



Our reference: FOI 352/14/15

[Redacted]

By email: [Redacted]

Dear [Redacted]

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

1. I refer to your email, dated 1 May 2015, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

“I am seeking documents under the Freedom of Information Act 1982), produced in the period Aug-Oct 2011, that contain directions from the Chief of Army to Director General Personnel Army and/or Director General Career Management Army tasking them to develop a submission to increase the participation of women in the Army. ”

And

“I am seeking documents under the Freedom of Information Act 1982, which were produced in Oct -Dec 2011 for the Chief of Army's Senior Advisory Committee (CASAC), 'Entitled Maximising Female Participation in Army, in particular a Minute dated 6 Dec 2011 with that title”

Background

2. I refer to our email sent to you on 8 May 2015 informing you that we have combined your two requests received for the same document in accordance with section 24(2) of the FOI Act and you agreed to the following revised scope with a due date of 31 May 2015:

“Minute dated 6 Dec 11 produced in Oct -Dec 2011 for the Chief of Army's Senior Advisory Committee (CASAC), 'Entitled Maximising Female Participation in Army, in particular a Minute dated 6 Dec 2011 with that title”

3. I note that the above mentioned due date is a Sunday. In accordance with the FOI Guidelines issued by the Australian Information Commissioner, if the last day for notifying a decision falls on a Saturday, Sunday or a public holiday, the timeframe will expire on the first day following which is none of those days. As such, the due date for you to receive a response is **1 June 2015**.

4. The purpose of this letter is to provide you with the decision relating to the documents that are the subject of your request.

FOI decision maker

5. COL Mitch Kennedy, Director, Personnel Policy, Army is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

6. COL Kennedy identified one document as matching the description of your request. Documents in the form approved for release are at Enclosure 1.

Decision

7. COL has decided to partially release the document with deletions made in accordance with subsection 22(1) [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] of the FOI Act.

Material taken into account

8. In making his decision, COL Kennedy had regard to:
- a. the terms of the request;
 - b. the content of the identified document in issue;
 - c. relevant provisions in the FOI Act; and
 - d. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines);

Reasons for decision

Personal privacy - Section 47F of the FOI Act

9. The document contains the signature of a defence member. This information could be used to reasonably ascertain the identity of an individual and therefore satisfies the definition of personal information in section 4 of the FOI Act.

10. To determine whether the disclosure of the identified personal information was unreasonable, COL Kennedy had regard to the criteria specified in section 47F(2) of the FOI Act:

- a. the extent to which the information is well known
- b. whether the persons to whom the information relates are known to be (or to have been) associated with the matters dealt within the document
- c. the availability of the information from publicly accessible sources.

11. Against these three criteria, COL Kennedy found:
- a. the specific personal information listed is not well known
 - b. the individual whose personal information is contained in the document is not widely known to be associated with the matters dealt with in the documents
 - c. the information is not readily available from publicly accessible sources.

12. With reference to the assessment above, COL Kennedy considers that the release of the signature that identifies persons other than you would be an unreasonable disclosure of personal information and therefore the signature is conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations - Section 47F

13. Section 11 A (5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless access to the document would be contrary to the public interest.

14. In making his decision COL Kennedy had regard to paragraph 6.9 of the Guidelines which states:

'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.'

15. COL Kennedy considered a range of factors that favour access to the document, as set out in section 11B(3) of the FOI Act. Specifically, COL Kennedy considered whether disclosure would:

- a. promote the objects of the Act
- b. inform debate on a matter of public importance
- c. promote effective oversight of public expenditure
- d. allow a person to access his or her personal information.

16. Factors favouring disclosure in this case are that doing so may promote some of the objects of the FOI Act, as information held by the Government is a national resource. The remaining factors contained in section 11B(3) are not relevant to the present case.

17. On balance, however, COL Kennedy considers that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. The public interest is better served in this case by maintaining the personal privacy of the third party named in the document.

18. In coming to his decision, COL Kennedy also considered subsection 11 B (4) [public interest exemptions – irrelevant factors] of the FOI Act.

19. COL Kennedy decided that it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

Rights of review

20. The FOI Act provides for rights of review of decisions. A copy of the fact sheet, "Freedom of Information – Your Review Rights", setting out your rights of review is at Enclosure 2.

FOI Disclosure

21. In accordance with the requirements of section 11C of the FOI Act, Defence is required to publish details of information released under the FOI Act. Defence publishes identified documents relating to requests within five working days of receipt by the applicant. Defence will also publish this decision notice with privacy deletions.

Further information

22. The FOI Act may be accessed at: <http://www.comlaw.gov.au/Details/C2015C00013>.

23. All departmental action on your request is now complete. Should you have any questions in regard to this matter please contact this office.

Yours sincerely



Vanessa Elphick
FOI Case Officer
Freedom of Information

1 June 2015

Enclosures:

1. Documents in the form for release
2. Fact Sheet: Freedom of Information – Your Review Rights