



*Objective Reference: AHQ/OUT/2023/58270242*

**DEFENCE FOI 424/23/24**

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

1. I refer to the request by Bick Rurr (the applicant), dated and received on 5 November 2023 by the Department of Defence (Defence), for access to the following documents under the *Freedom of Information Act 1982* (Cth) (FOI Act):

*“I request the following document regarding a report into behaviour within the 16th Aviation Brigade identified by reference number BQ29926808”*

**FOI decision maker**

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

**Documents identified**

3. I have identified one document as falling within the scope of the request.

**Decision**

4. I have decided to deny access to the document under s47F [public interest conditional exemptions – personal privacy] of the FOI Act.

**Material taken into account**

5. 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. consultation with Army Aviation Command and Defence Legal.

**REASONS FOR DECISION**

**Section 47F – Public interest conditional exemptions - personal privacy**

6. 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).*

7. 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.*

8. I found that the document contains personal information of other people. This includes names, email addresses, contact phone numbers and personnel related matters, which would reasonably identify individuals.

9. 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.

10. I found that the specific personal information listed is not well known, individuals whose personal information is contained in the documents are not widely known to be associated with the matters dealt with in the document and the information is not readily available from publicly accessible sources.

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

#### **Public interest considerations - sections 47F**

12. 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.*

13. 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.*

14. 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).

15. 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;
- the interests of an individual or a group of individuals;
- an agency's ability to obtain confidential information; and
- an agency's ability to obtain similar information in the future.

16. It is in the public interest that Defence efficiently and productively operates with regard for the health and wellbeing of its personnel. As I have established above, the release of any personal information can reasonably be expected to, prejudice the personnel management functions of Defence. Existing communication channels and processes enable efficient and appropriate liaison with the public. The specific details of Defence personnel should, therefore, not be disclosed, as the public interest against their disclosure outweighs the public interest in their release.

17. 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.

18. 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.

**Mrs Joanne Groves**  
Accredited Decision Maker  
Army Headquarters  
Department of Defence