



Australian Government

Department of Defence

Office of the Chief Operating Officer

Freedom of Information and
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Our reference: FOI 326/11/12

[REDACTED]

[REDACTED]

Dear [REDACTED]

1. I refer to your correspondence of 18 June 2012 in which you requested access, under the *Freedom of Information Act 1982* (FOI Act), to:

"All information surrounding the event E.g. the results of the quick assessment and then the formal investigation following the data breach by DCO on 8 June 2012".

2. On 19 June 2012, our office sought further clarification concerning the scope of the request as there was insufficient information to enable identification of the documents you were requesting. Therefore your request in its current form was not considered valid under subparagraph 15(2)(b) of the FOI Act. You then provided further information regarding the documents you were seeking.

3. You were subsequently advised that, the Formal Investigation would not be completed for approximately 6 weeks (25 July) and therefore if a document existed it would only be a draft form or part thereof. Accordingly you agreed to proceed with the following revised scope:

"Quick Assessment regarding the data breach by DCO on 8 June 2012"

Background

4. 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

5. Ms Maureen Greet, Director Coordination, Defence Support Group is the authorised decision maker, under the FOI Act, in relation to your request.

Documents identified

6. Ms Greet identified one document as matching the description of your request titled, *"Quick Assessment into an alleged breach of confidentiality"* dated 8 June 2012.

Decision

7. Ms Greet decided to partially release the document 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 sections 47E(c) [public interest conditional exemptions – certain operations of agencies and 47 [documents affecting personal privacy] of the FOI Act.

8. A copy of the document in the form approved for release is at Enclosure 2.

Material taken into account

9. In making her decision, Ms Greet had regard to:
- a. the content of the document in issue;
 - b. relevant provisions in the FOI Act;
 - c. the *Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act* (the Guidelines); and
 - d. *Principles on open public sector information* issued by the Information Commissioner.

Reasons for decision 47E(c)

10. On examination of the document, Ms Greet found that the information contained could have a substantial and adverse affect on Defence's management of issues in a work area. If this information was released it could:

- a. place a reluctance on staff coming forward when errors are made thus leading to a breaking down in workplace cohesion and integrity; and
- b. damage the relationship that exists between a supervisor and their staff. Maintaining a level of confidentiality and trust between staff and their managers is critical to the effective and efficient operations of a team.

11. Ms Greet considered that at this time the allegations are unsubstantiated. As such, disclosure of the information may have an effect on the management and the assessment of personnel and have an adverse effect on the management of the investigation.

12. Based on Ms Greet's assessment on the above criteria, in particular to allow the individuals due process and for the outcomes of the investigation to be completed, Ms Greet considered that the release of the names would adversely affect the management of personnel and therefore is conditionally exempt under section 47E(c) of the FOI Act.

13. Subsection 11A(5) of the FOI Act requires Defence to allow access to conditionally exempt documents unless in the circumstances access, to the document would on balance, be contrary to the public interest. Ms Greet's public interest considerations are identified at paragraph 18-21 below.

Reasons for decision 47F

14. On examination of the document, Ms Greet found that the document contained the names of individuals in relation to unsubstantiated allegations, who may be subject to further investigation. Ms Greet considered this information to satisfy the definition of personal information as detailed in Section 4 of the FOI Act. In accordance with subsection 47F(2), in determining whether the disclosure of the names would involve the unreasonable disclosure of personal information, Ms Greet had regard to:

- a. the extent to which the information is well known;

- b. whether the people to whom the information relates is known (or to have been) associated with the matters dealt with in the documents; and
 - c. the availability of the information from publicly accessible sources.
15. Against those three criteria, Ms Greet found that:
- d. the names are not well known;
 - e. the names are not readily available from publicly accessible sources; and
 - f. Premature release of names may inhibit procedural fairness for the individuals.

16. Based on Ms Greet's assessment on the above criteria, in particular to allow the individuals due process, Ms Greet considered that the release of the names would involve the unreasonable disclosure of personal information and therefore is conditionally exempt under section 47F(1) of the FOI Act.

17. Subsection 11A(5) of the FOI Act requires Defence to allow access to conditionally exempt documents unless in the circumstances access to the document, would on balance, be contrary to the public interest. Ms Greet's public interest considerations are identified at paragraph 18-20 and 22 below.

Public interest considerations – sections 47E and 47F

18. In assessing whether disclosure is on balance, contrary to the public interest, Ms Greet considered the range of factors favouring access to a document as set out in section 11B(3) [Public interest exemptions – factors] of the FOI Act. Ms Greet 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.

19. While Ms Greet noted that release of this material would be of some interest to you, it would not inform public debate on any matter of public importance in any meaningful way.

20. Additionally, Ms Greet formed the view that disclosure of the information would not promote oversight of public expenditure, nor would it allow you further access to your personal information.

Public interest considerations – sections 47E

21. In addition to the above public interest considerations listed in paragraph 18-20, Ms Greet noted that disclosure may promote some objects of the FOI Act, such as allowing or assisting inquiry into possible deficiencies in the conduct or administration of an agency or official. However, on balance at this time, the release of the information would adversely effect the management of personnel, the staff's willingness to come forward and the proper conduct of a full investigation.

Public interest considerations – sections 47F

22. In addition to the above public interest considerations listed in paragraphs 18-20, Ms Greet noted that disclosure may promote some objects of the FOI Act, such as allowing or

assisting inquiry into possible deficiencies in the conduct or administration of an agency or official. However, on balance at this time, the release of the information may adversely affect an individual's career based on unsubstantiated allegations, as the matter has not yet been fully investigated.

23. In coming to the above decision, Ms Greet also considered subsection 11B (4) of the FOI Act.

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

Rights of review

25. 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.

FOI Disclosure Log

26. 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.

Further advice

27. 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

10 July 2012

Enclosures:

1. Copy of sections 47E and 47F of the FOI Act
2. Document in the form approved for release
3. Fact Sheet: Freedom of Information – Your Review Rights