



DEFENCE FOI 443/22/23 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] (the applicant) under the *Freedom of Information Act 1982* (FOI Act) for access to:

I request under the FOI Act all correspondence or communication held by the Australian Defence Force — including emails, documents, text messages, and Whatsapp messages — with the Australian Radiation Protection and Nuclear Safety Agency related to "radioactive capsule", also known as "caesium-137", for the period January 1, 2023, until February 3, 2023.

- *Please exclude duplicates, documents already been publicly released (such as media releases, reports, articles and or statements to the media).*
- *If emails are captured, please limit to the final thread of the conversation. If there are multiple briefing notes on the same topic, please limit to the most recent along with any attachments.*
- *I also agree to having the names and direct contact details of non-senior staff removed.*
- *If the information I'm seeking exists in one document, I'm happy to limit my application to just that.*

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.

Exclusions

4. Mobile telephone numbers contained in the document that falls 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

5. I have decided to:

- a. partially release the 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(d) [public interest conditional exemptions – operations of agencies] and section 47F [public interest conditional exemptions – personal privacy] of the FOI Act.
- b. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

Material taken into account

6. 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

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

7. Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to an exempt document or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access.

8. The document contains exempt information such as names, email addresses, and telephone numbers of staff and third parties. Additionally, and in line with the exclusion outlined above, it also contains mobile phone numbers that do not relate to the scope of the request. I consider that it is reasonably practicable to remove the exempt and irrelevant material and release the documents to you in an edited form.

Section 47E(d) – Public interest conditional exemptions – 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:

...

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

10. In relation to section 47E(d) of the FOI Act, paragraph 6.123 of the Guidelines states that, where the document relates to certain operations of agencies, the decision maker must address whether ‘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.’

11. Upon examination of the document, I have identified staff names and contact details that are not publicly known.

12. I am satisfied that if the contact details of Defence personnel were made publicly available, it would have a substantial adverse effect on the proper and efficient operation of existing public communication channels. Further, I am satisfied of a reasonable expectation that the information could be used inappropriately, in a manner which adversely affects the health, wellbeing and work of Defence personnel. Disclosure of personal details could, therefore, reasonably be expected to prejudice the operations of Defence.

13. Accordingly, I am satisfied that this information contained within the document is conditionally exempt under section 47E(d) of the FOI Act.

Section 47F - Public interest conditional exemptions - personal privacy

14. 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).

15. 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.

16. In accordance with section 47F(2) of the FOI Act, in making my assessment of whether the disclosure of the identified 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.

17. The release of personal information contained in the document could reasonably be expected to cause harm to an individual’s privacy, the information is not well known, and the information is not available from publicly accessible sources. I consider that the release of the personal information of individuals other than the applicant would be an unreasonable disclosure of personal information, and I find that the information is conditionally exempt under section 47F of the FOI Act.

Public interest considerations – Section 47F and 47E(d)

18. Section 11A of the FOI Act states:

(5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

19. I have identified that some of the information identified within the document is conditionally exempt under sections 47E(d) and 47F of the FOI Act. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act; the relevant factors being whether access to the document 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; and

(c) promote effective oversight of public expenditure.

20. I am of the view 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:

- a. the protection of an individual's right to privacy;*
- b. the interests of an individual or a group of individuals;*
- c.. the management function of an agency; and*
- d.. the personnel management function of an agency.*

22. It is in the public interest that Defence efficiently and productively operates with regard for the health and wellbeing of its personnel. As I have established, the release of staff names, email addresses and phone numbers of Defence personnel can reasonably be expected to prejudice the management and personnel management functions of Defence. Existing communication channels and processes enable efficient and appropriate liaison with the public. The direct contact details of Defence personnel should, therefore, not be disclosed, as the public interest against their disclosure outweighs the public interest in their release.

23. Additionally, I consider that the public interest in the protection of third-party personal information that is not publicly available outweighs the public interest in unreasonably disclosing this information, and harming the personal privacy of those identified individuals.

24. For these reasons, I find that, on balance, the public interest factors against disclosure outweigh the factors for disclosure and the relevant information is exempt under sections 47E and 47F of the FOI Act.

25. I did not take any of the irrelevant factors listed in section 11B(4) [irrelevant factors] into consideration in making this decision.

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Abbas [redacted]

Director Operations ERP

Accredited Decision Maker

Department of Defence