



BP26093442

DEFENCE FOI 005/22/23 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:

"I seek copies of all RAAF internal communications, e.g. emails and email attachments that were generated to enable the Department of Defence response, to be given to FOIA request number 459/21/22, regarding unidentified aerial phenomena."

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 six documents as matching the description 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 item/document number 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. partially release six 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 47E(c) [public interest conditional exemptions-certain operations of agencies] and section 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

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; and
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for decision

Sections 47E – Certain operations of agencies

9. Section 47E(c) of the FOI Act states:

‘A document is conditionally exempt if its disclosure would, or could reasonably be expected to:

- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency.’*

10. I found that the documents identified contain information that name Defence personnel who are associated with responses to Freedom of Information requests for records containing keywords Unidentified Aerial Phenomena (UAP) and Unidentified Flying Object (UFO). If the names of personnel are disclosed, they will become targets in the pursuit to obtain information on UAP’s and UFO’s that Air Force neither tracks nor records.

11. In relation to section 47E(c) of the FOI Act, the Guidelines advise:

‘6.113 Where the document relates to the agency’s policies and practices relating to the assessment and management of personnel, the decision maker must address both elements of the conditional exemption in s47E(c), namely, that:

- an effect would reasonably be expected following disclosure*
- the expected effect would be both substantial and adverse.’*

6.114 For this exemption to apply, the documents must relate to either:

- ‘the management of personnel – including the broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassment and occupational health and safety*
- the assessment of personnel – including the broader performance management policies and activities concerning competency, in-house training requirements, appraisals and underperformance, counselling, feedback, assessment for bonus or eligibility for progression.’*

12. The information if released, would have a substantial and adverse effect on Defence personnel who have been targeted as subjects of recent Freedom of Information requests for records containing keywords Unidentified Aerial Phenomena (UAP) and Unidentified Flying Object (UFO).

13. Noting all of the above, I have decided that the material is conditionally exempt under section 47E(c) 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 – Personal Privacy

15. Section 47F(1) of the FOI Act states:

‘A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

16. I found that the documents identified information, specifically the name of a third party other than the applicant. I found the material to be conditionally exempt under section 47F of the FOI Act.

17. With regard to personal information the Guidelines state:

6.128 Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) Whether the information or opinion is true or not; and*
- (b) Whether the information or opinion is recorded in a material form or not.*

6.129 In other words, personal information

- *Is information about an identified individual or an individual who is reasonably identifiable*
- *Says something about a person*
- *May be opinion*
- *May be true or untrue*
- *May be recorded in material form or not.*

6.130 Personal information can include a person’s name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.’

18. When assessing whether the disclosure of this 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. any other matters that the agency or Minister considers relevant.

19. Against the above criteria I found:

- a. that the specific personal information is not well known;
- b. the individuals whose personal information is contained in the document is not known to be associated with the matters dealt with in the documents;
- c. the information is not readily available from publicly accessible sources;
- d. release of the information may cause undue stress on the third parties, or cause them to be directly contacted in relation to the material.

20. Taking into account the above factors, I consider that the release of the material would be an unreasonable disclosure of personal information of an individual other than the applicant and could reasonably be expected to cause harm to their privacy. I therefore have decided that this information is conditionally exempt under section 47F(1) of the FOI Act.

21. 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.

Public interest considerations – Sections 47E(c), and 47F

22. 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:

- (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*

23. 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.

24. 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) *harm the interests of individual or group of individuals; and/or*
- (c) *the management function of an agency.*

25. While I consider that release of the material removed under sections 47E(c) and 47F 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. There is also strong public interest in maintaining the confidentiality of names and contact details of Defence personnel who have contributed in the location of information that has informed Senate Estimate Briefs on UAP's and UFO's to prevent them from being targeted in the future. There is an expectation that Defence manages personnel information in a sensitive 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.

26. Noting all of the above, I consider that, on balance the public interest factors against disclosure outweigh the factors for disclosure. I have therefore decided that it would be contrary to the public interest to release the information considered exempt under subsections 47E(c) and 47F of the FOI Act

27. None of the factors listed in section 11B(4) of the FOI Act were taken into account when making this decision.

andrew.ormsby Digitally signed by andrew.ormsby
Date: 2022.08.29 18:29:08 +09'30'

A. Ormsby
Group Captain
Accredited Decision Maker
Air Force