



DEFENCE FOI 899/23/24

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):

"The names and job titles of all Associate Secretary Organisation staff sitting at EL2 (Executive Level 2) or higher, including military rank equivalents such as Captain, Colonel or Group Captain, and the structure of the organisation.

If the names of the staff members cannot be released below SES1, I would accept the job titles of EL2s".

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 one document as falling within the scope of the request.

Decision

4. I have decided to:
 - a. 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 47E(d) [public interest conditional exemptions - certain operations of agencies] of the FOI Act; and
 - b. remove irrelevant material in accordance with section 22 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. 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.

7. The document contains exempt material and information that is outside the scope of the request. 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

8. 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.*

9. 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.

10. It is in the public interest that Defence efficiently and productively operates with regard for the health and wellbeing of its personnel. Releasing the names of personnel that are not publicly known can reasonably be expected to prejudice the management and personnel management functions of Defence. Further, existing communication channels and processes enable efficient and appropriate liaison with the public.
11. 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 names of personnel within the document are not publicly known, 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.
12. Accordingly, I am satisfied that the names of personnel not publicly known is conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations - section 47E(d)

13. 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.

14. 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.*

15. 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).
16. 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 management function of an agency; and
 - the fact that the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act.
17. 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 information relating to the names of Defence personnel not publicly known 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. The names of personnel not publicly known should, therefore, not be disclosed, as the public interest against their disclosure outweighs the public interest in their release.
18. 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.
19. 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

20. The document that has been approved for partial release has been declassified and the dissemination limiting marker has been struck through.

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Bronwyn
Accredited Decision Maker
Defence People Group
Department of Defence