



## **DEFENCE FOI 835/23/24**

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

1. I refer to the request by [REDACTED] (the applicant), dated and received on 19 April 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*"This is a request for access to documents under the Freedom of Information Act 1982. I would like to request for access to the following documents:*

- 1) Defence Health Manual (DHM) Vol 2, Part 5, Chapter 10 – Review of Defence Force Recruiting Decision. Please include all annexes to this chapter.*
- 2) Defence Health Manual (DHM) Vol 2, Part 5, Chapter 1 – Medical Classification of Candidates. Please include all annexes to this chapter.*
- 3) Defence Health Manual (DHM) Vol 2, Part 5, Chapter 6 – Causes of and reasons for rejection. Please include all annexes to this chapter.*
- 4) Defence Health Manual (DHM) Vol 2, Part 5, Chapter 3 – Medical History and Examination. Please include all annexes to this chapter.*
- 5) Defence Health Manual (DHM) Vol 2, Part 5, Chapter 7 – Health Requirements for Aviation-related Occupations. Please include all annexes to this chapter.*
- 6) "Medical and Physical Fitness Standards" in Military Personnel Manual (MILPERSMAN) Part 3, Chapter 2 – Australian Defence Force Military Employment Classification System. Please include all annexes to this chapter.*
- 7) Any document/material/decision making instrument/subordinate or related policy document that outlines, specifies and/or describes all the medical conditions that are disqualifying for applicants/candidates applying for initial entry to air crew roles in the Royal Australian Air Force (RAAF).*

*The term 'disqualifying' in this context implies that these medical conditions will result in the ab-initio candidate being determined to be medically unfit (temporarily/permanently) for service and would usually result in a Class 3 or 4 entry-level medical assessment (ELME) outcome.*

- 8) Any document/material/decision making instrument/subordinate or related policy document that outlines/highlights/stipulates/describes the official position of the Australian Defence Force (ADF) and/or Defence Force Recruiting (DFR) on the medical suitability of candidates that have been diagnosed with/living with Sickle Cell Trait (SCT) or 'Heterozygous Haemoglobin S' (Hb AS/ HbAS) or 'Haemoglobin Genotype AS' for initial entry to and retention in any/all of the roles within the Australian Defence Force.*

*All documents/materials/decision making instrument should be the latest versions/copies/editions (and if applicable, their current status should be 'active').*

*TIMEFRAME: FROM DATE*  
**01/01/2016 - 12:00AM**

*TIMEFRAME: TO DATE*  
**19/04/2024 - 12:00AM**

**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 have identified 6 documents as falling within the scope of the request.

**Decision**

4. I have decided to:
  - a. release one document in full;
  - b. deny access to five documents on the grounds that the documents are considered exempt under section 47E(d) [public interest conditional exemptions – certain operations of agencies] of the FOI Act;

**Material taken into account**

5. 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**

6. Where a decision maker denies access to a document, section 22(1) of the FOI Act requires that they consider releasing the document with exempt matter deleted, if possible.

7. Paragraph 3.98 of the Guidelines provides that:

*...an agency or minister should take a common sense approach in considering whether the number of deletions would be so many that the remaining document would be of little or no value to the applicant.*

8. I have considered disclosing Documents 2 - 7 to you with deletions, but have decided to refuse access to the documents as they would be meaningless and of little or no value once the exempt material is removed.

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

9. 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.*

10. 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.*

11. As a general observation, the subject document is central to the internal management of the health aspects and standards for personnel within the ADF. General detailed disclosure of the standards represents the potential that an individual might seek to mask or otherwise conceal an injury or condition that might in ordinary course call into question their suitability for employment in the ADF.
12. If Chapter 5 of the Defence Health Manual (DHM) was released, applicants would be able to identify the recruitment medical classification standards profile required for enlistment. This could lead to applicants not fully disclosing relevant health matters that may affect their enlistment eligibility. If the condition is disclosed after ADF acceptance the applicant could be investigated for fraud; it may in turn lead to inadequate health care based off the misinformation provided to health care professionals, cancels the applicants eligibility for any compensation and could lead to dismissal from the ADF if individual is still serving thus affecting the operations of the agency.
13. The department relies on frank and honest responses provided by individuals as part of the medical process. Without such responses, Defence would not be in a position to make a thorough medical assessment about personnel, which ultimately affects defence ability to operate.
14. Accordingly, I am satisfied that the documents are conditionally exempt under section 47E(d) of the FOI Act.

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

15. 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.*

16. 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.*

17. 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).
18. 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:
  - an agency's ability to obtain confidential information;
  - an agency's ability to obtain similar information in the future;
  - the management function of an agency; and
  - the personnel management function of an agency.
19. It is in the public interest that Defence efficiently and productively operates with regards for the Health and wellbeing of its personnel.
20. 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.
21. 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 sections 47E(d) of the FOI Act.

## **FURTHER INFORMATION**

22. 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.

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**Mr Terry**

Accredited Decision Maker

Joint Health Command

Department of Defence