



**DEFENCE FOI 631/22/23**

**STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT**

1. I refer to the request of [REDACTED] (the applicant), dated and received on 28 March 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*“1. Any decision made by the Department of Defence to amend the Department’s policy in relation to the maintenance of records of any PMKeyS access of Defence individual’s personal information.*

*2. Any internal correspondence in relation to the Department of Defence’s policy in relation to the maintenance of records of any PMKeyS access of Defence individual’s personal information.*

*3. Any Department of Defence (the Department) policies which refer to:*

- a. the Department’s utilisation of the PMKeyS system;*
- b. the security of the information contained within the PMKeyS system; or*
- c. the maintenance of records of any PMKeyS access of Defence individual’s personal information.”*

**Background**





### **FOI decision maker**

10. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

### **Documents identified**

11. I identified two documents falling within the scope of the request.

### **Exclusions**

12. 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**

13. I have decided to:
- a. release one document in full;
  - b. grant partial access to one document in accordance with section 22 on the grounds that the deleted material is considered exempt under section 47E(d) [public interest conditional exemptions – certain operations of agencies] of the FOI Act; and
  - c. remove irrelevant material under section 22 of the FOI Act.

### **Material taken into account**

14. In making my decision, I have had regard to:
- a. the terms of the request;
  - b. the content of the identified documents at issue;
  - c. relevant provisions of the FOI Act;

- d. section 93A of the FOI Act, the Guidelines published by the Office of the Australian Information Commissioner (the Guidelines); and
- e. the advice received from the business owners of the two identified policy documents, People Systems Business Support, Defence People Group. In considering their advice, I referred to section 47E(d) of the FOI Act that provides for the removal of information that could be reasonably expected to have a substantial adverse effect on the proper and efficient conduct on the operations of an agency.

## REASONS FOR DECISION

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

- 15. 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.
- 16. I am satisfied it is reasonably practicable to remove the irrelevant and exempt material and release one of the documents in an edited form that remains relevant to this FOI request.

### Section 47E(d) – ‘Public interest conditional exemptions – certain operations of agencies’

- 17. 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 the agency.*

- 18. 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.*

- 19. In the case of *ABK v Commonwealth Ombudsman* [2022] AICmr 44, the Information Commissioner (IC) found that where the direct email addresses and phone numbers of agency staff are not publicly known, they should be conditionally exempt under s47E(d). The IC made this determination due to reasonable expectation that the release of staffs’ direct contact details would undermine the operation of established channels of communication with the public. Further, the IC accepted that staff who were contacted directly could be subject to excessive and abusive communications, which may give rise to work health and safety concerns.
- 20. I find the reasoning advanced in *ABK v Commonwealth Ombudsman* [2022] AICmr 44 persuasive. I am satisfied that the business contact details of Defence personnel are not publically known, and if made publicly available, they would have substantial adverse effects on the proper and efficient operation of existing Defence public

communication channels. Further, I am satisfied there is a reasonable expectation that the information could be used inappropriately, in a manner which would adversely affect the health, wellbeing and work of Defence personnel. Disclosure of family names and business contact details could therefore reasonably be expected to prejudice the operations of Defence.

21. The PMKeyS Security Practices (IS-SPP) describes the security policy and practices with respect to the human resource system of PMKeyS. It contains information on the security requirements and accountabilities for maintaining good access control to the information of Defence personnel. That information, its assurance procedures and accountabilities for maintaining access control is not publicly available. Further I am satisfied that release of the withheld information would undermine the established public access channels for enquiries into Defence. These channels have been established to allow efficient and effective responses to the public as well as give good quality information that enables additional efficiencies for Defence. The day to day ability to manage information flow and have confidence that Defence personnel who maintain the integrity of PMKeyS access control are not distracted by enquiries would be lost.
22. Accordingly, I am satisfied that all family names, contact details, position and organisation titles contained within the document are exempt under section 47E(d) of the *Freedom of Information Act 1982* (Cth).
23. The Guidelines provide, at paragraph 6.120, that I should also consider whether disclosure of the information, 'could reasonably be expected to lead a change in the agency's processes that would enable those processes to be more efficient.' Given that specific details of PMKeyS security processes are detailed in the document, I am satisfied that release of the withheld information could reasonably be expected to lead to a change in Defence's processes that would not increase its efficiency.
24. Accordingly, I am satisfied that the information is exempt under section 47E(d) of the FOI Act.

#### **Public interest considerations - Section 47E(d)**

25. Section 11A(5) 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.*

26. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors 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;*
- (d) allow a person to access his or her own personal information.*

27. The 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).
28. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors I found particularly relevant to this request are that release of this information could reasonably be expected to prejudice:
- a. The management function of an agency; and
  - b. The personnel management function of an agency.
29. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure and the withheld information is exempt under section 47E(d) of the FOI Act.

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**Ann**

Accredited Decision Maker

Defence People Group

Department of Defence