



DEFENCE FOI 276/22/23 – 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:

“Item 1) I am requesting ADF FOI, please provide the number of people (ADF personnel), who have obtained this qualification, and been signed off by the relevant authorities, Registered Training Authority (ATO), within Defence, who have obtained this Diploma (DEF50517 Diploma of Defence Public Affairs), since it was first established and rolled out.

- i. This list should include the initials, rank, (redacted names, PmKeys Numbers), their service and dates these ADF personnel were eligible to be issued and or achieved their DEF50517 qualification, including the individual who signed off and approved these qualifications.*
- b. The minimum eligible requirements for ADF personnel to be eligible to obtain a Diploma of Public Affairs (Example: ADF personnel who work / or have worked within any ADF service branch or Australian Public Service (APS) role, which falls under the command and control of a Defence Public Affairs managed assets for at least 24 months, and is employed as a fulltime member of the ADF or APS),*
- c. The number of people (ADF/APS Personnel) who have obtained each Diploma qualification,*
 - i. The Individual(s) who assessed and authorised the Registered Training Authority (RTO),*
 - d. A list of individual(s) who have obtained a Diploma of Public Affairs via the ADF. The list should include the following: Rank/Initials/Family Name/PMKeys Number/ADF Service/Diploma Issued Date/The authorised RTO approval authority details (Rank/Initials/Family Name/PMKeys Number/ADF Service) – (I understand FOI will need to redact names and PMKeys Numbers for this list to be released).*

Item 2) I would also be interested to see what the minimum requirements for ADF personnel to be eligible, and recognized, so they may obtain this Diploma (DEF50517), and

Item 3) documentation referring to who is eligible and why or why not they may or may not have obtained this qualification through Defence?”

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 no documents as matching the description of the request.

4. One document was generated in accordance with subsection 17(1)(c)(i) of the FOI Act, relating to item 1, to satisfy the description of the request. This was done on the basis that a

written document could be produced containing the information in discrete form by the use of a computer ordinarily available to Defence for retrieving or collating stored information.

5. I have added an FOI reference number and document number to the document.

Decision

6. I have decided to:

- a. partially release one document created under section 17 of the FOI Act, on the grounds that the deleted material is considered exempt under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

Material taken into account

7. In making my decision, I had regard to:

- a. the terms of the request;
- b. relevant provisions in the FOI Act;
- c. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and
- d. information provided by subject matter experts within the Department of Defence, including Defence People Group and Defence Command Support Training Centre.

Reasons for decision

24A(1) – Requests may be refused if documents cannot be found, do not exist or have not been received

8. Section 24A(1) of the FOI Act states:

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

9. Paragraph 3.94 of the Information Commissioner Guidelines advises the detail this statement of reasons should include to refuse a request under section 24A(1):

...the statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...

10. To ensure that "all reasonable steps" have been taken in relation to this request, every reasonable avenue of locating potential documents matching Items one to three have been exhausted.

11. In relation to Items one to three, the Australian Defence College, Defence People Group (DPG) and Defence Command Support Training Centre ran a report on the Defence PMKeys database, SharePoint, and contacted relevant staff and advised that no relevant documents were found.

12. I am satisfied that “all reasonable steps” have been taken to locate the documents sought by the applicant. I am satisfied that the documents cannot be found or do not exist, and refuse the request under section 24A (1) of the FOI Act.

47F – Public interest conditional exemptions - personal privacy

13. Section 47F 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).

14. 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 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.

15. Upon examination of the documents, I identified personal information relating to persons who are not the applicant, including names and PMKeys numbers.

16. In my assessment of whether 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 third parties.

Against this criteria, I found that the personal information and associated details are not well known and the specific information associated with the individuals is not available from public sources.

17. Noting the above, I am satisfied that the information is exempt under section 47F of the FOI Act.

Public interest considerations – Section 47F [personal privacy]

18. 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.

19. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act being:

- 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; and

- d. allow a person to access his or her own personal information.
20. However, I deem that disclosure of this information would not increase public participation in the Defence process (section 3(2)(a) of the FOI Act), nor would it increase scrutiny or discussion of Defence activities (section 3(2)(b) of the FOI Act).
21. 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;
22. I do not consider that the inclusion of names of persons other than the applicant promote the spirit of the public interest requirement set out in the FOI Act. Moreover, while disclosure of the requested information may promote some of the objects of the FOI Act, such as transparency and accountability, disclosure of the specific conditionally exempt material would not increase public participation in the Defence process, nor would it increase discussion of Defence activities.
23. None of the factors listed in section 11B(4) of the FOI Act were taken into account when making this decision.
24. Noting the above, I am satisfied that the public interest factors against disclosure outweigh the factors for disclosure and the information is conditionally exempt under section 47F.



Accredited Decision Maker
JCG