



Reference: R34273501

FOI 298/17/18 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:

“...Item 1. A copy of the promotion record for CMDR Chloe Griggs showing the date of promotion to LEUT.

Item 2. A copy of the promotion record for the CMDR Chloe Griggs showing the date of promotion to LCDR.

Item 3. A copy of the promotion record for CMDR Chloe Griggs showing the date of promotion to CMDR. I understand CMDR Chloe Griggs is the Director of Communications & Media Royal Australian Navy.

Item 4. A copy of records showing travel arrangements for RADM Ray Griggs from 1 July 2013 to 1 July 2014 - showing costs, dates and locations of travel, including addresses of accommodation.

Item 5. A copy of records showing travel arrangements for CMDR Chloe Griggs from 1 July 2013 to 1 July 2014 - showing costs, dates and locations of travel, including addresses of accommodation.

Item 6. If RADM Griggs travelled on official business to France in July 2016, a copy of a document showing the itinerary and costs.

Item 7. If CMDR Griggs travelled on official business to France in July 2016, a copy of the itinerary and costs.

Item 8. A copy of the roles and responsibilities of Director of Communications & Media Royal Australian Navy, including who this person reports to.

Item 9. A copy of the duty statement for the role held by CMDR Grigg from July 2013 to July 2014, including who she reported to.”

Item 10. A copy of a document where RADM Griggs’ notified his chain of command that he was involved in a relationship with another Defence member between 1 July 2012 and 22 February 2018

excluding personal email addresses, signatures, PMKeys numbers and mobile telephone numbers, contained in documents that fall within the scope of the FOI request. In addition, excluding draft and duplicates of documents.

FOI decision maker

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

Documents identified

3. I identified 462 pages 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/Serial number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:
- a. release six documents in full;
 - b. partially release 58 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 47D [public interest conditional exemptions-financial or property interests of the Commonwealth], 47F [public interest conditional exemptions-personal privacy] and/or section 47G [public interest conditional exemptions-business] of the FOI Act;
 - c. refuse access to Items seven and 10 of the request under subparagraph 24A(1)(b)(ii) [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act; and
 - d. 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);
 - e. advice from the Office of the Chief of the Defence Force, Office of the Vice Chief of Defence, Navy, Headquarters Joint Operations Command and Estate and Infrastructure Group;
 - f. existing advice received from third parties for FOI 010/17/18 in relation to business information; and
 - g. comments from third parties in relation to personal information.

Reasons for decision

Section 24A (1) of the FOI Act - Requests May Be Refused

8. Section 24A(1) of the FOI Act states:

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*

(ii) *does not exist.*

9. Paragraph 3.84 of the Information Commissioner Guidelines advises what detail this statement of reasons needs to include to refuse a request under section 24A (1):

The statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search.

10. To ensure that "all reasonable steps" have been taken in this request, every reasonable avenue of locating potential documents matching Items seven and 10 have been exhausted.

11. In relation to Item seven, Navy ran a report on the Defence financial management system and advised that no transactions were found. I also sought advice from CMDR Griggs and she confirmed that she did not travel to France on official business in July 2016 and therefore no documents exist.

12. In relation to Item 10, I sought advice from the Office of the Chief of the Defence Force (OCDF) and the Office of the Vice Chief of the Defence Force (OVCDF). I have been advised by both Offices that VADM Griggs notified his chain of command verbally of his change in personal circumstances, which is consistent with Defence requirements.

13. I am satisfied that "all reasonable steps" have been taken to locate the documents sought by the applicant. I am satisfied that the documents do not exist, and refuse access to Items seven and 10 under section 24A (1) of the FOI Act.

Section 47D – Financial interests

14. Upon examination of the documents, I found that they contained Defence Travel Card, Defence Purchasing Card and frequent flyer numbers, or part thereof. Release of these numbers would have a substantial adverse effect on the financial interest of the Commonwealth as it would provide third parties with sufficient information to fraudulently use Commonwealth funds. I consider the material is therefore conditionally exempt under section 47D of the FOI Act.

15. Section 11A(5) of the FOI Act 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.

16. My public interest arguments are detailed below.

Section 47F - Personal privacy

17. Upon examination of the documents, I identified information, specifically the names, middle names and frequent flyer numbers of persons other than the applicant. As a person's identity could be apparent or reasonably ascertainable from the identified information, I have decided that it constitutes personal information.

18. 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.

19. Against these criteria, I found:

- a. the specific identified 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 specific identified information is not publicly available from publicly accessible sources.

20. With reference to the assessment above, I consider the release of personal identifying information would be an unreasonable disclosure of personal information and therefore conditionally exempt under section 47F(1) of the FOI Act.

21. Section 11A(5) of the FOI Act allows access to conditionally exempt documents unless, in the circumstances, access to the document would be contrary to the public interest.

22. My public interest arguments are detailed below.

Section 47G – business

23. Upon examination of the documents, I identified business information belonging to a number of businesses.

24. Under section 47G of the FOI Act a document is conditionally exempt if it discloses information:

...concerning a person in respect of his or her business or professional affairs, or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

25. I note that the use of the word ‘could’ in this provision requires no more than a degree of reasonableness to be applied in deciding whether disclosure would cause the consequences specified.

26. The operation of the business information exemption depends on the effect of disclosure rather than the precise nature of the information itself. I am satisfied that the effect of disclosing the identified material could have an adverse effect on the mentioned companies as disclosure of their pricing breakdowns and any information that could lead to their pricing information being calculated could diminish the competitive nature of the businesses and affect the profitability of their business operations.

27. In light of the above, I have decided that the specified material identified is conditionally exempt pursuant to section 47G of the FOI Act.

28. Section 11A(5) of the FOI Act 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.

29. My public interest arguments are detailed below.

Public interest considerations – section 47D, 47F and 47G

30. In assessing whether disclosure is on balance, contrary to the public interest, I considered the Guidelines together with a range of factors set out in section 11B(3) of the FOI Act, which favours access to a document. I note that disclosure of the requested documents

may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, disclosure of the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

31. While I consider that release of the material removed under sections 47D may be of some interest to the applicant, disclosure of the conditionally exempt material would not inform public debate on any matter of public importance in any meaningful way. Additionally, I do not consider that disclosure of the material would promote oversight of public expenditure. Furthermore, release of the material would adversely affect the financial operations of Defence.

32. In relation to the material removed under section 47F, I believe the potential prejudice to the privacy of persons other than the applicant outweighs any potential benefit from promoting the objects of the Act. I consider that the public interest is better served in protecting the privacy of the individual whose personal details are contained within these documents from release to the public at large.

33. While I consider that release of some of the material removed under section 47G would promote oversight of public expenditure, there is a stronger public interest in not releasing information that would unreasonably affect a business. I consider that the public interest has been served by releasing the total figures, where possible, without revealing specific business costings.

34. Furthermore, I consider that disclosure of material removed under section 47G has the potential to cause harm to the businesses and risk Defence's commercial relationship with service providers.

35. None of the factors listed in section 11B(4) of the FOI Act were taken into account when making this decision.

36. After weighing up all of the above, I consider that, on balance the public interest factors against disclosure outweigh the factors for disclosure of the conditionally exempt material in the documents. Accordingly, I have decided that the specific material is exempt under sections 47D, 47F and 47G of the FOI Act.

Further Information

37. Some 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.

Clarification/Context Statement

38. To clarify, during the time period specified in Items eight and nine, CMDR Griggs held three roles. The duties and reporting chain when CMDR Griggs was in these positions is detailed in the documents provided. In December 2017 CMDR Griggs posted out of the Director of Communication and Media – Navy role.

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Mrs Melissa Davidson
Accredited Decision Maker
Associate Secretary Group