



DEFENCE FOI 170/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 23 August 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

- A schedule of all RAAF special purpose flights carrying ministers, assistant ministers, prime ministers, the Governor-General and departmental support staff for all 2022 and 2023 up to June 30, 2023

- Please include all individual flights carrying ministers, the prime minister and the Governor-General including the origin and destination points of each flight, and the individual cost of each flight.

- Please omit names of any individuals who aren't MPs for the purpose of satisfying the Act.

Background

2. [REDACTED]

FOI decision maker

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

Documents identified

4. Four (4) document was created in accordance with section 17(1)(c) of the FOI Act and the basis that:
- a written document can be produced containing the requested information by using a 'computer or other equipment that is ordinarily available' to the agency for retrieving or collating stored information; and
 - producing the written document did not substantially and unreasonably divert resources of the agency from its other operations.

Exclusions

5. 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

6. I have decided to:
- a. partially release four 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 33 [Documents affecting national security, defence or international relations] of the FOI Act;
 - b. remove irrelevant material in accordance with section 22 of the FOI Act.

Material taken into account

7. In making my decision, I have had regard to:
- a. the terms of the request;
 - b. the content of the identified documents in issue;
 - c. relevant provisions of 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. Australian Federal Police Security Review.

REASONS FOR DECISION

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

8. 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.
9. The documents contain exempt material and information that does not relate to the request.
10. I am satisfied that it is reasonably practicable to remove the exempt and irrelevant material and release the documents to you in an edited form.

Section 33(a)(i) – Documents affecting the security of the Commonwealth

11. Section 33(a)(i) of the FOI Act states:

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:*
 - (i) the security of the Commonwealth*

12. In regard to the terms ‘would, or could reasonably be expected to’ and ‘damage’, the Guidelines provide:

5.16 The test requires the decision maker to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of a document.

5.17 The use of the word 'could' in this qualification is less stringent than 'would', and requires analysis of the reasonable expectation rather than certainty of an event, effect or damage occurring. It may be a reasonable expectation that an effect has occurred, is presently occurring, or could occur in the future.

5.31 The meaning of 'damage' has three aspects:

- i. that of safety, protection or defence from something that is regarded as a danger. The AAT has given financial difficulty, attack, theft and political or military takeover as examples.*
- ii. the means that may be employed either to bring about or to protect against danger of that sort. Examples of those means are espionage, theft, infiltration and sabotage.*
- iii. the organisations or personnel providing safety or protection from the relevant danger are the focus of the third aspect.*

13. Additionally, the Guidelines state:

5.29 The term 'security of the Commonwealth' broadly refers to:

- (a) the protection of Australia and its population from activities that are hostile to, or subversive of, the Commonwealth's interests*
- (b) the security of any communications system or cryptographic system of any country used for defence or the conduct of the Commonwealth's international relations (see definition in s 4(5)).*

14. Material contained in the documents is exempt under section 33(a)(i) of the FOI Act because its release would, or could reasonably be expected to, disclose patterns of travel, including destinations, departure times and the number of Australian Federal Police (AFP) members assigned to flights. Further, the release of this information could reasonably be expected to allow anticipation of future patterns of movement, thereby placing the personal safety of members of Parliament at risk. It is reasonable to expect that these individuals may be targets for adverse actions and therefore, disclosing their patterns of travel would increase any potential threat to these individuals. Additionally, threat actors may seek to identify and target locations frequented by AFP members and members of Parliament, in a way that poses a safety and security risk to other persons (including members of the public), property, operations and activities being conducted at those locations. This would adversely impact and cause damage to the security of the Commonwealth.

15. Accordingly, I am satisfied the material is exempt under section 33(a)(i) of the FOI Act.

FURTHER INFORMATION

16. Information of a similar nature to that the applicant is seeking is available here:
<https://www.defence.gov.au/about/accessing-information/special-purpose-flights>.

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A. [REDACTED]
GPCAPT
Accredited Decision Maker
Air Force