



Australian Government

Defence

BP34507001

DEFENCE FOI 743/22/23

STATEMENT OF REASONS UNDER THE FREEDOM OF INFORMATION ACT 1982

1. I refer to the request by MBV (the applicant) via Right to Know, dated and received on 23 May 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

“I seek access to the following documents relating to the Prime Minister's SPA travel to Alice Springs on 24 January 2023.

1. Catering requests received by the VIP Operations Cell in connection with these flights.

2. Any documents which reference tennis, the Australian Open, television or streaming services or a commitment in Melbourne.”

Background

2. On 20 June 2023, with the applicant's written agreement Defence extended the period for dealing with the request from 22 June 2023 until 6 July 2023 in accordance with section 15AA [extension of time with agreement] of the FOI Act.
3. On 6 July 2023, with the applicant's written agreement Defence extended the period for dealing with the request from 6 July 2023 until 22 July 2023 in accordance with section 15AA [extension of time with agreement] of the FOI Act.
4. On 21 July 2023, Defence applied to the Office of the Information Commissioner (OAIC) for a 21 day extension of time to process the request in accordance with section 15AB [extension of time for complex or voluminous requests] of the FOI Act. The response has not yet been received.

FOI decision maker

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

Documents identified

6. I have identified one (1) document as falling within the scope of the request.

Decision

7. I have decided to:

- a. partially release one (1) document in relation to item one (1) of the request 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 irrelevant; and
- b. refuse item two (2) in relation to item two (2) of 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

8. In making my decision, I have had regard to:
 - a. the terms of the request;
 - b. the content of the identified document 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 received from the Department of the Prime Minister and Cabinet (PM&C).

REASONS FOR DECISION

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

9. 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.
10. The document contains information that does not relate to the request.
11. I am satisfied that it is reasonably practicable to remove the irrelevant material and release the document to you in an edited form.

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

12. Section 24A(1) of the FOI Act states:
 - (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.*
13. 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 to be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...

14. To ensure that all reasonable steps have been taken in relation to this request, every reasonable avenue of locating potential documents matching item two (2) has been exhausted.
15. In relation to item two (2) of the request, 34 Squadron conducted searches in the Defence records management system, Objective using keywords specific to the request including 'SPA notifications' inclusive of the travel criteria. No records were found matching the scope of the request.
16. I am satisfied that all reasonable steps have been taken to locate the documents matching item two (2) of the request. 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.

A. Stainton
GPCAPT
Accredited Decision Maker
Air Force