



BP26548223

DEFENCE FOI 013/22/23 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

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

“I seek a current/recent copy of the “index” or “list” of IRSU SOP’s”

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.

Documents identified

3. I identified two documents as matching the description of the request.

Decision

4. I have decided to:

- a. partially release two 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 sections 33(a)(ii) [documents affecting national security, defence or international relations] and 47F [public interest conditional exemptions-personal privacy] of the FOI Act
- b. remove irrelevant material under section 22 of the FOI Act.

Material taken into account

- 5. 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)
 - e. advice received from Air Command.

Reasons for decision

Section 33 – Documents affecting national security, defence or international relations

6. Section 33(a)(ii) of the FOI Act exempts a document from release if its disclosure under this Act would, or could reasonably be expected to, cause damage to the defence of the Commonwealth.

7. Paragraph 5.34 of the Guidelines state:

Defence of the Commonwealth

The FOI Act does not define 'defence of the Commonwealth'. Previous Administrative Appeals Tribunal (AAT) decisions indicate that the term includes: ...

- *protecting the Defence Force from hindrance or activities which would prejudice its effectiveness.*

8. Having regard to the Guidelines, relating to what could reasonably be expected to cause damage to the defence of the Commonwealth, I consider that the titles of the standard operating procedures fall within this category. In making this decision, including Air Command advice on potentially compromising information related to our capabilities and preparedness, I have taken into account the intelligence technique known as the “mosaic theory”. Paragraph 5.39 of the Guidelines states:

“This theory holds that individually harmless pieces of information, when combined with other pieces, can generate a composite – a mosaic - that can damage Australia’s national security, defence or international relations.”

9. Further, when considering the potential to cause damage to the defence of the Commonwealth, I have decided that the release of standard operating procedures titles could reasonably be expected to cause damage to current and future negotiations between the Australian Government and a foreign government. Paragraph 5.25 of the Guidelines state:

“Relevant damage may be intangible, such as inhibiting future negotiations between the Australian government and a foreign government, or the future flow of confidential information from a foreign government or agency.”

10. It is for those reasons I have decided that the material identified within the scope of this request is exempt under section 33(a)(ii) of the FOI Act.

Section 47F - Personal Privacy

11. Section 47F(1) of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person. Upon examination of the document, I identified information, specifically the names and ranks of individuals other than the applicant, located within the document. 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
- d. the effect the release of the personal information could reasonably have on the third party.

12. Accordingly, I found that:

- a. specific personal information listed is not well known

- b. the individual whose personal information is contained in the document is not widely known to be associated with the matters dealt with in the documents
- c. information is not readily available from publicly accessible sources.

13. The release of names and ranks within the documents could reasonably be expected to cause harm to their privacy due to the generated interest in the working environment. Taking into account the above factors, I consider that the release of personal information of individuals would be an unreasonable disclosure of personal information and conditionally exempt under section 47F(1) of the FOI Act.

14. Section 11A(5) of the FOI Act requires an agency to allow access to an exempt document unless, in the circumstances, access to the document would, on balance, be contrary to the public interest. My public interest considerations are set out below.

Sections 47F - Public interest considerations

15. In assessing whether disclosure is on balance, contrary to the public interest, I considered the Guidelines together with a range of factors set out in section 11B(3) of the FOI Act, which favours access to a document, namely does access:

- (a) *promote the objects of this Act (including all the matters set out in sections 3 and 3A)*
- (b) *inform debate on a matter of public importance*
- (c) *promote effective oversight of public expenditure*
- (d) *allow a person to access his or her own personal information.*

16. I note that disclosure of the requested documents may promote some of the objects of the FOI Act, as information held by the Government is a national resource. However, disclosure of the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase scrutiny or discussion of Defence activities.

17. While I consider that release of the material removed under section 47F of the FOI Act may be of some interest to the applicant, disclosure of the conditionally exempt material would not inform public debate on any matter of public importance in any meaningful way. Additionally, I do not consider that disclosure of the material would promote oversight of public expenditure. Furthermore, the public interest is better served in protecting the privacy of individuals whose personal details are contained within these documents from release to the public at large.

18. 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 or harm:

- a. the protection of an individual's right to privacy
- b. the interests of an individual or group of individuals.

19. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem 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.



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PR Davies, CSC

Group Captain

Accredited Decision Maker

Royal Australian Air Force