



AFP

Our Ref: LEX 2458

8 March 2024

Mr Thomas A

Email: foi+request-11103-bfe6ebf0@righttoknow.org.au

Dear Mr A

Freedom of Information request

I refer to your request dated 14 February 2024 made under the *Freedom of Information Act 1982* (the Act).

Attached at Annexure A to this letter is my decision and statement of reasons for that decision.

I have decided not to publish the document in respect of your request.

Yours sincerely

C.A

Casey
A/FOI Team Leader - Corporate
Freedom of Information
Chief Counsel Portfolio

**STATEMENT OF REASONS RELATING TO AN FOI REQUEST BY
THOMAS A**

I, Casey, A/FOI Team Leader, Freedom of Information, am an officer authorised under section 23 of the Act to make decisions in relation to the Australian Federal Police (AFP).

What follows is my decision and reasons for the decision in relation to your request.

BACKGROUND

On 14 February 2024, the AFP received your request in the following terms:

"I would like to request the Australian Federal Police Brand Guidelines. By Brand guidelines, I refer to any material that informs the use of the Australian Federal Police brand identity including any vehicle livery and signage guidelines.."

SEARCHES

Searches for documents were undertaken by Corporate Communications as the relevant business area within the AFP with responsibility for the document to which you sought access.

EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED

In reaching my decision, I have relied on the following:

- the scope of your request;
- the contents of the document identified as relevant to the request;
- advice from AFP officers with responsibility for matters contained in the documents;
- the Act; and
- the guidelines issued by the Office of the Australian Information Commissioner under section 93A of the Act.

DECISION

I have identified 1 document relevant to your request, which I have decided to refuse access in full pursuant to section 47E(d) of the Act.

My reasons for this decision are set out below.

Material to which section 47E(d) applies:

Section 47E(d) of the Act provides that:

"A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- ...
(d) *have a substantial adverse effect on the proper and efficient conduct of the operations of an agency;..."*

The document identified as exempt under this section of the Act contains information, the release of which, would have a substantial adverse effect on the conduct of AFP operations – specifically, the AFP's expected functions as a law enforcement agency.

The AFP performs a variety of statutory functions, more broadly the AFP's role is to protect Australians and Australia's interests from serious criminal threats. The information identified as exempt under this section of the Act provides details relevant to the AFP's processes in design and production of AFP branding.

I am of the view that disclosure of this information could potentially jeopardise the integrity and the effectiveness of this process and information. Release of this information more widely could put the agency at risk as online sharing could result in the unauthorised design and creation of assets which could be developed to look to be legitimate AFP branding. This could have the potential for actors to pose as AFP appointees and engage in unlawful behaviour, which would put the AFP and more broadly the public and establishments at risk.

However, I must give access to this information unless, in the circumstances, access at this time would be contrary to the public interest.

I have considered the following factors favouring disclosure:

- (a) the general public interest in access to documents as expressed in sections 3 and 11B of the Act; and
- (b) the public interest in people being able to scrutinise the operations of a government agency and in promoting governmental accountability and transparency.

I have considered the following factors against disclosure:

- (c) the need for the agency to maintain the confidentiality with regard to the subject matter of information relating to the AFP's brand guidelines; and
- (d) the need for the agency to maintain the efficiency of current procedures.

While it may be argued the release of this information would promote the objects of the Act, scrutinise the operations of a government agency and promote government accountability and transparency, I consider release would make only a minimal (if any) contribution to those public interest factors.

On the other hand, I consider the prejudice to the agency operations and should be given greater weight.

While there is a public interest in providing access to documents held by the AFP, I have given greater weight to factors (c) and (d) above and conclude that on balance, disclosure is not in the public interest, given the need to maintain the confidentiality of such material, and to ensure the effectiveness of current procedures. Accordingly, I find that the documents or parts of the documents are exempt under section 47E(d) of the Act.

*****YOU SHOULD READ THIS GENERAL ADVICE IN CONJUNCTION WITH THE LEGISLATIVE REQUIREMENTS IN THE FREEDOM OF INFORMATION ACT 1982*****

REVIEW AND COMPLAINT RIGHTS

If you are dissatisfied with a Freedom of Information decision made by the AFP, you can apply either for internal review of the decision, or for a review by the Information Commissioner (IC). You do not have to apply for internal review before seeking review by the IC.

For complaints about the AFP's actions in processing your request, you do not need to seek review by either the AFP or the IC in making your complaint.

REVIEW RIGHTS under Part VI of the Act

Internal review by the AFP

Section 54 of the FOI Act gives you the right to apply for internal review of this decision. No particular form is required to make an application for internal review, however, an application needs to be made in writing within 30 days of this decision. It would assist the independent AFP decision-maker responsible for reviewing the file if you set out in the application, the grounds on which you consider the decision should be reviewed.

Section 54B of the FOI Act provides that the internal review submission must be made within 30 days. Applications may be sent by email (foi@afp.gov.au) or addressed to:

Freedom of Information
Australian Federal Police
GPO Box 401
Canberra ACT 2601

REVIEW RIGHTS under Part VII of the Act

Review by the Information Commissioner

Alternatively, section 54L of the FOI Act gives you the right to apply directly to the IC for review of this decision. In making your application you will need to provide an address for notices to be sent (this can be an email address) and a copy of the AFP decision.

Section 54S of the FOI Act provides the timeframes for an IC review submission. For an *access refusal decision* covered by section 54L(2), the application must be made within 60 days. For an *access grant decision* covered by section 54M(2), the application must be made within 30 days.

Applications for IC review may be lodged by email (foidr@oaic.gov.au), using the OAIC's online application form (available at www.oaic.gov.au) or addressed to:

Office of the Australian Information Commissioner
GPO Box 5128
Sydney NSW 2001

The IC encourages parties to an IC review to resolve their dispute informally, and to consider possible compromises or alternative solutions to the dispute in this matter. The AFP would be pleased to assist you in this regard.

Complaint

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the IC. A complaint may be lodged using the same methods identified above. It would assist if you set out the action you consider should be investigation and your reasons or grounds.

More information about IC reviews and complaints is available on the OAIC's website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.