



## **BP28569953 DEFENCE FOI 184/22/23 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:

*“All emails relating to the attendance of cadets from 4 Wing Australian Air Force Cadets for the attendance of AAFC National Parade in Canberra that was held on 02 Oct 2022. Emails relating to the attendance meaning emails booking accomodation/flights, dates that these were booked, who booked the accommodation/flights, who decided what cadets were to attend, when decisions were made regarding attendance.”*

### **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 16 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 16 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 (d)[public interest conditional exemptions—certain operations of agencies], 47F [public interest conditional exemptions—personal privacy] and 47G [public interest conditional exemptions-business] of the FOI Act; and
  - 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;

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

### **Reasons for decision**

#### **Section 22 – Access to edited copies with exempt or irrelevant matter deleted**

9. Section 22 of the FOI Act requires an agency to consider preparing and providing an edited copy of a document, modified by deletions, where the agency has decided to refuse access to exempt matter, or that to give access to a document would disclose information that would reasonably be regarded as irrelevant.

10. As it was reasonably practicable to remove exempt matter and irrelevant information (such as signatures and mobile phone numbers), I have decided to release the documents in an edited form. The grounds for deletions are outlined below.

#### **Section 47E – Certain operations of agencies**

11. Section 47E(d) 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: ....*

*(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

12. 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.*

13. Names, positions/ranks and contact details of employees of the Commonwealth, including Defence, are exempt under section 47E(d) of the FOI Act on the basis that the relevant departments and agencies all have procedures in place to manage contact with members of the public and answer queries, and that disclosure of direct contact details would have a substantial adverse effect on the proper and efficient conduct of their operations.

14. As release of these direct contact details would undermine the purpose of public facing inquiries teams to receive and manage enquiries from the public and would result in a diversion of resources away from the performance of normal duties, I consider disclosure of the material at issue would have a substantial and adverse effect on the proper and efficient conduct of these operations.

15. Noting the above, I am satisfied that the information contained in these documents is conditionally exempt under section 47E(d).

16. My public interest considerations are set out below.

#### **Section 47F - Personal privacy**

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

*(1) 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).*

18. The FOI Act shares the same definition of personal information as the *Privacy Act 1988* (Cth). The Guidelines provide that:

*6.128 Personal information means information or an opinion about an identified individual, or an individual who is reasonable 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.*

19. On review of the documents, I identified information, such as names and contact information of individuals other than the applicant.

20. In my assessment of 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 third party.

21. I found that the specific personal information is not well known and is not available from publicly accessible sources. Additionally, the release could reasonably have a negative effect on the third parties.

22. Taking into account the above factors, I consider that the release of the material would be an unreasonable disclosure of personal information of individuals and could reasonably be expected to cause harm to their privacy. Accordingly, I am satisfied that the information is conditionally exempt under section 47F(1) of the FOI Act.

23. My public interest considerations are set out below.

#### **Section 47G – Business**

24. Section 47G(1)(a) of the FOI Act states:

*(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:*

*(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs;*

25. I consulted with QBT and YMCA in relation to their business information that was contained in the documents. The documents contain information relating to YMCA and QBT's business affairs, specifically special rate and inclusions offered to Defence.

26. I determined that some of YMCA's and QBT's business information was conditionally exempt under section 47G(1)(a) of the FOI Act, as the disclosure of this information could reasonably be expected to unreasonably adversely affect YMCA Canberra's and QBT's business. My public interest considerations are set out below.

#### **Sections 47E(d), 47F and 47G - Public interest considerations**

27. 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 that time would, on balance, be contrary to the public interest'.

28. 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. These factors favour access to a document that would do any of the following:

- (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*

29. 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 on an individual's right to privacy;
- b. the interests of an individual or group of individuals; and
- c. the management function of an agency.

30. 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. While I accept there is a public interest in ensuring Defence undertakes its functions in a transparent and proper manner, there is also a public interest in maintaining the confidentiality of material contained in documents provided as part of these processes. Furthermore, there is an expectation that Defence manages its personnel in a sensitive way.

31. I find disclosure of the material conditionally exempt under sections 47E(d) and 47F would reveal information associated with Defence's activities in relation to the organisation selection and management of Air Force Cadet to attend the Australian Air Force Cade 80<sup>th</sup> Anniversary Parade from 30 September to 02 October 2022.

32. Although disclosure of material that is conditionally exempt under section 47G(1)(a) of the FOI Act might promote effective oversight of public expenditure, I find that this consideration is outweighed by the potential harm to YMCA Canberra's and QBT's business if this material was made public.

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

34. In coming to the above decision I did not consider any of the factors outlined in section 11B(4) [irrelevant factors] of the FOI Act.

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GPCAPT

Accredited Decision Maker

Air Force