



DEFENCE FOI 891/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 10 May 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

“...please provide the policies, procedures and evidence used to confirm that every person who is a serving member of the Australian Defense force is an Australian Citizen”.

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. I have identified 20 documents as falling within the scope of the request.
5. The decision in relation to each document is detailed in the schedule of documents.

Decision

6. I have decided to:
 - a. release three documents in full;
 - b. partially release one 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 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

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

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 and irrelevant material, such as information that falls outside the scope of 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 47E(d) –Public interest conditional exemptions – certain operations of agencies

11. 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.*

12. 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.

13. The FOI Act does not control or restrict any subsequent use or dissemination of information released under the Act. As such, consideration must be given to whether release of names of personnel that are not currently available in the public domain could have a substantial and adverse impact on these individuals and the operations of the agency.
14. There is a reasonable likelihood that aggrieved individuals could harass staff or use their names inappropriately in the public domain. The FOI Act places no limitations on the use of information disclosed under the Act. I am satisfied that that there is a reasonable expectation that this would cause distress to ADF staff by adversely affecting their physical and mental wellbeing. Consequently, this would result in a substantial adverse effect on the broader management of ADF personnel.
15. The documents contain group email addresses that are not external to Defence, and are monitored daily by Defence personnel.
16. 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.

17. 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.
18. The Guidelines provide, at paragraph 6.120, that I should consider whether disclosure of the information 'would, or could reasonably be expected to lead to a change in the agency's processes that would enable those processes to be more efficient.' Given that the direct contact details within the documents are not publicly available and that more appropriate communication channels are already available, I am satisfied that release of the information could reasonably be expected to lead to a change in Defence's processes that would not lead to any efficiencies.
19. 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)

20. 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.

21. 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;

22. 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).

23. 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 management function of an agency; and
- the personnel management function of an agency.

24. It is in the public interest that Defence efficiently and productively operates with regard for the health and wellbeing of its personnel. As I have established above, the release of the names, email addresses and phone numbers of Defence personnel can reasonably be expected to prejudice the management and personnel management functions of Defence. Existing communication channels and processes enable efficient and appropriate liaison with the public. Internal email addresses and staff names of Defence personnel should therefore not be disclosed, as the public interest against their disclosure outweighs the public interest in their release.

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.

jodie. [redacted] Digitally signed by
jodie
Date: 2024.06.18
11:49:46 +10'00'

Jodie [redacted]

Accredited Decision Maker

Defence People Group

Department of Defence