

UNCLASSIFIED

Good afternoon Mr Gallagher

Thank you for the invite to make a submission to the consultation by your office in regards to the renewal of Disclosure Log Determination No. 2011-1 (Exempt Documents) issued, on 27 September 2011, under subsection 11(2) of the FOI Act.

2. The responses to your questions and my submission are set out below.
 - a. Do you think the determination has been effective? If not, how could it be made more effective? **Response:** Defence is of the view that the determination issued by the Information Commission under subsection 11(2) of the FOI Act has been effective and should be re-issued.
 - b. Do you think the determination had any unintended consequences? Is there a way to mitigate those consequences? **Response:** The determination has not had any unintended consequences that Defence is aware of at the time of providing this response. On the contrary, the determination has allowed Defence to provide Australian Defence Force (ADF) members with access to material which, if required to be published on the Disclosure Log, would have been considered to be exempt under section 33 of the FOI Act.
 - c. Should the determination be expanded or narrowed in any way? Please explain how and why you think it should be expanded or narrowed. **Response:** As indicated above, the determination has been effective and should be re-issued in its current form.
 - d. Have you had regard to the determination when publishing or deciding not to publish documents to your disclosure log? How often has the determination been relevant to your publication decisions? **Responses:** Yes, Defence has had regard to the determination when deciding not to publish documents on its Disclosure Log. Defence has used the determination not to publish material relating to Defence 'Operational Incidents' involving ADF members involved in combat situations. Defence found that release of combat-related material would have revealed vulnerabilities and was exempt at that time access was given, if the request for that material had been made by a person other than the ADF applicant. Defence has not kept specific statistical data in relation to the requests where the determination has been made not to publish such information, but we can say that we have made the determination on several occasions.
 - e. The OAIC Annual Report 2012-13, Chapter 8, will include statistics collected from agencies and ministers on disclosure log activity, for example, the number of documents accessible from disclosure logs, and the number of website visits to disclosure logs. The OAIC invites agencies and ministers, as part of this consultation, to comment on their disclosure log record keeping – for example, is an internal register maintained of all disclosure log decisions, does the agency record decisions not to publish a document on the disclosure log and the reasons for that decision, should additional information about disclosure log activity be collected by the OAIC? **Response:** Defence keeps a full record of decisions not to publish documents on its Disclosure Log. Defence does not see any benefit in the collection of additional information about Disclosure Log activity, noting that Defence resources are limited.
3. Should you have any questions in relation to the above please do not hesitate to contact me.

Regards

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