



Reference: OCA/OUT/2017/R30703940

FOI 370/16/17 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. HQ 6 CS BDE Junior Leaders Shaping Future Army Course Administrative Instruction, including the agenda and list of speakers on this course (document reference X6330614)

2. The Post Activity Report for the HQ 6 CS BDE Junior Leaders Shaping Future Army Course. These documents will have been generated for the Commander, 6 CS BDE between 1 June 2016 and 31 December 2016.

3. I also request a copy of any emails, briefings, administrative instructions, post activity reports provided to the Chief of Army about this course. I am after any documents generated for the Chief of Army between 1 June 2016 and 19 June 2017. OR.

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.

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 six documents, totalling twenty pages, as matching the scope of this 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.

Decision

6. I have decided to:

a. release four documents in full

b. partially release two documents 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

- c. refuse access to documents of Item 3 of the request under subparagraph 24A(1)(b)(ii)[Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act
- d. remove irrelevant material as referred to in the scope of the request in accordance with section 22(1)(b)(ii) of the FOI Act.

Material taken into account

- 7. 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)
 - e. consultation with third parties
 - f. advice provided by Headquarters 6 Brigade.

Reasons for decision

Conditional Exemption - Section 47F(1) - Personal Privacy

8. Upon examination of the documents, I identified information, specifically names of individuals other than the applicant.

9. 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 with in the document
 - c. the availability of the information from publicly accessible sources
 - d. the effect the release of the personal information could reasonably have on the third party.
10. I found that the:
- a. specific personal information listed is not well known
 - b. individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the documents

c. information is not readily available from publicly accessible sources.

11. The release of the names of personnel identified in the document could reasonably be expected to cause harm to their privacy. They are not normally associated with Defence and releasing their names could be considered to breach their personal 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(1) of the FOI Act.

Public interest considerations – Section 47F(1)

12. I have found that the identified document is conditionally exempt under section 47F(1) of the FOI Act. Section 11A (5) provides that if a document is conditionally exempt, it must be disclosed unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

13. I considered the factors favouring disclosure set out in section 11B(3) of the FOI Act. The relevant factors are that disclosure may promote some of the objects of the FOI Act, as information held by the Government is a national resource.

14. However, the 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).

15. 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 or harm:

- a. the protection of an individual's right to privacy
- b. the interests of an individual or group of individuals.

16. It is for those reasons that I find that the public interest factors against disclosure outweigh the factors for disclosure and I deem the information exempt under section 47F(1) of the FOI Act.

17. None of the factors listed in section 11B(4) [Irrelevant Factors] were taken into account when making my decision.

Section 24A(1) of the FOI Act - Requests May Be Refused

18. Item 3 is subject to section 24A(1) of the FOI Act. Section 24A(1) of the FOI Act states:

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

Document lost or non-existent

(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.*

19. Paragraph 3.84 of the Information Commissioner Guidelines advises what detail this statement of reasons needs to 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.

20. To ensure that "all reasonable steps" have been taken in this request, every reasonable avenue of locating the documents has been exhausted. The details of these searches are outlined below.

21. Searches have been undertaken on the Office of the Chief of Army Registry and the 6 Brigade Registry using the terms:

- a. junior leadership development
- b. shaping junior leaders
- c. junior leader shaping
- d. junior leader course.

22. No documents could be located during these searches.

23. 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 access to documents for Item 3 of this request under section 24A(1) of the FOI Act.



BS Kilpatrick
Colonel
Accredited Decision Maker
Army

3 August 2017