



# Australian Government

## Department of Defence

Chief Operating Officer

Freedom of Information and  
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Our reference: FOI 061/12/13

Via email: [REDACTED]

Dear [REDACTED]

1. I refer to your email of 17 August 2012, in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

*“reporting documents, Hot Issues Briefs, MIN REPS, relating to the Radiation Incident at HQJOC during 2009/10, where i was exposed to radiation as a SPOTLESS Guard.”*

### Background

2. 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

3. Mr Bob Hogan, Director Business Operations, Defence Support Group is the authorised decision maker, under the FOI Act, in relation to your request.

### Documents identified

4. Mr Hogan conducted a search of the files, and identified 17 documents as matching the description of your request titled; as detailed in schedule of documents at Enclosure 1.

### Decision

5. Mr Hogan decided to partially release 15 documents identified in response to your request with exempt matter removed in accordance with section 22 [deletion of exempt matter] of the FOI Act on the grounds that the deleted material is considered exempt under section 47F [documents affecting personal privacy] of the FOI Act. Mr Hogan decided to release the remaining two in full. For ease of reference and for the purposes of processing this request, an FOI item and serial number has been added to each of the documents, which corresponds with the schedule.

### Material taken into account

6. In making his decision, Mr Hogan had regard to:

- a. the terms of the request;
- b. the content of the document in issue;
- c. advice from Defence officers with responsibility for matters relating to the documents to which access was sought;
- d. relevant provisions in the FOI Act;, and

- e. Defence guidance material on the FOI Act and the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines).

**Reasons for decision – section 47E(d) - Operations of an agency**

7. Section 47E [Certain operations of agency] conditionally exempts documents where disclosure would, or could reasonably be expected to, prejudice or have substantial adverse effects on certain listed agency operations.

8. There are four separate grounds for the conditionally exemption. A document is conditionally exempt if its disclosure under the Act would, or could reasonably be expected to, do any of the following:

- a. prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- b. prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by the agency;
- c. have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency, or
- d. have a substantial effect on the proper and efficient conduct of the operations of an agency.

9. Mr Hogan considered that for those documents where a s47E is claimed, Mr Hogan found that the information pertains to Defence emergency and security management and would have a substantial adverse effect on the proper and efficient conduct of the operations of the Department of defence.

10. Mr Hogan also considered whether disclosure would shed light on the workings of government or enhance accountability or transparency. In light of the other information released, in Mr Hogan's view disclosing the information on emergency and security management operations will not materially add to those interests. For all these reasons, Mr Hogan has concluded that disclosure would be unreasonable. Mr Hogan was therefore satisfied information pertaining to the proper and efficient conduct of the operations of an agency is conditionally exempt.

**Public interest considerations – section 47E(d) - Operations of an agency**

11. A 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 (Section 11A(5) FOI Act). As the FOI Commissioner Guidelines state (at 6.8-6.9):

- a. 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.
- b. 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.

12. In balancing the public interest in this case, Mr Hogan considered the following factors in favour of disclosure:

- a. promoting the objects of the Act, particularly in increasing scrutiny, discussion, comment and review of the Government's activities (s 3(2)(b) FOI Act);
- b. informing debate on a matter of public importance, and
- c. in considering the factors against disclosure I have considered protecting individuals from unreasonable interferences with their privacy.

13. In this case, Mr Hogan formed the view that the disclosure of Defence emergency and security information could not reasonably be expected to lead to a change in the agency's processes that would enable those processes to be more efficient. By contrast, disclosure may have a substantial adverse effect on the proper and efficient conduct of the operations of an agency. Accordingly, Mr Hogan has decided that disclosure would be contrary to the public interest.

14. The public interest test being satisfied, the material which Mr Hogan has conditionally exempted under s 47E is exempt from disclosure under the FOI Act.

#### **Reasons for decision - section 47F - Personal Privacy**

15. In Mr Hogan's view, the documents contain information that enables the identification of individuals, including names, date of births, email addresses, Employee Identification numbers (EID), personal mobile numbers and the names of non Australian Public Service personnel.

16. Mr Hogan considered the disclosure of this information would constitute an unreasonable disclosure of personal information.

17. In accordance with subsection 47F(2) of the FOI Act, in determining whether the disclosure of this information would constitute an unreasonable disclosure of personal information, Mr Hogan 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 documents; and
- c. the availability of the information from publicly accessible sources.

18. Against those criteria, Mr Hogan found that:

- a. the specific personal information is not well known to the general community;

- b. the persons to whom the information relates is not known to be, or to have been, associated with the matters dealt with in the documents; and
- c. this specific information is not readily available from publicly accessible sources.

19. Noting the findings against the above criteria, Mr Hogan considered that, on balance, the public interest factors against disclosure outweigh the factors for disclosure of the documents that match the scope of the request. Therefore Mr Hogan has decided that the disclosure of this information would constitute an unreasonable disclosure of personal information belonging to a person other than you. Accordingly, Mr Hogan considered this material to be conditionally exempt under section 47F of the FOI Act.

20. 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 - Personal Privacy**

21. In assessing whether disclosure is on balance, contrary to the public interest, Mr Hogan has considered the relevant factors set out in section 11B(3) [Public interest exemptions – factors] of the FOI Act, which favours access to a document. Mr Hogan noted that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, the disclosure of this information would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

22. While Mr Hogan noted that release of this information may be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way. Additionally, disclosure of the information would not promote oversight of public expenditure, nor would it allow you further access to your information under the scope of your request. Furthermore, Mr Hogan considered that the protection of an individual's right to privacy far outweighs any public interest there may be in the release of this material.

23. In coming to the above decision, Mr Hogan 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. None of the factors Mr Hogan took into account were listed under subsection 11B(4) of the FOI Act..

24. Accordingly, Mr Hogan 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, Mr Hogan has decided that it would be contrary to the public interest to release the information considered exempt under section 47F [Personal Privacy] of the FOI Act.

25. Copies of the relevant sections of the FOI Act mentioned above are at Enclosure 2.

#### **Payment of Charges**

26. In our letter dated 21 August 2012, the department estimated the cost associated with processing your request to be [REDACTED] excluding the five hours free decision making time. You agreed to pay charges for the administration of your request and paid the preliminary assessment of [REDACTED] on 22 Aug 12.

27. Upon completion of your request, the actual amount for processing was calculated to be in excess of the original estimate. However, as explained in paragraph 9 of the above mentioned letter, the amount payable can only be more than the preliminary assessment if the decision is to release all the documents in full.

28. In light of the above, there is no further amount payable in respect to processing.

**Disclosure Log**

29. 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 this decision notice with privacy deletions.

**Rights of review**

30. The FOI Act provides for rights of review of decisions. A copy of fact sheet "Freedom of Information – Your Review Rights" setting out your rights of review is at Enclosure 3.

**Further advice**

31. 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



Andrea Sansom  
Assistant Director  
Freedom of Information

14 Sept 2012

**Enclosures:**

1. Schedule of documents
2. Relevant sections of the FOI Act
3. Fact Sheet: Freedom of Information – Your Review Rights