



**Australian Government**

**Department of the Prime Minister and Cabinet**

ONE NATIONAL CIRCUIT  
BARTON

FOI/2020/160/IR

**INTERNAL REVIEW DECISION AND REASONS  
UNDER SECTION 54 OF  
THE FREEDOM OF INFORMATION ACT 1982**

**REQUEST BY: Mr Francis Unmeopa**

**DECISION BY: John Reid PSM  
First Assistant Secretary  
Government Division**

**By email:** [foi+request-6455-ff9c2b36@righttoknow.org.au](mailto:foi+request-6455-ff9c2b36@righttoknow.org.au)

Dear Mr Unmeopa

I refer to your request of 9 August 2020, seeking internal review of the decision (the **primary decision**) made on 3 August 2020 by Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch, Department of the Prime Minister and Cabinet (the **Department**) in relation to your request, dated 3 July 2020 for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

*In early 2012 the assistant secretary of Honours and Awards oversaw the production of a document titled.*

*"Amendment of Humanitarian Overseas Service Medal (Iraq) Declaration 2004 to extend to specified commercial contractors"*

*I respectfully request a copy of that document please.*

The primary decision refused access, in full, to two documents (the **requested documents**) identified within the scope of your request, on the basis they contained information that was conditionally exempt under the following provisions of the FOI Act, and its disclosure would be contrary to the public interest:

- section 47C of the FOI Act (deliberative material);
- section 47E(d) of the FOI Act (proper and efficient operations of an agency); and
- section 47G of the FOI Act (business information).

Under section 54(2) of the FOI Act, an applicant is entitled to apply for an internal review of a decision refusing to give access to a document in accordance with a request.

In your request for internal review, you stated that:

*Mr Rush claims the main factor against disclosure is his view that such disclosure would affect his Department's ability to provide comprehensive advice to Government. However Freedom of Information Guidelines state that the public expects agencies and ministers to act fairly, transparently and consistently in their administrative decision-making and to be accountable for the decisions they make. The public is entitled to expect evidence and submissions will be properly considered. Disclosure in this case will allow reasonable public scrutiny to ensure that the process and decisions were reasonably predicated on all relevant evidence.*

*Mr Rush's claims that disclosure could be expected to adversely affect the business or commercial interests of third parties is an unsubstantiated opinion that runs contrary to the facts. As noted, the commercial organisation in question supported the concept of its personnel being awarded civilian operational service recognition for their service with the Australian contingent to the rehabilitation program in Iraq. The Commonwealth Government agency involved also supported the concept, as did the member of the public whose efforts led to the production of the document titled "amendment of humanitarian overseas service medal (Iraq) declaration 2004 to extend to specified commercial contractors". The name of the organisation being considered has been disclosed publicly since at least 2004.*

### **Authorised decision maker**

Section 54C(2) of the FOI Act provides that an agency must arrange for a person (other than the person who made the original decision) to review the decision.

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

### **Internal review decision**

I have decided to affirm the primary decision.

In reaching my decision, I have had regard to:

- the terms of your request;
- the requested documents;
- the primary decision;
- your request for internal review;
- the FOI Act; and
- the 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*'<sup>1</sup> (the **FOI Guidelines**).

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<sup>1</sup> FOI Guidelines combined November 2019 published on the web site of the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/>.

## **Reasons**

I have carefully reviewed the requested documents, as well as the exemptions claimed in the primary decision, and the reasons for those exemptions.

The public interest test requires me to weigh the factors in favour of disclosure against the factors that do not favour disclosure of the documents.

I note that the primary decision-maker already acknowledged that there were two factors in favour of disclosure, namely that disclosure would promote the objects of the FOI Act and improve public oversight and scrutiny of government decision making.

I have considered the factors against disclosure which were relied upon by the primary decision-maker. I have also considered your submissions in your request for internal review, and am not persuaded that they are sufficient to tilt the balance towards disclosure of the requested documents.

I am satisfied that the primary decision remains the correct and preferable decision, and I agree with the primary decision-maker's findings and the reasons underpinning those findings.

Accordingly, I adopt and affirm those findings and reasons as my own for the purposes of this internal review.

## **Review rights**

Information about your rights of review under the FOI Act is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

## **Complaint rights**

You may make a complaint to the Information Commissioner about the Department's actions in relation to this request. Making a complaint about the way the Department has handled an FOI request is a separate process to seeking review of the Department's decision. Further information about how to make a complaint is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Yours sincerely



John Reid  
First Assistant Secretary  
Government Division  
8 September 2020