



## DEFENCE FOI 210/22/23 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:

*“...Defence FOI 519/21/22. Please provide me with a copy of those documents with the s22 redactions removed.”*

### 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 one document as matching the description of the request.

### Decision

4. I have decided to partially release one document 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] of the FOI Act.

### Material taken into account

5. In making my decision, I had regard to:
- the terms of the request;
  - the content of the identified documents in issue;
  - relevant provisions in the FOI Act; and
  - the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

### Reasons for decision

#### Section 47E(c) – Certain operations of agencies [management or assessment of personnel]

6. In relation to section 47E(c), the Guidelines explain that, where the document relates to the agency’s policies and practices relating to the assessment or 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 both substantial and adverse.

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

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

- b. 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.

8. Release of the names and contact details of personnel involved in sensitive nature of service matters could adversely impact those personnel by enabling aggrieved members of the public direct access to them. Providing this protection to personnel involved enables Defence to protect them from receiving abusive and threatening contact from aggrieved members of the public.

9. After reviewing the context of the document being part of a long standing and ongoing appeal for recognition of Service, I have found that there is a reasonable expectation that the release of information would affect the management of personnel.

10. Taking into account the above factors, I consider that the release of the information would be an unreasonable disclosure of personnel management information and is conditionally exempt under section 47E(c) of the FOI Act.

11. Section 11A(5) of the FOI Act allows access to a conditionally exempt document unless, in the circumstances, access to the document would be contrary to the public interest.

#### **Public interest considerations – Section 47E(c)**

12. 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 which would:

- 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 effect oversight of public expenditure;
- d. allow a person to access his or her own personal information.

13. The factors against disclosure I considered were that disclosure could reasonably be expected to harm or prejudice:

- a. the interests of an individual or a group of individuals; and
- b. the personal management function of an agency.

14. I considered that all of the above factors weighed heavily against disclosure. Disclosure of this information would not increase public participation in government processes nor would it, in my view, increase scrutiny or discussion of government activities.

15. While I consider that release of the material removed under section 47E(c) 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, the public interest is better served by Defence protecting the health and safety of personnel whose personal details are contained within these documents.

16. In my view, it would be contrary to the public interest to disclose information of Defence members and cause unnecessary distress.

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

**Context Statement**

18. The email attachments referenced in the document package have not been disclosed as this information is publically available and they did not fall within the scope of this FOI, nor the previous FOI which is the subject of this request. The information is however accessible on the Defence website at <https://www.minister.defence.gov.au/media-releases/2022-04-07/independent-tribunal-reconsider-medallic-recognition-rifle-company-butterworth>, and on the Defence Honours & Awards Appeals Tribunal's website at <https://defence-honours-tribunal.gov.au/inquiries/>.



Megan [REDACTED]  
Accredited Decision Maker  
Australian Defence Force Headquarters