



DEFENCE FOI 908/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by ^{s22} [REDACTED] (the applicant), dated and received on 14 May 2024 by the Department of Defence (Defence), for access to the following documents under the Freedom of Information Act 1982 (Cth) (FOI Act):

“a copy of all emails and supporting email file attachments sent to/from/cc’d Andrew Seedhouse, Chief Cyber, Intelligence & National Security, Defence Science & Technology Group for the period 24 May 2023 to 23 November 2023 (inclusive), on the subject matter of Unidentified Anomalous Phenomena (UAP) or otherwise similarly identified as Unidentified Aerial Phenomena, Unidentified Flying Object (UFO/UFOs).”

Background

2. On 4 June 2024, with the applicant’s written agreement Defence extended the period for dealing with the request from 13 June 2024 until 13 July 2024 in accordance with section 15AA [extension of time with agreement] of the FOI Act.
3. On 12 July 2024, the period for dealing with the request was extended from 13 July 2024 until 12 August 2024 under section 15(6) [extension of processing period to comply with requirements of section 27] of the FOI Act to enable consultation with News Corp in accordance with section 27 of the FOI Act.

FOI decision maker

4. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

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

Exclusions

7. Personal email addresses and mobile telephone numbers contained in documents that fall within the scope of the FOI request, duplicates of documents, and documents sent to or from the applicant are excluded from this request. Defence has only considered final versions of documents.

Decision

8. I have decided to:
 - a. partially release six 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 sections 47E(d) [public

interest conditional exemptions-certain operations of agencies] and 47F [public interest conditional exemptions - personal privacy] of the FOI Act and;

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

Material taken into account

9. 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).

REASONS FOR DECISION

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

10. 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.
11. The documents contain exempt material and irrelevant information such as mobile telephone numbers that do not relate to the request.
12. 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, and exclude draft documents or those that have been previously provided.

Section 47E(d) –Public interest conditional exemptions – certain operations of agencies

13. 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 have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.

14. 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.

15. In the case of 'ABK' and *Commonwealth Ombudsman* [2022] AICmr 44, the Information Commissioner (IC) found that where the direct email addresses and phone numbers of agency staff are not publicly known, they should be conditionally exempt under section 47E(d). The IC made this determination due to reasonable expectation that the release of direct contact details would undermine the operation of established channels of communication with the public. Further, the IC accepted that staff who

were contacted directly could be subject to excessive and abusive communications, which may give rise to work health and safety concerns.

16. I am satisfied that were the contact details of Defence personnel made publicly available, it would have substantial adverse effects on the proper and efficient operation of existing public communication channels. Further, I am satisfied of a reasonable expectation that the information could be used inappropriately, in a manner which adversely affects the health, wellbeing and work of Defence personnel. Disclosure of names, email addresses and phone numbers could, therefore, reasonably be expected to prejudice the operations of Defence.
17. 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.
18. The documents contain group email addresses that are used by internal Defence business areas and are not publicly facing.
19. 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.
20. I am satisfied that if the email addresses were to be made publicly available, it would have substantial adverse effects
21. Accordingly, I am satisfied that all staff information contained within the documents is conditionally exempt under section 47E(d) of the FOI Act.

Section 47F – Public interest conditional exemptions - personal privacy

22. 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).

23. The FOI Act shares the same definition of ‘personal information’ as the *Privacy Act 1988* (Cth). The Guidelines provide that:

6.128 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.

24. I found that the documents contain the personal information of other persons. This includes their names and qualifications which would reasonably identify a third party.
25. In my assessment of whether the disclosure of 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;
 - d. the effect the release of the personal information could reasonably have on the third party; and
26. I found that the specific personal information listed is not well known, individuals whose personal information is contained in the documents are 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.
27. Accordingly, I am satisfied that the documents/information is conditionally exempt under section 47F of the FOI Act.

Public interest considerations - sections 47E(d) and 47F

28. 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.

29. 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.*
30. 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).

31. 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;
 - the interests of an individual or a group of individuals;
 - the management function of an agency; and
 - the personnel management function of an agency.
32. 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. 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.
33. 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.
34. 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 sections 47E(d) and 47F of the FOI Act.

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Accredited Decision Maker
Defence Science and Technology Group
Department of Defence