



**BP42575277**

**DEFENCE FOI 918/23/24**

**STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982**

1. I refer to the request by [REDACTED] (the applicant), dated and received on 19 May 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*Access to the following objective files:*

*"BP34090663" or named, "SECTION A Notice MC00030706-NT01 HQ AirA Flying Safety Response"*

*"fBP5695338"*

*"BP34090741"*

*"BP33923847" S155 COMCARE WH&S Information and Documentation.pdf.*

**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 five (5) documents as falling within the scope of the request.
5. The decision in relation to each document is detailed in the schedule of documents.

**Decision**

6. I have decided to:
  - a. partially release five (5) 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(c) and (d) [public interest conditional exemptions – certain operations of agencies] of the FOI Act.

## Material taken into account

7. 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 47E(c) – Public interest conditional exemptions – certain operations of agencies

8. Section 47E(c) 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 management or assessment of personnel by the Commonwealth or by an agency*

9. The Guidelines provide, at paragraph 6.102, that:

*Where the document relates to the agency's policies and practices relating to the assessment and management of personnel, the decision maker must address both elements of the conditional exemption in s 47E(c), namely, that:*

- *an effect would reasonably be expected following disclosure*
- *the expected effect would be both substantial and adverse.*

10. Upon assessment of the documents I found that they contained the names of Defence personnel. The names of Defence personnel contained within the documents are not publicly available and disclosure of these could reasonably be expected to have an adverse effect on the health and wellbeing of these individuals.
11. There is a reasonable likelihood that aggrieved individuals could harass staff or use their names inappropriately in the public domain. The FOI Act places no limitations on the use of information disclosed under the Act. I am satisfied that there is a reasonable expectation that this would cause distress to Defence personnel by adversely affecting their physical and mental wellbeing. Consequently, this would result in a substantial adverse effect on the broader management of Defence personnel
12. The Guidelines provide, at paragraph 6.112, 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 Defence personnel contained within the document are not publicly 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.

13. Based on my consideration of the above, I am of the view that the disclosure of names of Defence personnel would have a substantial adverse effect on the individuals, the management and assessment of personnel, and the efficient and proper conduct of the operations of Defence.
14. Accordingly, I am satisfied that the information is conditionally exempt under section 47E(c) of the FOI Act.

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

15. 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:*

*(d) have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.*

16. The Guidelines, at paragraph 6.115, 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.*

17. Upon examination of the documents, I found that they contained information concerning the proper and efficient conduct of the operations of Defence.
18. The documents contain information relating to operational training activities. The information, if released, could affect the integrity and efficacy of the Department of Defence's internal processes and procedures with regards to training and capability. If the information was made publicly available it could reasonably have an adverse effect on Defence's ability to conduct, manage and perform its functions in the future.
19. Accordingly, I am satisfied that the information is conditionally exempt under section 47E(d) of the FOI Act.

**Public interest considerations – sections 47E(c) and 47E(d)**

20. 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.*

21. 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.*

22. 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).
23. 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.
24. 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.
25. 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(c) and 47E(d) of the FOI Act.

#### **FURTHER INFORMATION**

26. Some of the documents matching the scope of this request contained a dissemination limiting marker (DLM). Where documents have been approved for public release, the DLM has been struck through.

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GPCAPT  
Accredited Decision maker  
Air Force