



DEFENCE FOI 441/24/25

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by [REDACTED] (the applicant), dated and received on 3 December 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

1. *The minutes of all meetings of the Religious Advisory Committee to the Services (RACS) held between 1 January 2023 to 31 December 2023.*

2. *The minutes of all meetings of the Religious Advisory Committee to the Services (RACS) held between 1 January 2024 to 30 November 2024.*

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 13 documents as falling within the scope of the request.
5. The decision in relation to each document is detailed in the schedule of documents.
6. I have added an FOI reference number and document number to each of the documents, which corresponds with the schedule.

Exclusions

7. Duplicates of documents have been excluded from this request. Defence has only considered final versions of documents.
8. The minutes of the meetings held in November 2024 are not finalised as at 3 December 2024, the date of receipt of the FOI request; therefore, have been excluded from this FOI request.

Decision

9. I have decided to partially-release 13 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 [public interest conditional exemptions – certain operations of agencies], 47F [public interest conditional exemptions - personal privacy] of the FOI Act.

Material taken into account

10. 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 – Public interest conditional exemptions – certain operations of agencies

11. Section 47E of the FOI Act relevantly 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*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.*

12. In relation to section 47E(c) of the FOI Act the Guidelines provide, at paragraph 6.102, that:

Where the document relates to the agency's policies and practices in relation to the assessment or 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.*

13. The documents contain the information that was communicated to the Religious Advisory Committee (the Committee) on the assessment and management of personnel. It is important that frank personnel information can be communicated in order for the Committee to deliver required deliverables. If policies and practices were released it would reasonably affect the considerations undertaken by the Committee and in turn have a substantial and adverse effect on the Committee's functions.

14. In relation to section 47E(d) the Guidelines provide, at paragraph 6.115, that:

The predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its operations in an expected manner.

15. I have found that material contained in documents contain information relating to the operational processes that are not public facing. If released, I consider would impact the ability of Defence to undertake usual functions, including the ability to have frank discussions about relevant processes and their effectiveness. This could reasonably be

expected to prejudice the effectiveness of the current operations of the agency in relation to undertaking usual functions.

16. Accordingly, I am satisfied that the information is conditionally exempt under section 47E of the FOI Act.

Section 47F – Public interest conditional exemptions - personal privacy

17. 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).

18. 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.

19. I found that the documents contain personal information of other persons. This includes their names, qualifications, recruitment arrangements and individual nominations which would reasonably identify third parties.
20. 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; and
 - d. the effect the release of the personal information could reasonably have on the third party.
21. I have found the specific personal information listed is now well known and the effect of the third parties on the release of the material.
22. Accordingly, I am satisfied that the information is conditionally exempt under section 47F of the FOI Act.

Public interest considerations - sections 47E and 47F

23. 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.

24. 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); and*
 - (b) inform debate on a matter of public importance.*
25. 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:
- a. the protection of an individual's right to privacy;
 - b. the interests of an individual or a group of individuals;
 - c. an agency's ability to obtain confidential information;
 - d. the management function of an agency; and
 - e. the personnel management function of an agency.
26. It is in the public interest that Defence efficiently and productively operates with regard for the health and wellbeing of its personnel and protect third party information. As I have established above, the release of information of personnel information can reasonably be expected to prejudice the management and personnel management functions of Defence. In addition, the frank information provided to the Committee to deliver their required functions could reasonably have a substantial adverse effect on the proper and efficient conduct of the operations of the agency.
27. 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.
28. 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 and 47F of the FOI Act.
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