



DEFENCE FOI 302/21/22 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act) for access to:

“Any documents used by IGADF to support finding 12 of the IGADF Own-Initiative Inquiry (01/20) into the first twelve months of publishing list and outcomes of court martial and Defence Force Magistrate trials that “The implementation of Practice Notice 1 has not resulted in an increase in media reporting of superior tribunal proceedings”.

Documents may include, but should not be limited to, data relating to or tracking of media publications for the specific period prior to that covered in paragraph 89 of the Inquiry Report (being the period from 31 March 2018 to 30 March 2019), advice or correspondence to IGADF from other areas of Defence, and parts of witness statements that are relevant to this finding.”

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Document Identified

3. I have identified 15 documents as falling within the scope of the request.
4. The decision in relation to each document is detailed in a schedule of documents.
5. I have added an FOI reference number and document to each of the documents, which corresponds with the schedule.

Exclusions

6. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

Decision

7. I have decided to:
 - a. release 10 documents in full
 - b. partially release 5 documents 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 considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

- c. remove irrelevant material under section 22 of the FOI Act.

Material taken into account

8. In making my decision, I had regard to:
 - a. the terms of the request;
 - b. the content of the identified documents 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 received from the Assistant Inspector-General Australian Defence Force (IGADF) who assisted the IGADF inquire into the matter. I have used this advice to assist me independently decide what material falls within the scope. i.e. what material directly and indirectly informed finding 12.

Reasons for decision

Section 47F - Personal privacy

9. Upon examination of the documents, I identified information; specifically names and opinions of individuals other than the applicant.
10. When assessing whether the disclosure of personal information is unreasonable, I considered the following factors:
 - 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. the availability of the information from publicly accessible sources; and
 - d. the effect the release of the personal information could reasonably have on the individual.
11. I found:
 - a. the specific personal information listed is not well known;
 - b. the individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the document; and
 - c. the information is not readily available from publicly accessible sources.
12. The release of the personal information identified in the documents could reasonably be expected to cause harm to third parties. The persons to whom this information relates are likely to have had no expectation that this personal information would be disclosed in connection with their association with the subject matter of the documents.
13. Taking into account the above factors, I have concluded that the release of personal information of the individuals other than the individuals named above would be an unreasonable disclosure of personal information and is conditionally exempt under section 47F(1) of the FOI Act. My public interest considerations are set out below.

Section 47F - Public interest considerations

14. I have found that the identified documents are conditionally exempt under section 47F of the FOI Act. Section 11A (5) provides that, if a document is conditionally exempt, it must be disclosed 'unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest'.

15. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors being that disclosure may promote some of the objectives of the FOI Act, as information held by the government is a national resource.

16. While I note that the release of the information being withheld may be of interest to the applicant, it would not inform public debate on any matter of public importance in any meaningful way. The remaining factors contained in section 11B(3) are not relevant to the present case.

17. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice:

- a. the protection of an individual's right to privacy;
- b. the interests of an individual or a group of individuals;
- c. the administration of justice generally, including procedural fairness;

18. On balance, I am satisfied that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information. Releasing details that would identify an individual could cause significant harm to the individual involved. The public interest is better served in this case by maintaining the personal privacy of third parties.

19. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and find the information exempt under section 47F of the FOI Act.

20. None of the factors listed in section 11B(4) [Irrelevant factors] were taken into account when making my decision.

Further Information

21. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through.



Mr Andrew Snashall PSM
Accredited Decision Maker
Office of the IGADF