



## DEFENCE FOI 400/23/24

### STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

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

*...copies of any strategy documents, presentations or other relevant documentation held by the department since 2019 regarding seeking the removal of content from social media.*

#### Background



#### FOI decision maker

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

### **Documents identified**

7. I have identified four (4) documents as falling within the scope of the request.
8. The decision in relation to each document is detailed in the schedule of documents.

### **Exclusions**

9. 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**

10. I have decided to:
  - a. partially release three (3) documents, with irrelevant material removed, in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] of the FOI Act; and
  - b. partially release one (1) 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 47F [Public interest conditional exemptions – personal privacy] of the FOI Act.

### **Material taken into account**

11. 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; 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**

12. 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.
13. The documents contain exempt material and information that does not relate to the request.
14. 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 47F – Public interest conditional exemptions - personal privacy**

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

*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).*

16. The FOI Act shares the same definition of ‘personal information’ as the Privacy Act 1988 (Cth). Furthermore, 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.*

17. I found that the documents contain personal information of another person.
18. In my assessment of whether the disclosure of personal information is unreasonable, I considered the following factors in accordance with section 47F(2):
- 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.
19. I found that the specific information listed is not well known and the information is not readily available from publicly accessible sources.
20. Accordingly, I am satisfied that the specified information is conditionally exempt under section 47F of the FOI Act.

#### **Public interest considerations – section 47F**

21. I have found the identified documents to be conditionally exempt under section 47F of the FOI Act.
22. Section 11A(5) of the FOI Act states:

*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.*

23. I have considered the factors favouring disclosure set out in section 11B(3) [factors favouring access] 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;*
  - (c) promote effective oversight of public expenditure.*

24. In my view, 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). Additionally, Defence has an obligation to protect personal information that it holds about third parties.
25. Paragraph 6.22 of the Guidelines specifies a non-exhaustive list of public interest factors against disclosure. The factors that I find particularly relevant to this request are that release of this information could reasonably be expected to prejudice:
- the protection of an individual's right to privacy;
  - an agency's ability to obtain confidential information; and
  - an agency's ability to obtain similar information in the future.
26. Furthermore, I have not taken any of the factors listed in section 11B(4) [Irrelevant Factors] of the FOI Act into account when making my decision.
27. Based on the above particulars, I am satisfied that the public interest factors against disclosure outweigh the factors for disclosure, and, on balance, that it is against the public interest to release the information to the applicant. Accordingly, I find that the relevant information is exempt under section 47F of the FOI Act.

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A/Assistant Secretary Media and Information Disclosure

Associate Secretary Group

Department of Defence