



DEFENCE FOI 851/23/24

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by MHS (Right to Know) (the applicant), dated and received on 29 April 2024 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

'Any Certificate of Discharge and/or similar document for "Troy Joseph Thompson (formerly Birnbrauer)" who served in the ADF, with the 109th Signals Squadron, and/or with the Special Air Service Regiment's 152 Signal Squadron, and/or with the 105th Signals Squadron'.

Background

2. On 23 May 2024, the period for dealing with the request was extended from 29 May 2024 until 28 June 2024 under section 15(6) [extension of processing period to comply with requirements of section 26A, 27 or 27A] of the FOI Act to enable consultation with a third party in accordance with section 27A of the FOI Act.

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 one document as falling within the scope of the request.

Exclusions

5. 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

6. I have decided to refuse access to one document on the grounds that the document is considered exempt under section 47F [personal privacy] 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;
 - d. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines); and

- e. advice provided via third party consultation.

REASONS FOR DECISION

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

8. Where a decision maker denies access to a document, section 22(1) of the FOI Act requires that they consider releasing the document with exempt matter deleted, if possible.
9. Paragraph 3.98 of the Guidelines provides that:

...an agency or minister should take a common sense approach in considering whether the number of deletions would be so many that the remaining document would be of little or no value to the applicant.
10. I have considered disclosing the documents to you with deletions, but have decided to refuse access to the document as it would be meaningless and of little or no value once the exempt material is removed.

Section 47F – Public interest conditional exemptions - personal privacy

11. 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).
12. 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.*
13. I found that document contains personal information of another person. This includes their name, training information, posting and qualifications, which would reasonably identify the third party.
14. 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
 - e. the advice provided in consultation with the third party.

15. I found that the specific personal information listed is not well known, that the individual has not provided authority to release the information, and the information is not readily available from publicly accessible sources.
16. Accordingly, I am satisfied that the document is conditionally exempt under section 47F of the FOI Act.

Public interest considerations - section 47F

17. 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.

18. 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.

19. 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).

20. 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:

- the protection of an individual's right to privacy

21. It is in the public interest that Defence efficiently and productively operates with regard for the privacy of personnel, both current and former. The release of the private information in this document represents a significant breach of privacy that outweighs the public interest factors for release.

22. 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.

23. 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 section 47F of the FOI Act.

joanne.groves

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Date: 2024.06.18 14:39:53

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Mrs Joanne Groves

Accredited Decision Maker

Army Headquarters

Department of Defence