



BP40765486

DEFENCE FOI 781/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 24 March 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

Under the Freedom of Information Act I am requesting documents, that show the process, procedures, policies, guidelines, legislation that Air Force must follow to issue a medical or conduct termination notice.

Timeframe: 2010 -2021



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 21 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. Signatures contained in documents that fall within the scope of the FOI request and duplicates of documents, are excluded from this request. Defence has only considered final versions of documents.

Decision

10. I have decided to:
- a. release 3 documents in full;
 - b. partially release 18 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 47E(d) [public interest conditional exemptions – certain operations of agencies] of the FOI Act; and
 - c. remove irrelevant material in accordance with section 22 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. Documents 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19 and 20 contain exempt and irrelevant material and information such as signatures 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 47E(d) –Public interest conditional exemptions – certain operations of agencies

15. 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:

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

16. 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.

17. The documents contain group email addresses that are used by internal Defence business areas and are not publicly facing.
18. Defence has established procedures to direct correspondence from members of the public through specific channels to ensure that workflows can be controlled and managed. Releasing these contact details would interfere with the procedures that are in place and would have a substantial adverse effect on the operations of the area, and Defence as a whole.
19. I am satisfied that if the email addresses were to be made publicly available, it would have substantial adverse effects on the proper and efficient operation of existing public communication channels.
20. Accordingly, I am satisfied that the information contained within the documents is conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations - section 47E(d)

21. 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.

22. I have considered the factors favouring disclosure as 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;
- (d) allow a person to access his or her own personal information.

23. 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).

24. 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:

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

25. I have not taken any of the factors listed in section 11B(4) [irrelevant factors] of the FOI Act into account when making this decision.

26. I am satisfied, based on the above particulars, the public interest factors against disclosure outweigh the factors for disclosure, and that, on balance, it is against the public interest to release the information to you. Accordingly, I find that the information is exempt under section 47E(d) of the FOI Act.

FURTHER INFORMATION

27. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through

28. Legislation and relevant sections matching the scope of the request are publicly available and listed below. Please note previous compilations released during the 10 year period requested are available at www.legislation.gov.au.

- a. Defence Act 1903. Compilation No 78 dated 1 Sep 21. Refer to endnote for amendment information. Previous versions are available on the Federal Register of Legislation website.
- b. Defence Regulations 2016. Refer to s24 and s30. Refer to endnote for amendment information. Previous versions are available on the Federal Register of Legislation website.
- c. Defence (Personnel) Regulations 2002. Refer to s63, s82, s84, s85, s86, s87 Compilation dated 3 March 2013. Repealed 1 Oct 16, refer to DR16 Refer to endnote for amendments information. Previous versions are available on the Federal Register of Legislation website

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GPCAPT
Accredited Decision maker
Air Force