



DEFENCE FOI 017/22/23 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:

“PowerPoint slides, notes and any materials relating to the Defence graduate program's orientation sessions given to new staff from the beginning of this year's graduate program to date [7 July 2022].”

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 15 documents (172 pages) 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 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. release three documents in full; and
- b. partially release 12 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 [public interest conditional exemptions-certain operations of agencies] and section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

Material taken into account

8. In making my decision, I had regard to the:

- a. terms of the request;
- b. content of the identified documents in issue;
- c. relevant provisions in the FOI Act; and

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

Reasons for decision

Section 47E – Certain operations of agencies

9. Section 47E of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

...

- (c) have a substantial effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.*

10. The material I have exempted from disclosure under section 47E(c) are public servants' names and contact details.

11. The Guidelines at paragraph 6.113 provide that:

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 exemptions in section 47E(c), namely, that:

- an effect would reasonably be expected following disclosure*
- the expected effect would be substantive and adverse.*

Further, for this exemption to apply, paragraph 6.114 of the Guidelines states that the documents must relate to:

... the management of personnel – including the broader human resources policies and activities, recruitment, promotion, compensation, discipline, harassment and occupational health and safety ...

12. I consider that the management of staff and discharge of the Australian Government's legal responsibility to ensure the health and safety of its workforce may be substantially and adversely affected if the public servants' names and contact details in these documents are disclosed in response to this FOI request. Accordingly, I consider that the release of this information is exempt under section 47E(c) of the FOI Act.

13. The material I have exempt from disclosure under section 47E(d) are document identification and financial management codes as well as passwords to zoom links.

14. The Guidelines at paragraph 6.123 provide that:

The predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its expected activities in an expected manner.

15. In assessing whether disclosure could be expected to adversely affect the operations of Defence, I consider that these numbers are pathways to information and funds. There exists the potential for this information flow to be analysed so that its functionality and behaviour can be understood. These techniques could then be applied to gain access to other sources of information within the Department.

16. For the reasons above, I consider that the release of this information would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency and is exempt under section 47E(d) of the FOI Act.

Section 47F - Personal privacy

17. Section 47F of the FOI Act states that:

- (1) *A document is conditionally exempt if its disclosure...would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (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) *any other matters that the agency or Minister considers relevant.*

18. Upon examination of the documents, I identified that certain material contains personal information of individuals other than the applicant.

19. The Guidelines state at paragraph 6.140, when assessing whether the disclosure of personal information is unreasonable, I considered the following factors:

- i. the extent to which the information is well known;
- ii. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt within the documents; and
- iii. the availability of the information from publicly accessible sources.

20. Against the criteria, I found:

- i. the author of the document is identifiable;
- ii. the specific personal information listed is not well known;
- iii. the information is not readily available from publicly accessible sources; and
- iv. no public purpose would be achieved through release.

21. Upon examination of the documents, I identified information, specifically names of individuals other than the applicant.

22. I found that the:

- i. specific personal information listed is not well known;
- ii. individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the documents; and
- iii. information is not readily available from publicly accessible sources.

23. The release of the names of some of the individuals identified in the documents could reasonably be expected to cause harm to their privacy. Taking into account the above factors, I consider that the release of the personal information of some of the individuals other than the

applicant would be an unreasonable disclosure of personal information and conditionally exempt under section 47F of the FOI Act.

Sections 47E and 47F - Public interest considerations

24. Section 11A(5) of the FOI Act provides that, if a document is conditionally exempt, it must be disclosed ‘*unless (in the circumstances) access to the document at the time would, on balance, be contrary to the public interest*’.

25. 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 to:

- (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.*

26. 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.

27. While I consider that release of the material removed under sections 47E and 47F of the FOI Act may be of some interest to the applicant, I consider this to be distinct from this being of interest to the public. Disclosure of the conditionally exempt material would not inform public debate on any matter of public importance in any meaningful way. 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.

28. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors that I find particularly relevant to this request are that the 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; and*
- c. *the management function of an agency.*

29. It is for these reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and deem the information exempt under sections 47E(c), 47E(d) and 47F of the FOI Act.

30. In coming to the above decision, I considered factors outlined in section 11B(4) [irrelevant factors] of the FOI Act. None of these factors were taken into account in making my decision.

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Accredited Decision Maker
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