



Australian Government
Department of Defence

FOI 332/15/16 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. Australia – United States Defence relationship (Including US Force Posture Initiatives in Australia)(8 pages)

Item 2. Resettlement of Locally Engaged Employees from Afghanistan (8 pages)

Item 3. Death or Serious Injury of Afghan Civilians where ADF involvement if alleged and subject to Administrative Inquiry (11 pages)

Excluding duplicate copies of documents or documents that have already been publicly released or media releases, media articles or media statements.”

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 three documents as matching the description of the request.

Decision

4. I have decided to:

- a. release Item 1 in full; and
- b. partially release Items 2 and 3, on the grounds that the deleted material is considered exempt under section 47E(d) [public interest conditional exemptions - certain operations of agencies] or section 47F [public interest conditional exemptions – personal privacy] of the FOI Act.

Material taken into account

5. 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 officials within Military Strategic Commitments and International Policy Division and consultation with the Department of Immigration and Border Protection.

Reasons for decision

Item 2: Section 47E(d) - certain operations of agencies

6. Subsection 47E(d) of the FOI Act provides that a document is exempt from release if its disclosure could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operation of the agency.

7. I have considered the content and context of the relevant document and identified the intended purpose and objective. This information has provided me with the necessary context to determine that, if released, it would have a substantial adverse affect on the Commonwealth in relation to assessing certain claims for those seeking resettlement in Australia.

8. Having reviewed the information in light of the Commissioner's Guidelines, paragraphs 5.13 and 5.14, I am satisfied that the expected effect of disclosing the material identified exempt under section 47E(d) could have a substantial adverse effect on, and prejudice the effectiveness of, procedures or methods used by the agency and on the proper and efficient conduct of the operation of the agency.

Section 47E(d) – Public Interest

9. I considered the relevant factors set out in section 11B(3) of the FOI Act and noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, disclosure of the exempted information would not increase public participation in the resettlement process.

10. I acknowledge that this information may be of some interest to the applicant, however it would not inform public debate on any matter of public importance in any meaningful way.

11. In coming to my decision, I had regard to the Guidelines, specifically paragraph 6.29 in regard to public interest factors against disclosure. For this reason, it is imperative that particular information that may compromise the resettlement process is not released to the public. Any further elaboration would in itself disclose the information that is being exempted.

12. Accordingly I considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the identified material.

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

Item 3: Section 47F - personal privacy

14. Upon examination of the document matching Item 3 of the request, I found that it contained a person's sensitive medical information, which satisfies the definition of personal information as set out in section 4 of the FOI Act.

15. In considering whether disclosure of the material would be considered unreasonable, I had regard to section 47F(2) of the FOI Act, specifically:

- 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.

16. I am satisfied that the specific information is not well known, nor available from publicly available sources and the person to whom the information relates is not known to have been involved.

Section 47F – Public Interest

17. Section 11A(5) of the FOI Act requires that agencies provide access to conditionally exempt documents unless disclosure at that time would, on balance, would be contrary to the public interest.

18. I consider that the public interest in promoting the objects of the Act have been satisfied as, I do not consider removal of the specific information detracts from the sense of the document, and the public disclosure of government held information.

19. I do not consider that the specific information would inform debate on a matter of public importance nor promote oversight of public expenditure.

20. Conversely, I consider it is imperative that Defence is seen to manage sensitive personal information in an effective manner so as not to compromise the privacy of individuals. If Defence is not seen to manage personal information appropriately it may prejudice the agency's ability to obtain confidential information in the future.

21. I decided that the protection of personal privacy far outweighs the arguments for disclosure and therefore find the material to be exempt under section 47F of the FOI Act.

Additional information

22. Please note that Items 1 and 2 contain material that is highlighted in yellow. The highlighting is added as a review mechanism at the time of drafting or updating the relevant document.



Melissa Davidson
Accredited Decision Maker
Associate Secretary Group

31 May 2016