the specific personal information relating to the individuals is not well known;
- b. the specific personal information is not readily available from publicly accessible sources; and
- c. the specific personal information is information that the individuals would not wish to have disclosed without their consent.

26. Section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations are set out below.


### Public interest considerations under section 47F

27. 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 subsection 11B(3) [public interest exemptions – factors favouring access] of the FOI Act.

28. Disclosure of the specific personal information would promote some of the objects of the FOI Act as information held by the Government is a national resource and it would allow scrutiny or discussion of government activities.

29. While release of the specific information may be of some interest to the applicant, there is a strong public interest in protecting the privacy of the individuals whose personal details appear in the document. Additionally, disclosure of the specific information would not promote oversight of public expenditure.

30. In coming to the above decision, I also considered subsection 11B(4) of the FOI Act. Accordingly, I consider that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the material. I therefore decided that it would be contrary to the public interest to release the specific information considered exempt, under subsection 47F(1) of the FOI Act.

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Ms Joanne Anderson  
Decision Maker – Internal Review