Reference: [Objective ID R25941263]

FOI 335/15/16 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 - Any documents relating to the processing of FOI request 295/15/16, including without limitation any documents recording consultation with the Minister for Defence, or her office and the Prime Minister, or his office.

   Item 2 - Any documents recording consultation about this request with the Deputy Prime Minister; his office; or the Department of Agriculture – including but not limited to the "Deputy Prime Minister Support Unit" that has been set up inside the department to assist the Deputy Prime Minister to understand how politics works.

   Note that any documents already released to me pursuant to my earlier request (eg correspondence between myself and the Department, the decision letter) are excluded from the scope of this request. I don't need to receive them again."

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, exclude duplicates of documents and documents sent to and from me

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 14 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/Serial number to each of the documents, which corresponds with the schedule.

Decision

6. I have decided to:

   a. release 13 documents in full;

   b. partially release 1 document, on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy]; and

   c. refuse access to Item 2 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.
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 received from Air Force Headquarters and Information Access.

Reasons for decision

Section 22 – Edited copies with exempt or irrelevant matter deleted

8. Section 22 of the FOI Act provides that if an agency or Minister decides to:
   (i) refuse access to an exempt document; or
   (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;

and it is reasonably practicable to prepare a copy of the document modified by deletions, the agency or Minister must give the applicant access to the edited copy.

9. Considering all of the above, I decided that it was reasonably practicable to remove the irrelevant material, as stated in the scope of your request and release the document in that form.

Section 47F of the FOI Act

Upon examination of the document, I identified personal information, specifically names of individuals other than the applicant. Item 1 Serial 1 is an email from SQNLDR Tubbs to Dahlia Martin providing a copy of the documents matching FOI 295/15/16. The titles given to each of the documents is detailed in the ‘attachment’ area of the email. The titles of each attachment contain the personal information of other individuals. I consider the disclosure of this information would constitute an unreasonable disclosure of personal information of a person other than the applicant.

10. The Guidelines note that ‘the personal privacy exemption is designed to prevent ‘unreasonable’ invasion of third parties privacy’. In accordance with subsection 47F(2), 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 document;
   c. the availability of the information from publicly accessible sources; and
   d. any other matters that the agency considers relevant.

11. Against those criteria, I found that:
   a. the specific personal information is not well known at this point in time;
b. the people to whom the information relates are not known to have been associated with the matters dealt with in the documents;

c. the personal information is not readily available from publicly available sources; and

d. the material considered to be exempt is information that the individuals would reasonably be expected not to have disclosed to a third party prematurely.

Rights of access – section 11A

12. 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

13. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the range of relevant factors that favour access to a document set out in section 11B(3) [public interest exemptions – factors favouring access] of the FOI Act. While disclosure may promote some of the objects of the FOI Act, I do not consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

14. On balance, 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. In coming to the above decision, I considered subsection 11 B(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.

Exemption claim – section 24A(1)(b)(ii)

15. Section 24A(1) of the FOI Act provides that an agency may refuse access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document is in the agency’s possession but cannot be found, or the document does not exist.

16. Air Force Headquarters and the Information Access Directorate undertook electronic searches of the Defence Records Management system Objective. I have been advised by Information Access that all documents relating to the processing of a case are saved in Objective. A file is created in Objective for each FOI case. As such, the Information Access Directorate provided me with all of the documents within this file for FOI 335/15/16. Air Force Headquarters also save all documents pertaining to an FOI case in Objective and they
also provided all documents in this file. None of the documents provided by these areas related to consultation.

17. Both Air Force Headquarters and Information Access confirmed that no consultation was undertaken for FOI 335/15/16.

18. I am satisfied that all reasonable steps have been taken to locate the documents requested by the applicant. I have, therefore, decided to refuse access to Item 2 under section 24(A) of the FOI Act.

Additional advice

19. I note that a copy of the documents relating to FOI 335/15/16 were provided to the Information Access Directorate as part of the processing for this case. As a decision has previously been made on these documents I have not considered them again. I have noted this in the schedule of documents.

Yours sincerely

Jan Andrews
Accredited Decision Maker
Associate Secretary Group

23 May 2016