



## DEFENCE FOI 96/21/22 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by [REDACTED] under the *Freedom of Information Act 1982* (FOI Act) for access to:

*“(1) all documents taken into consideration by all persons who drafted or were consulted in the preparation of any of the content of the document headed "DFRDB Senate Inquiry Talking Points" prepared by the Department of Defence in anticipation of the Senate Foreign Affairs, Defence and Trade References Committee hearing during the Committee's inquiry into the accuracy of information provided to Defence Force Retirement DFRDB members (the "Talking Points"); and*

*(2) all emails and other correspondence between the persons referred to in para 1 and between them and any other persons where the subject matter or a subject matter of the correspondence is the Talking Points, if the document referred to a para (1) or the emails and other correspondence referred to in para (2) contains any information relevant to any one or more or all of the following issues:*

*(3) commutation of retirement pay under the Defence Forces Retirement Benefits Act 1948;*

*(4) commutation of retirement pay under the Defence Force Retirement and Death Benefits Act 1973; and*

*(5) indexation of the pension benefits as defined in s 3(1) of the Defence Force Retirement and Death Benefits Act 1973.”*

### 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 identified 17 documents as matching the description of the request.

4. The decision in relation to each document is detailed in a schedule of documents.

5. I have added an FOI reference number and Item/Serial number to each of the documents, which corresponds with the schedule.

### Exclusions

6. Personal email addresses, signatures, PMKeyS numbers and mobile telephone numbers contained in documents that fall within the scope of the FOI request, and duplicates of documents, are excluded from this request.

### Decision

7. I have decided to:

- a. release 14 documents in full; and
- b. release three (3) documents in part in accordance with section 22 [access to edited copies with exempt or irrelevant matter deleted] under section 47F [public interest conditional exemptions-personal privacy] of the FOI Act.

#### **Material taken into account**

8. In making my decision, I had regard to:

- a. the terms of the request;
- b. the content of the identified documents in issue;
- c. relevant provisions in 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
- e. advice received from the Commonwealth Superannuation Corporation and Department of Finance.

#### **Section 47F - Personal privacy**

9. Section 47F of the FOI Act conditionally exempts documents where disclosure would involve the unreasonable disclosure of personal information. Upon examination of the documents, I identified that certain material contains personal information of individuals other than the applicant.

10. The Guidelines state at paragraph 6.140, when assessing whether the disclosure of personal information is unreasonable, I considered the following factors:

- 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 within the documents; and
- c) the availability of the information from publicly accessible sources.

11. Against the criteria, I found:

- a) the author of the document is identifiable;
- b) the specific personal information listed is not well known; and
- c) the information is not readily available from publicly accessible sources; and
- d) no public purpose would be achieved through release.

12. 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 is conditionally exempt under section 47F of the FOI Act.

#### **Section 47F - Public interest considerations**

13. I have found that the material identified is conditionally exempt under section 47F of the FOI Act. Under the FOI Act, access to a document covered by a conditional exemption must be provided unless disclosure would be contrary to the public interest.

14. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the range of relevant factors that favour access to a document set out in subsection 11B(3) [public interest exemptions factors favouring access] of the FOI Act. While disclosure may promote some of the objects of the FOI Act, I do not

consider it would increase public participation in government processes, nor would it increase scrutiny or discussion of government activities.

15. Noting the above, I have decided that disclosure of the specific information would be an unreasonable disclosure of personal information belonging to others. Accordingly, I consider that the material is exempt under section 47F of the FOI Act.

**Further Information**

16. Information regarding;

*(3) commutation of retirement pay under the Defence Forces Retirement Benefits Act 1948;*


*(4) commutation of retirement pay under the Defence Force Retirement and Death Benefits Act 1973; and*

*(5) indexation of the pension benefits as defined in s 3(1) of the Defence Force Retirement and Death Benefits Act 1973.*

Is publicly available and can be found using the below website links:

<https://www.legislation.gov.au/Details/C2018C00460>

<https://www.legislation.gov.au/Details/C2018C00461>



Kirk Lloyd  
Colonel  
Accredited Decision Maker  
Defence People Group

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