



DEFENCE FOI 165/22/23 STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT

1. I refer to the application by Charles Stevens (the applicant) under the *Freedom of Information Act 1982* (FOI Act) for access to:

“A count of formal complaints made within the unit.

The nature and category of those complaints, at a high level (for example, Unacceptable Behaviour - Bullying).

Demographic statistics of complainants.

The timeframe of my request is from the period FY 21-22 and the current year to date [26 September 2022].”

2. Background of request:

“Recently the Royal Australian Navy Band identified a ‘problem of complaining’ and ‘making complaining a sport’ as issues relating to the ‘Known morale and cultural issues – insidious and toxic’ workplace within the unit. (Defence FOI 051/22/23 [sic] document 7 refers).

Within the same FOI, it was suggested that members may have their service terminated if the culture does not improve. (Defence FOI 051/22/23[sic] document 8 refers).”

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 identified no documents as matching the description of the request.

Decision

5. I have decided to refuse the request under section 24A [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

Material taken into account

6. In making my decision, I had regard to:

- a. the terms of the request;
- b. relevant provisions in the FOI Act;
- c. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines);
- d. advice from the Navy Headquarters.

Reasons for decision

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

7. Section 24A(1) of the FOI Act states:

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.

8. Paragraph 3.94 of the Guidelines advises the detail this statement of reasons should 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 be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...

9. To ensure that "all reasonable steps" have been taken in relation to this request, every reasonable avenue of locating documents within the scope of the request have been exhausted.

10. Navy conducted extensive searches of all elements of the Royal Australian Navy Band. This includes searches of Defences' electronic digital record management system 'Objective' which holds current and historical records of both electronic and hard copy files. Searches were conducted using the terms 'band', 'complaint' and 'incident' within the timeframe of the scope of the request.

11. 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 the request under section 24A(1) of the FOI Act.

Commander Lindsay Gordon RAN
Accredited Decision Maker
Navy Group