



Australian Government
Department of Defence

Our reference: FOI 403/14/15

[REDACTED]
By email: [REDACTED]

Dear [REDACTED]

NOTICE OF DECISION ON FREEDOM OF INFORMATION REQUEST

I refer to your email dated 12 June 2015, in which you sought access, under the *Freedom of Information Act 1982* (FOI Act), to:

"... a copy of a brief signed by Director General of Garrison Health Operations BRIG Georgina Whelan on or around 7 May 2015 relating to the closure of the 2GHB Radiation Safety Incident of 2013. This brief is in PDF format and is located within the Radiology and Radiation Safety folder of Objective, under the Directorate of Defence Force Dentistry/Directorate of Specialist Clinical Advice within the Garrison Health Operations Section of Joint Health Command."

Background

Ms Andrea Sansom, Assistant Director FOI, decided that there are no FOI charges applicable for the processing of your request. Accordingly, the statutory deadline for you to receive a response to your request was 12 July 2015.

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 13 July 2015.

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

FOI decision maker

Ms Paula Sear, Acting Director Health Service Delivery, Directorate of Defence Clinical Services, is the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Document identified

Ms Sear identified the following document as matching the description of your request:

- Brief for DGGHO – Joint Health Command (JHC) – 2GHB Incident Closure Pack dated 6 May 15

Decision

Ms Sear decided to release the document with deletions made 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 exempt under section 47F [Public interest conditional exemptions – personal privacy] of the FOI Act.

Material taken into account

In making her decision, Ms Sear 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;
- d. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines); and
- e. advice provided by the area whose duties relate to the requested document.

Reasons for decision

Section 47F – Personal Privacy

Upon examination of the document, Ms Sear found that it contains personal information, specifically, names and mobile telephone numbers belonging to people, other than you. This material satisfies the definition of personal information in section 4 of the FOI Act. In accordance with section 47F(2) of the FOI Act, in determining whether the disclosure of the identified personal information would be unreasonable, Ms Sear 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. how the information was obtained, that is, in confidence or using information gathering powers;
- d. whether any public purpose would be achieved through release of the document; and
- e. the availability of the information from publicly accessible sources.

Against those criteria, Ms Sear found that:

- a. the specific personal information is not well known to the general community;
- b. whilst some of the information is known to certain elements, the person/s to whom the information relates, is not known to be, or to have been, associated with the matters dealt with in the document by the general community; and
- c. the specific information is not readily available from publicly accessible sources.

Noting the findings against the above criteria, Ms Sear decided that the disclosure of this information would constitute an unreasonable disclosure of personal information belonging to a person other than you. Accordingly, Ms Sear considered this material to be conditionally exempt under section 47F of the FOI Act.

Subsection 11A(5) of the FOI Act requires Defence to allow access to a conditionally exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest.

Public interest considerations – section 47F

In assessing whether disclosure is on balance contrary to the public interest, Ms Sear considered section 11B of the FOI Act which sets out factors favouring access and irrelevant factors when considering the public interest test.

Subsection 11B(3) states factors favouring access to the document in the public interest include whether access to the document would do any of the following:

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

Ms Sear considered that the public interest in promoting the objects of the Act have been satisfied as, in her opinion, merely removing names and mobile telephone numbers from the document does not detract from public disclosure of government-held information.

Ms Sear considered that there is a public interest in protecting the privacy of individuals whose personal details appear in the document.

In coming to her decision, Ms Sear had regard to subsection 11B(4) [irrelevant factors] of the FOI Act, which lists factors which must not be taken into account in deciding whether access would, on balance, be contrary to the public interest. Ms Sear advised that none of the factors she took into account were listed under subsection 11B(4) of the FOI Act.

Accordingly, Ms Sear considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the document that matches the scope of this request. Therefore, she decided that it would be contrary to the public interest to release the information considered exempt under section 47F of the FOI Act.

FOI Disclosure Log

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.

Your Review Rights

Internal Review

Under the provisions of section 54 of the FOI Act, you are entitled to request a review of this decision. You must request a review, in writing, within 30 days of the date of this letter, or the date you receive the document. Requests can be sent to:

Email: FOIReview@defence.gov.au
Fax: 02 626 62112
Post: Freedom of Information Directorate - Reviews
Department of Defence
CP1-6-029
PO Box 7910
CANBERRA BC ACT 2610

Australian Information Commissioner

Under the provisions of section 54 of the FOI Act, you are also entitled to request an external review of this decision by the Australian Information Commissioner. You have 60 days to lodge such a request, using one of the contact methods below:

Email: enquiries@oaic.gov.au
Phone: 1300 363 992
Fax: 02 9284 9666
Post: GPO Box 2999
Canberra ACT 2601

Complaints

You may complain to Defence, the Information Commissioner or the Commonwealth Ombudsman about an action taken by Defence in the exercise of its power or the performance of its functions under the FOI Act. There is no fee for making a complaint. Should you wish to complain to the Department of Defence, your complaint can be addressed to Mr Tony Corcoran using the contact details below:

Email: Tony.corcoran@defence.gov.au
Post: Tony Corcoran
Assistant Secretary Information Management and Access Branch
CP1-6-14
PO Box 7911
CANBERRA BC ACT 2610

Contact details for the Commonwealth Ombudsman are below:

Phone: 1300 362 072)
Fax: 02 6276 0123
Post: Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Contact details for the Information Commissioner are as on the previous page.

Should you have any questions in regard to this matter please contact this office.

Yours sincerely



John Peterson
Case Officer
Freedom of Information

13 July 2015

Enclosure:

1. Document in the form for release