



Australian Government
Department of Defence

Reference: AM3028723

FOI 267/16/17 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:

“documents under the FOI Act relating to the courses on international human rights law and the Law of Armed Conflict taught to the ISF by Task Group Taji, specifically: the course content and assessments on how effective the courses have been in terms of ISF operational performance in the field.”

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 eight 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. release seven documents in full;
 - b. partially release one document 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 47F [public interest conditional exemptions-personal privacy] and/or 33(a)(iii) [documents affecting international relations] of the FOI Act; and
 - c. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(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 from deployed Joint Task Force 633 staff.

Reasons for decision

Section 33 – Documents affecting international relations

8. The document contain information pertaining to force flows or the performance of forces undertaking training would undermine the trust relationship necessary to effectively undertake training activities. The international relations information considered exempt, under sub-section 33(a)(iii) of the FOI Act, relates to Australia maintaining good working relations with other governments and their officials. Any damage to international confidence and close relationships with other countries would seriously affect Defence's ability to deliver on its obligations to protect Australia's interests. Release of information about Defence's relationships with other governments and officials would cause damage to those relationships, and is therefore exempted under sub-section 33(a)(iii) of the FOI Act.

9. Paragraph 5.36 of the Guidelines states that 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 to protect the flow of confidential information between them. Any damage to confidence would seriously undermine the relationship between Australia and the host nation Iraq, which currently has troops undertaking combat operations.

10. After considering all of the above, I am satisfied that the specific identified information is exempt under section 33(a)(iii) of the FOI Act.

Section 47F - Personal privacy

11. In my examination of the documents I also considered whether:

- a. the document contained personal information;
- b. the disclosure of the personal information would be unreasonable; and
- c. whether the disclosure of this information would, at this time, be contrary to the public interest.

12. In my examination of the documents I identified information that would reveal the identity of certain individuals. As a person's identity could be apparent or reasonably ascertainable from the identified information, I have decided that it constitutes personal information.

13. In determining whether release of the above personal information is unreasonable, I took into account, inter alia:

- 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 within the document; and
- c. the availability of the information from publicly accessible sources.

14. Against these criteria, I found:

- a. the context in which the identified personal information is not well known;
- b. the persons to whom the information relates is not widely known to be (or to have been) associated with the matters dealt with in the documents; and
- c. the context of the identified personal information is not available from publicly accessible sources.

15. After considering all of the above, I am satisfied that the specific identified information is conditionally exempt under section 47F of the FOI Act.

Section 47F – public interest considerations

16. 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.’

17. I considered the factors favoring 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.

18. However, the 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).

19. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice or harm: a. the protection of an individual’s right to privacy; and b. the interests of an individual or group of individuals

20. On balance, I believe the potential prejudice to the privacy of persons outweighs any potential benefit from promoting the objects of the Act. In coming to the above decision, I considered subsection 11B(4) [irrelevant factors] of the Act. None of these factors were taken into account. I therefore decided that it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

Further Information

21. One of the documents matching the scope of this request was classified. I have redacted exempt information and declassified the version of the document that is approved for release.

22. A further two of the documents matching the scope of this request contained a dissemination limiting marker, as the documents are approved for public release the marker has been struck through.

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