



DEFENCE FOI 318/24/25

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 26 October 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):
 - 1.) *All documents, including emails and other documents amounting to a "clearance", dispatched to and from HQJOC J09 in relation to operations in Afghanistan (date: 3 July 2013).*
 - 2.) *All documents, including emails and other documents amounting to a "clearance", dispatched to and from HQJOC J06 in relation to operations in Afghanistan (date: 5 July 2013).*
 - 3.) *All documents, including emails and other documents amounting to a "clearance", dispatched to and from HQJOC J3 CDRE A Ingram in relation to operations in Afghanistan (date: 9 July 2013).*
 - 4.) *All documents, including emails and other documents amounting to a "clearance", dispatched to and from ASGI Tom Hamilton in relation to operations in Afghanistan (date: 14 November 2013).*

Background



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 one (1) document falling within the scope of item 4 of the request.

Decision

5. I have decided to:
 - a. refuse item 1-3 of the scope of request under section 24A [requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act;
 - b. partially release the document relevant to item 4 of the request 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; and

- c. remove irrelevant material in accordance with section 22 of the FOI Act.

Materials taken into account

- 6. In making my decision I have had regard to:
 - a. the terms of the request;
 - b. the content of the identified document 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

- 7. 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.
- 8. The document contains exempt and irrelevant material. I am satisfied that it is reasonably practicable to remove the exempt and irrelevant material and release the document to you in an edited form.

Section 24A – Requests may be refused if documents cannot be found, do not exist or have not been received

- 9. Section 24A(1) of the FOI Act states:
 - (1) An agency or Minister may refuse a request for access to a document if:*
 - (a) all reasonable steps have been taken to find the document; and*
 - (b) the agency or Minister is satisfied that the document:*
 - (i) is in the agency's or Minister's possession but cannot be found; or*
 - (ii) does not exist.*
- 10. Paragraph 3.94 of the Guidelines advises the detail this statement of reasons should include to refuse a request under section 24A(1):

...the statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or to be in the agency's possession, describe the steps the agency took to search for the document,

and note the limitations of any search...

11. To ensure that all reasonable steps have been taken in relation to this request, every reasonable avenue of locating potential documents matching items 1-3 have been exhausted.
12. In relation to item 1 to 3 of the request detailed searches were conducted using key words within the scope of the request within the Defence Records Management System, Objective for documents matching the scope of the request. No records were found matching the applicant's scope.
13. Specifically, documents were not found that were associated with the clearances listed in items 1 to 3. This is conceivably because internal clearances by J09, J06 and J3 at Headquarters Joint Operations Command may have been given verbally after reading the hard copy draft media release, and the Department record of the clearance is the inclusion on the media release of their name, position and date of clearance.
14. I am satisfied that all reasonable steps have been taken to locate the documents sought by the applicant. I am satisfied that the documents cannot be found or do not exist, and refuse item 1-3 of the request under section 24A(1) of the FOI Act.

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). The Guidelines provide that:

6.123 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 document contains personal information about individuals that is not well known and is not publically available, being the names of junior departmental personnel, email addresses and personal mobile telephone numbers.
18. In my assessment of whether the disclosure of this 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 personal information redacted in the document is not widely known to be associated with the matters dealt with in the document and the information is not readily available from publicly accessible sources.
20. The release of the contact details of individuals identified in the document could reasonably be expected to cause harm to their privacy. Taking into account the above factors, I consider that the release of the personal information of individuals other than the applicant would be an unreasonable disclosure of personal information and conditionally exempt under section 47F of the FOI Act.

Public interest considerations – section 47F

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 6.233 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; and
 - the interests of an individual or a group of individuals.
25. It is in the public interest that Defence efficiently and productively operates with

regard for the health and wellbeing of its personnel. Further, Defence has an obligation to protect the personal information of staff members. Existing communication channels and processes enable efficient and appropriate liaison with the public. The direct contact details of Defence personnel should, therefore, not be disclosed, as the public interest against their disclosure outweighs the public interest in their release.

26. 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.
27. 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 47F of the FOI Act.

FURTHER INFORMATION

28. The document matching the scope of this request contained a dissemination limiting marker (DLM). As the document is approved for public release the DLM is struck through.



Accredited Decision Maker
Associate Secretary Group
Department of Defence