

11 September 2014

By email : [REDACTED]

Dear [REDACTED]

I refer to your email of 13 August 2014 under the *Freedom of Information Act* 1982 (FOI Act) in which you sought access to information, as below:

that under the Freedom of Information Act, that I am entitled to have a copy of the report undertaken for Defence Housing Australia regarding bullying issues by [REDACTED] against me.

DHA acknowledged receipt of your request on 18 August 2014. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests for access to documents.

Legislative background

The Act provides a right of access to information in the possession of Commonwealth agencies, limited only by exceptions and exemptions provided for in the Act.

I have identified a document falling within the scope of your request. I have decided that the document is exempt under section 45(1) of the FOI Act.

Reasons for this decision

The Report was prepared by Quality Management Solutions (QMS) at the request of DHA, it is labelled '*sensitive personal*'. The Report contains excerpts from interviews that were conducted by QMS also excerpts from information provided to QMS by DHA officers participating in the investigation. DHA officers participated in the interviews, and provided the information to QMS, on the basis that the information they provided would be kept confidential.

A document is exempt if its disclosure under the FOI Act would found an action by a person (other than an agency or the Australian Government) for breach of confidence. Individuals provided the information to [REDACTED] on the basis that it be kept confidential. I consider that they would not have provided it if they knew it would be released under the FOI process. The release of this information could cause detriment to these individuals and could found a cause of action for breach of confidence.

Based on these factors, the Report and the relevant annexures would therefore be exempt from disclosure under section 45 of the FOI Act.

HEAD OFFICE



Section 45 of the FOI Act relevantly provides:

- 1) *A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.*
- 2) *Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:*
 - a. *A person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
 - b. *An agency, the Commonwealth or Norfolk Island.*

Material on which my findings are based

I based my findings on the following material:

- The content of the identified document;
- The relevant provisions of the FOI Act;
- The guidelines published by the Office of the Australian Information Commission under section 93A of the FOI Act (OAIC Guidelines)
- Advice from DHA staff whose duties relate more closely to the matters referred to in the document; and
- The content of your FOI request.

Liability to pay charges

I have decided not to impose any charges.

Rights of review

If you do not agree with my decision in relation to the release of documents you are entitled to apply for an internal review of the decision and or external review by the Australian Information Commissioner. Information on your review rights is at Attachment B.

FOI disclosure log

In accordance with the requirements of section 11C of the FOI Act, Defence Housing Australia is required to publish, on its website, information released under the FOI Act within 10 working days of the applicant being given access to documents. DHA will also publish the decision notice, with any personal and business information deleted. The information published does not include personal

information or the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable. Other information not published also includes that which the Australian Information Commissioner determines is unreasonable to publish.

Further information

Please do not hesitate to contact me if you have any questions about this matter.

Yours sincerely



Pip Sackley
Executive Officer

Attachments:

- A. Schedule of Documents.
- B. Your review rights.