Dear [Name],

1. I refer to your email, dated 5 July 2011, in which you requested access, under the Freedom of Information Act 1982 (FOI Act), to:

   "...documents containing information on Department of Defence's explosive ordnance that was listed as missing, stolen or generally unaccounted for during the period between January 1, 2009, and the date of the receipt of this request.

   The information I seek is regarding explosive ordnance stored within Australia."

Revised scope

2. By email, dated 18 August 2011, you agreed to proceed with the following revised scope:

   "I seek access to a summary document containing details of explosive ordnance, stored in Australia, that was reported as missing, stolen or otherwise unaccounted for during the period 1 January 2009 and 5 July 2011."

3. 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

4. Mr Michael Askew Assistant Secretary Security Operations is the authorised decision maker, under the FOI Act, in relation to your request.

Defending Australia and its National Interests
Identified documents

5. Mr Askew identified three documents which matched the scope of your request:

a. Senate Estimates Brief on Lost or Stolen Weapons, Munitions or Explosives for the period 1 Jan – 31 Dec 09;

b. Senate Estimates Brief on Lost or Stolen Weapons, Munitions or Explosives for the period 1 Jan – 31 Dec 10;

c. Senate Estimates Brief on Lost or Stolen Weapons, Munitions or Explosives for the period 1 Jan – 31 Aug 11.

Decision

6. Mr Askew found that the identified documents contained material which would be considered irrelevant to the scope of your request. As such, he has decided to remove the information in accordance with subparagraph 22(1)(a)(ii) [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act and release the remainder of the documents intact.

7. A copy of section 22 of the FOI Act is at Enclosure 1. Copies of the documents in the form approved for release are at Enclosure 2.

Payment of Charges

8. In our letter, dated 19 August 2011, the department estimated the cost associated with processing your request to be You agreed to pay charges for the administration of your request and paid the preliminary assessment amount in full on 6 September 2011.

9. Upon completion of your request, the actual amount for processing was equivalent to the estimated charge. Accordingly, you are not required to pay any further charges in relation to this request.

Rights of review


FOI Disclosure Log

11. 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 two working days of receipt by the applicant. Defence will also publish the decision notice with privacy deletions.
Further advice

12. Should you have any questions in regard to this matter please contact me directly on (07) 3332 6359. Alternatively, the FOI team can also be contacted on the details at the top of this letter.

Yours sincerely

Theresa Stinson
Assistant Director
Freedom of Information

5 October 2011

Enclosures:
1. Copy of section 22 of the FOI Act
2. Documents in form approved for release
Section 22 of the FOI Act

Access to edited copies with exempt or irrelevant matter deleted

Scope

(1) This section applies if:
   (a) an agency or Minister decides:
      (i) to refuse to give 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
   (b) it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:
      (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
      (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
   (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
      (i) the nature and extent of the modification; and
      (ii) the resources available to modify the document; and
   (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

(2) The agency or Minister must:
   (a) prepare the edited copy as mentioned in paragraph (1)(b); and
   (b) give the applicant access to the edited copy.

Notice to applicant

(3) The agency or Minister must give the applicant notice in writing:
   (a) that the edited copy has been prepared; and
   (b) of the grounds for the deletions; and
   (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.

(4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.
Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Defence or the Minister under the Freedom of Information Act 1982 (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Defence, or external review by the Australian Information Commissioner.

Internal review

If Defence makes an FOI decision that you disagree with, you can ask Defence to review its decision. Generally the review will be conducted by the FOI Directorate, however in some instances it will be referred to the area that made the decision, but it will be conducted by someone at a more senior level. There is NO charge for internal review.

You must apply within 30 days of being notified of the decision, unless you have sought an extension from Defence.

Defence must make a review decision within 30 days. Where Defence has not met its review obligation, you may then approach the Information Commissioner.

Internal review is not available if the Minister or the principal officer of the agency made the decision personally.

How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points to which you are objecting and why.

You can lodge your application in one of the following ways:

Post: Freedom of Information Directorate
Department of Defence
CP1-6-001
PO Box 7910
CANBERRA BC ACT 2610

Fax: +61 2 626 62112
Email: FOI.Inquiries@defence.gov.au

External Review

Do I have to go through the Defence’s internal review process first?

No. You may apply directly to the Information Commissioner. However, going through the Defence internal review process gives Defence the opportunity to reconsider its initial decision and your concerns will most likely be addressed more quickly, without undergoing an external review process.

When can I go to the Administrative Appeals Tribunal (AAT)?

Under the revised FOI Act, you must seek external review through the Information Commissioner prior to applying to the AAT for such a review.

Making a complaint

You may make a complaint to the Information Commissioner about actions taken by Defence in relation to your application. The complaint needs to be in writing.
Contacting the Information Commissioner

Further information about the external review process or how to make a complaint to the Information Commissioner is available at the following:

Online: www.oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint, then all relevant documents and information must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. This could occur where the FOI complaint is only one part of a wider grievance about an agency’s actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Defence FOI contacts

Freedom of Information Directorate
Department of Defence
CP1-6-001
PO Box 7910
CANBERRA BC ACT 2600

Ph: +61 2 626 62200
Fax: +61 2 626 62122

Email: FOI.Inquiries@defence.gov.au
Website: www.defence.gov.au/foi