

Processing Freedom of Information (FOI) Requests

STANDARD OPERATING PROCEDURE

LEGAL AND INFORMATION ACCESS TEAM

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Introduction

Purpose

This Standard Operating Procedure (**SOP**) sets out how to process Freedom of Information (FOI) requests received by the Office of the Commonwealth Ombudsman (**OCO**).

FOI requests are processed in accordance with the *Freedom of Information Act 1982* (Cth).

Examples of FOI requests

The OCO receives FOI requests for a wide range of documents, however, the two main requests are:

1. All documents on file in relation to a complaint for example:
 - a. Centrelink, Defence Force Ombudsman, Australia Post etc.
 - b. If requested by the complainant themselves then it is deemed personal information – section 47F of the FOI Act. This means it is likely to be a full release decision.
2. Documents in relation to the Defence Abuse Response Taskforce (**DART**):
 - a. All DART documents have been transferred to the OCO under the new Regulation at the end of the Defence Abuse Response Taskforce on 31 August 2016. These requests are generally by the ex-DART complainant or a representative (such as a lawyer). Therefore, a request for personal information, as above.

Processing an FOI request

Please refer to **Attachment A** for Resolve FOI Workflow overviews.

For all FOI steps below, you will need to complete the correlating Action in Resolve (under the Actions Tab on the main screen). If you require more detailed steps on using Resolve than what is included in this SOP, please refer to the Resolve Manual:

1. Open Resolve. Top left corner click on 'Help'.
2. Click on the option 'Contents'. The User guide will then open in Word.
3. If you are still having difficulties – contact Helpdesk or Daniel S

Initial Steps – Opening a new matter

Receiving an FOI request

Generally, the Public Contact Team (**PCT**) will register a new FOI request on Resolve. In some cases, requests for DART documents will be sent to the Defence Force Ombudsman inbox (Defenceforce.Ombudsman@ombudsman.gov.au), in this instance you should send the request to PCT for registration on Resolve.

Processing a FOI Request

Step 1: Is it a valid FOI request

Request for access under the FOI Act

The requirements for a valid FOI request are found in section 15 of the FOI Act. Each request should be assessed independently. In some instances the request for a document may fall within an already established administrative process.

- **Note:** Processing a request administratively instead of under the FOI Act will mean no statutory timeframes are applicable and that the applicant will not have review rights on the decision to release documents.

However, in practice the applicant does not need to specifically state they are requesting the documents under the FOI Act. As long as it is clear that is their intention. The acknowledgement from the OCO will confirm that is how the request is being processed.

From the date the FOI request is deemed to be valid you have 30 days to process the request.

Consultation with the applicant

If there is not enough information to identify the documents being requested, start a consultation period to assist the applicant to make a valid FOI request (see section 15(3) of the FOI Act).

Further, if there are a voluminous amount of documents that would create an unreasonable diversion of the OCO's resources – see section 24AB of the FOI Act – consultation with the applicant to refine the scope of their request will be required. Additional time of, up to 14 days, can be added to the processing time due to consultation with the applicant.

Transfer of requests

In rare occasions the OCO may receive a request that another agency is more appropriate to process. There are two steps that can be taken:

1. Advise the applicant that the OCO cannot assist and ask them to withdraw their request (this may be the preferred option if the request seems to be sensitive or personal information); or
2. Contact the more appropriate agency and request to formally transfer under section 16 of the FOI Act. Once the relevant agency accepts transfer the applicant will need to be notified.

Step 2: Acknowledging an FOI request

Remember: You have **14 days** from the date of receiving a FOI request to acknowledge receipt.

There is a template letter in Resolve used for acknowledging FOI requests.

You will need to fill in, print, sign and scan the letter. You can then send it to the applicant via email or post (depending on their preferred method of contact).

- If the applicant did not state they are requesting the documents under the FOI Act, you will need to ensure you state in the acknowledgement letter that we are treating the request for documents as an FOI request.

Saving the acknowledgement letter in Resolve:

1. If emailed – save the email with attached letter in the **Outgoing Documents** section under the FOI approach (matter number).
 - Once saved, right click the document and select document properties to update the comments section with the details of the document, including number.
2. If mailed, follow the steps above, but also include the registered post tracking number in the comments of the document.

Outgoing Documents					
Created	Title	Doc Status	Created By	Comments	
16-May-2017	FOI-2017-10009 FOI Acknowledgement letter	CheckedIn	S	Melissa	
16-May-2017	FOI-2017-10009 s27 & 27A Consultation	CheckedIn	47F	Melissa	
18-May-2017	FOI-2017-10009 FOI Decision - Partial access	CheckedIn		Melissa	
11-May-2017	New FOI request -	CheckedIn		Melissa	01. Request for DART file
16-May-2017	Request for FOI consultation comment - ...	CheckedIn		Melissa	02. consult email sent to Defence
16-May-2017	RE Defence Force Ombudsman...	CheckedIn		Melissa	03. Acknowledgement of FOI request and updated scope
17-May-2017	Request for FOI consultation comment - ...	CheckedIn		Melissa	04. Second consult email sent to Defence (change to scope)
18-May-2017	FOI: [DLM=Sensitive:Personal]	CheckedIn		Melissa	05. Email to Liaison officer re unable to send FOI via email as too large

Resolve action: FOI – Acknowledge request

Step 3: Locating documents within scope

Ensure all documents located are within scope. Just because they are in a file/folder does not always automatically bring the document within scope of the FOI request.

Resolve and Objective are the two main electronic systems to undertake initial searches. The current version of Resolve dates back to approximately 2006. Any requests that are prior to 2006, you need to look on Resolve Archive.

1. Open Resolve, select 'Tools' in the top left corner;
2. Select 'Change Database' and then choose 'Resolve Archive Canberra'.

Please note: on the main screen of a search result (old file) where it says 'File Content' if it states 'Formal', this means that there is a physical file available in archives and should be obtained via the Records Management team.

Contains deletions under FOI

Note: In rare occasions if someone requests information that the OCO holds in a database but NOT in a document form – refer to section 17, production of a document.

OCO Complaints

The documents will be located in Resolve under the relevant approach file (in some cases there are multiple approach files). The complaint approach file itself will need to be created into a PDF:

1. Select print preview;
2. Full report (all sections);
3. Print to PDF.

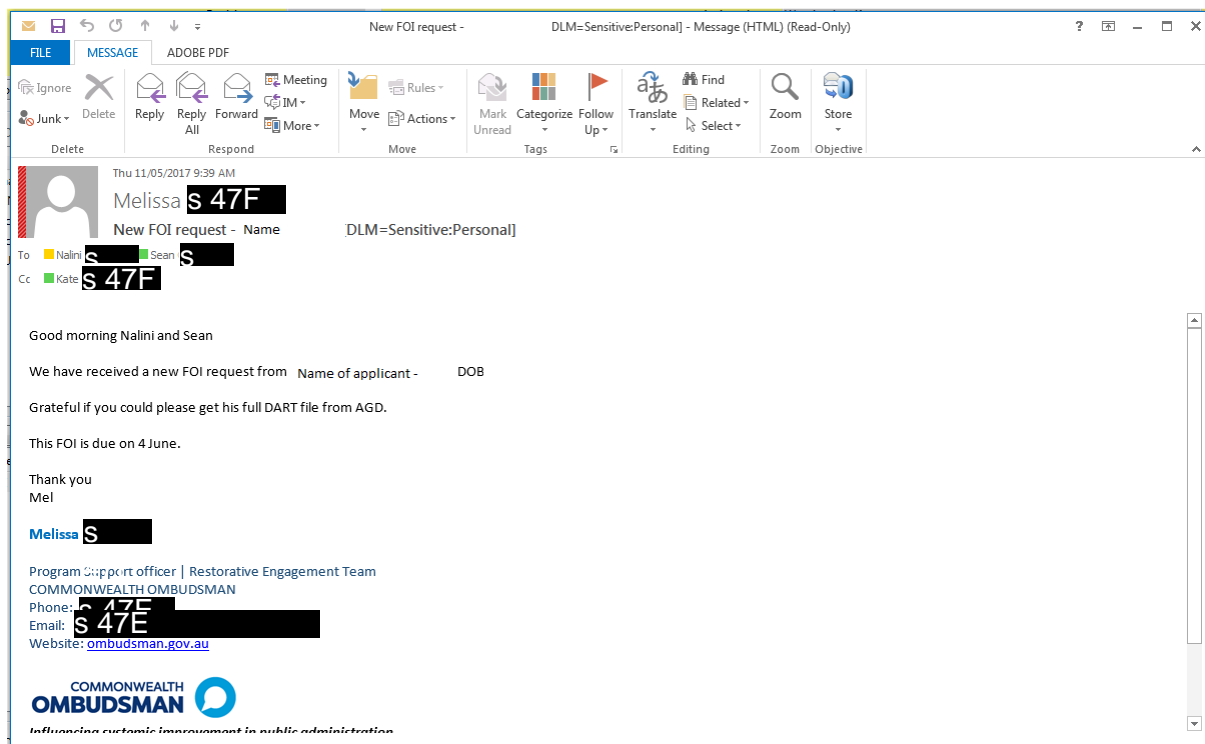
Although all case work is done in Resolve, you also need to search Objective for any documents that may fall within scope.

Defence Abuse Response Taskforce (DART) documents

DART documents will be transferred to OCO from AGD. However, in some cases we already have the ex-DART complainant's file.

- Firstly, check on Objective under s 47E, s 47E or s 47E.
- If we do not have the file, send an email to Nalini s 47E and Sean s 47E requesting the documents (CC: the FOI Co-ordinator).
 - Include the ex-DART complainant's name, DOB, the date FOI is due and what documents have been requested. Ensure to save this email (and response) under **Outgoing documents** in the FOI approach in Resolve (see example above).

Example email



Resolve action: FOI Identify, locate and retrieve documents

When reviewing DART files, the most pertinent documents are:

- Brief to the Reparation Payments Assessor
- Supplementary brief to the Reparation Payments Assessor (if there is one)
- Final outcomes letter from the Reparation Payments Assessor

In some instances where the DART file is very large, consultation with the applicant (especially if it is a solicitor) should be undertaken to determine if they are willing to refine the scope to the above documents.

Step 4: Preliminary estimate of charge

Under the FOI Act you cannot charge a processing fee (**charge**) for personal information. The OCO mostly receives FOI requests relating to personal information and therefore would rarely issue a charge to an applicant.

In the event the FOI Co-ordinator decides that the OCO will issue a charge, you can use the Attorney General's Department 'FOI Calculator' to determine an accurate estimate of the processing charge. Use the ***Freedom of Information (Charges) Regulations 1982***. For example: using the number of documents within scope, the time it took to find the relevant documents, whether redactions will be required etc.

Note: the first five hours of a decision maker's work is free of charge.

The statutory clock (time to process an FOI request) is extended by the number of days it takes an applicant to pay the deposit or charge in full. If the applicant contests the charge on financial hardship or public interest grounds, the time is extended further. See sections 29 – 31 of the FOI Act.

Step 5: Consulting other agencies and third parties

Under the FOI Act there are three categories that require a formal consultation with a third party. This gives rise to an automatic **addition of 30 days to the processing time** of an FOI request. (Note: it is only a total of an addition 30 days and NOT 30 days extra for each third party.)

Formal Consultations **ONLY** relate to:

- Section 26A – Documents affecting Commonwealth and State Relations;
- Section 27 – Documents relating to a Business
- Section 27A – Documents containing personal information

Documents that originated from another Commonwealth Agency, we are required to undertake a **Courtesy Consultation** if we propose to release the documents. This does **NOT** give rise to the additional time to process. Example email below.

Consulting Defence Force Ombudsman for documents received through DART

DFO may be able to provide sensitivities raised within the relevant documents or provide information that may require external consultations, such as with Defence. If you are consulting with DFO for more than one DART file, it can be combined into the one consultation email. See below.



Wed 11/01/2017 11:07 AM
DefenceForce Ombudsman
 Request for FOI consultation comment - Ombudsman's ref: FOI 2017-50001 [DLM=Sensitive/Personal]
 To: [FOI]
 Cc: [FOI]
 [FOI]

Message: 09112012084542012.pdf
 name: Withdrawal of ROG (902).pdf
 name: E-mails BJT medical (002).pdf
 name: FIV Complaint to Ombudsman [REDACTED] [SEC=UNCLASSIFIED].pdf
 name: RE_Further information on Ombudsman complaint 2012-113465 [SEC=UNCLASSIFIED] [SEC=IN-CONFIDENCE_STAFF].pdf

Good Morning FOI

The Commonwealth Ombudsman has received an FOI request for access to a complaint file.

A search of our records has located documents (attached) falling within scope of the request which have originated from your agency.

I would be grateful if you could examine the attached documents and comment on their possible release under FOI. If you consider that the documents should be partially or fully exempted from release, please advise the section or sections of the FOI Act that you consider would apply. I would also be grateful if you could provide reasons for seeking an exemption.

To ensure that this office meets its statutory obligations, please provide your response to this e-mail by **25 January 2017**.

If you wish to discuss this matter, you may contact me using the contact information below.

Thank you in advance for your assistance.

Kind regards
 Mel
 Melissa [REDACTED]

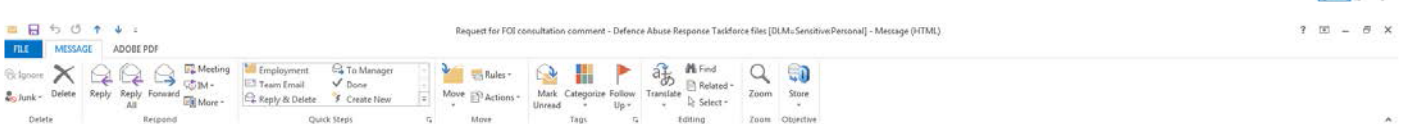
COMMONWEALTH OMBUDSMAN
 Phone: [REDACTED]
 Email: [REDACTED]
 Website: [REDACTED]

COMMONWEALTH OMBUDSMAN
 Influencing systemic improvement in public administration

Ombudsman email security (Sensitive: Personal)

Sensitive: Personal

DefenceForce Ombudsman FIV: Release of DART information [SEC=UNCLASSIFIED]



Wed 15/03/2017 4:36 PM
DefenceForce Ombudsman
 Request for FOI consultation comment - Defence Abuse Response Taskforce files [DLM=Sensitive/Personal]
 To: [FOI]
 Follow up: Completed on Wednesday, 29 March 2017.

Good afternoon FOI

The Commonwealth Ombudsman has received two FOI requests for access to Defence Abuse Response Taskforce (DART) files.

A search of our records has located the following documents falling within the scope of the request which have originated from your agency:

1. Emails between ORU and DART relating to conference
2. DART - DLO - INTAKE [REDACTED] [REDACTED]
3. Emails between ORU and DART relating to [REDACTED]
4. RFI [REDACTED] ADO Service record - name

I would be grateful if you could examine the documents listed and comment on their possible release under FOI. If you consider that the documents should be partially or fully exempted from release, I would be grateful if you could advise the section or sections of the FOI Act that you consider would apply. Please also provide reasons for seeking an exemption.

To ensure that this office meets its statutory obligations, I would be grateful if you could provide your response to this e-mail by **29 March 2017**.

If you wish to discuss this matter, you may contact me using the contact information below.

Thank you in advance for your assistance.

Kind regards
 Mel
 Melissa [REDACTED]

Senior FOI Officer, Defence Force Ombudsman
 COMMONWEALTH OMBUDSMAN
 Phone: [REDACTED]
 Email: [REDACTED]
 Website: [REDACTED]

COMMONWEALTH OMBUDSMAN

Ombudsman email security (Sensitive: Personal)

Sensitive: Personal

DefenceForce Ombudsman FIV: Release of DART information [SEC=UNCLASSIFIED]

Step 6: Preparing documents for release

How to PDF a document

Word documents and emails

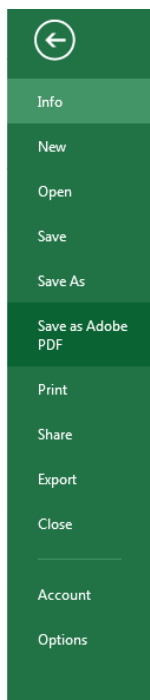
1. Open document;
2. Select file tab; and
3. Save as Adobe PDF.

Excel spreadsheets

1. Open document;
2. Select page layout tab and change the orientation that best suits the document;
3. Select view tab and *page break preview*;
4. Move all page breaks to create one page (see two images below); and
5. Select file, save as Adobe PDF and save with specifications on next image.

	Initial CMS QA Officer	Checked?	Date	Comment	Are Changes Required?	Detailed Description of Change Required	Have Changes Been Made?	Date Changes Made QA Officer
		Pending, Yes, No, Not Applicable			Pending, Yes, No, Not Applicable		Pending, Yes, No, Not Applicable	
1	Initial CMS QA Officer		25/09/2012					
2	ACTE Initial in bold, not always be present							
3	COMPLAINT ENTITY							
4	Title - naming convention (no > signs)	yes	25/09/2012		yes	Changed complaint to JOCUMEN born	yes	25/09/2012
5	Security Access	yes	25/09/2012		no		not applicable	
6	Security Classification	yes	25/09/2012		no		not applicable	
7	Complaint Detail - Workflow (How on entry)	yes	25/09/2012		no		not applicable	
8	Future/Present/Revised/ attached	yes	25/09/2012		no		not applicable	
9	Future/Document/Revised/ attached	yes	25/09/2012		no		not applicable	
10	Future any other entities attached	yes	25/09/2012		no		not applicable	
11	Attributes	yes	25/09/2012		no		not applicable	
12	Page 1							
13	Page 4							
14	Page 7							
15	Page 10							
16	DOCUMENT/SECOND ENTITY							
17	Title - naming convention	yes	25/09/2012		no		not applicable	
18	Security Classification	yes	25/09/2012		no		not applicable	
19	Relationship (in entry)	yes	25/09/2012		no		not applicable	
20	Relationship (in entry)	yes	25/09/2012		no		not applicable	
21	Relationship (in entry)	yes	25/09/2012		no		not applicable	
22	THIRD LINK/SECOND ENTITY							
23	Title - naming convention	yes	25/09/2012		no		not applicable	
24	Security Classification	yes	25/09/2012		no		not applicable	
25	Relationship (in entry)	yes	25/09/2012		no		not applicable	
26	Relationship (in entry)	yes	25/09/2012		no		not applicable	
27	PERSONAL ENTITY							
28	Title - naming convention	yes	25/09/2012		no		not applicable	
29	Security Classification	yes	25/09/2012		no		not applicable	
30	Relationship (in entry)	yes	25/09/2012		no		not applicable	

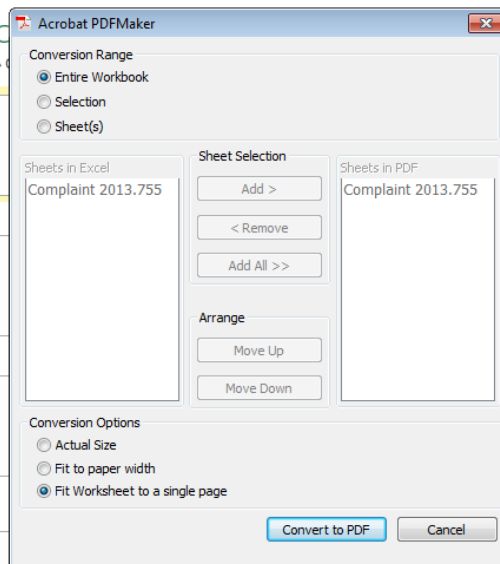
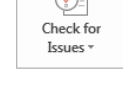
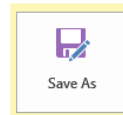
FILE HOME INSERT PAGE LAYOUT FORMULAS DATA REVIEW VIEW ACROBAT						
Normal Page Break Preview Page Custom Views						
Ruler Formula Bar Gridlines Headings Zoom 100% Zoom to Selection New Window Arrange All Freeze Panes Split View Side by Side Synchronous Scrolling Reset Window Position Switch Windows Macros						
Workbook Views Show Zoom Window						
A37						
A	B	C	D	E	F	G
		Checked?	Date	Comment	Are Changes Required?	Detailed Description of C
		Pending, Yes, Not			Pending, Yes, No, Not	
		Applicable			Applicable	
1	Initial CMS QA Officer					
2						
3	NOTE: Items in Police will not always be present					
4						
5	COMPLAINT ENTITY		25/09/2013			
6	Title - naming convention (no = signs)	yes	25/09/2013		yes	Changed complainant to JCI
7	Security Access	yes	25/09/2013		no	
8	Security Classification	yes	25/09/2013		no	
9	Complaint Status - Workflow (flow on effect)	yes	25/09/2013		no	
10	Ensure Person Record(s) attached	yes	25/09/2013		no	
11	Ensure Document/Person(s) attached	yes	25/09/2013		no	
12	Ensure any other entities attached	yes	25/09/2013		yes	Corrected formatting of a
13	Attributes	yes	25/09/2013		no	
14						
15	TRIM File					
16	Title - naming convention	yes	25/09/2013		yes	Changed complainant to JCI
17	Security Classification	yes	25/09/2013		no	
18	CLA Paper Complaint File related 'Alternatively Within'	yes	25/09/2013		no	
19						
20	DOCUMENT/RECORD ENTITY					
21	Title - naming convention	yes	25/09/2013		no	
22	Security Classification	yes	25/09/2013		no	
23	Relationship (to entity)	yes	25/09/2013		no	
24	Attached PDFs must be OCR'd	yes	25/09/2013		no	
25						
26	TRIM LINK/RECORD ENTITY					
27	Title - naming convention	yes	25/09/2013		no	
28	Security Classification	yes	25/09/2013		no	
29						
30	PERSON ENTITY					
31	Title - naming convention	yes	25/09/2013		no	
32	Security Classification	yes	25/09/2013		no	
33	Relationship link	yes	25/09/2013		no	
34						
35						
36						
37						
38						
39						
40						
41						
42						
43						
44	Attributes	yes	25/09/2013		no	
45	Has a Reparation Amount Previously Been Received from the Taskforce	yes	25/09/2013		no	
46	TASK ENTITY					
47	Title - naming convention	yes	25/09/2013		no	
48	Security Access	yes	25/09/2013		no	
49	Security Classification	yes	25/09/2013		no	
50						



Info

2013 755 C

Ht: » Obj: » 8008 »



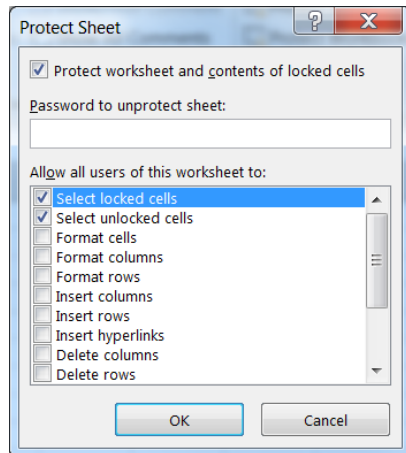
How to lock an excel spreadsheet

In some circumstances when a document requested is an excel spreadsheet but does not contain personal information, it should be made into a PDF or locked. This prevents the content from being manipulated.

1. Once all redactions or edits are finalised in an excel spreadsheet. Go to the top header option 'Review';

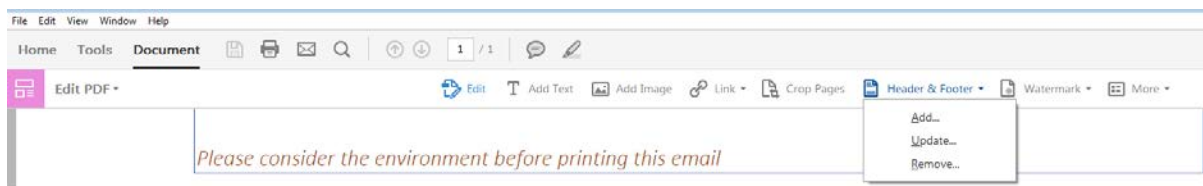
Contains deletions under FOI

2. Select 'Protect Sheet' if there is only one excel worksheet or 'Protect Workbook' if there are multiple worksheets;
3. Select a password – usually the internal file number (Resolve number), depending on the data included in the document select the level of security required (i.e. preventing the applicant being able to amend the document). (See below image);
4. Check that protection has worked by clicking on any cell within the worksheet.



Inserting headers to documents

1. Add a header to each document in Adobe Acrobat Pro:
 - a. Tools
 - b. Edit PDF
 - c. Header & Footer
 - d. Add...
 - e. You may need to move the header depending on the document layout.



Header Text

Documents released under the Freedom of information Act 1982

Document XX

Contains deletions under FOI

Add Header and Footer

Saved Settings: FOI [Delete] [Save Settings...]

Font
Name: Arial Size: 8 [U] [B]

Margin (Inches)
Top: 0.5 Bottom: 0.5
Left: 1 Right: 1

Appearance Options...

Left Header Text
Center Header Text
Right Header Text

Left Footer Text
Center Footer Text
Right Footer Text

Insert Page Number Insert Date Page Number and Date Format...

Preview
Preview Page 1 of 1 Page Range Options...

Document
Documents released under the Freedom of information Act 1982

From: DART coord

Help OK Apply to Multiple Files Cancel

2. Whilst you are going through the documents, you will need to create a document schedule (**Attachment B**, Objective ref **S 47E**).
3. Create the decision letter (template automatically pops up after FOI decision button is pressed on the main tab of the FOI matter). Ensure to replace the schedule.
4. Send to relevant approving officer by ticking the FOI Decision action in Resolve.

Resolve actions: FOI Process documents, FOI Decision

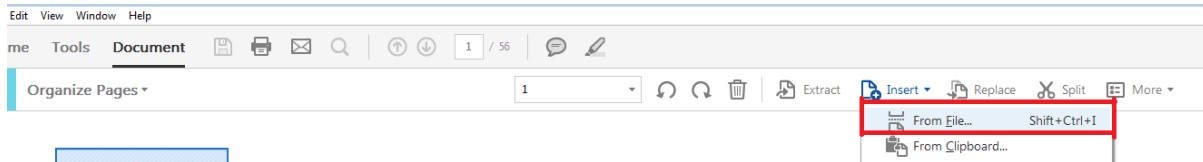
Combining multiple documents into a PDF

The OCO uses Adobe Acrobat Pro DC, this program can be used to combine multiple documents into one PDF. This should be used AFTER it has been determined what documents fall within scope of the FOI request. There are two ways of combining documents:

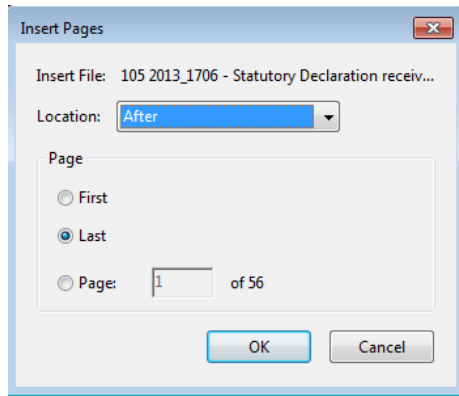
One:

- a. Open document 1 and select organise pages
- b. Select insert from file

Contains deletions under FOI



- c. Select all documents in the FOI
- d. Select after last page



Two:

1. Open Adobe Acrobat Pro - Top left corner, click 'file' and then scroll down to 'Create'
2. Options open to the right - Click on 'Combine Files into single PDF';
3. Another screen will pop up;
 - a. On the top left corner there is an option to select 'Add files'.
 - b. Then click 'Add File'
 - To select only some documents in a folder all at once - open the folder and click on the first document – hold the 'Shift key' down and then use your mouse to click until the last document you want to include. It will then select all documents to add.
 - c. **OR** 'Add Folder'
 - If you click 'Add Folder' it will include everything inside the folder.
 - If you want to change the order of the files it opens: click on the document you want and drag it up or down.
4. In the bottom right hand corner – select 'Combine Files';
5. It will then generate a combined document. **SAVE** this document and **RENAME** as Combined.

Reducing the size of a PDF

This can be particularly useful if there are a large number of documents/pages to be released to an applicant via email.

To reduce/compress the size of a large document – Open the document in Adobe Acrobat Pro.

Hover over the 'Save as Other' option and the right tab options will appear – Click 'Reduced Size PDF'. You can replace the previously saved version or save it as a new version.

Inserting folio/page numbers to combined documents

This is useful when you are writing the primary decision - schedule of documents.

1. Open your combined documents in Adobe Acrobat Pro;
2. On the right hand side – click 'Edit';
3. On the top right hand corner select 'Header & Footer' option – and 'Add';
 - a) Select replace existing or add new depending on if you are updating or adding them for the first time.
4. Six horizontal rectangle boxes will appear. In the box under 'Right Header Text' click:
 - a) Then use your mouse to click the 'Insert Page Number' option (underneath the boxes to the left);
 - b) A number <<1>> will then appear in the 'Right Header Text' box (If you are following page numbers from another document – see below steps below at d) now)
 - c) If you are only putting pages on the current document click 'OK' at the bottom right hand Corner. Then **SAVE** the document again.
 - d) If you want to follow page numbers on from another combined document file:
 - Click on the blue text on the right – 'Page Number and Date Format'
 - Under the third option – 'Start Page Number' – select the page number that continues from the other document. Click 'OK'.
 - Click 'OK' at the bottom right hand Corner. Then **SAVE** the document again.

Exemptions

There are two types of exemptions which can be used:

1. **Exemptions** – Sections 33 - 47A of the *Freedom of Information Act 1982* (Cth); and
2. **Conditional Exemptions** – Sections 47B - 47J of the *Freedom of Information Act 1982* (Cth).
 - Conditional exemptions require the public interest test to be satisfied in order to apply the exemption.

For detailed information on exemptions look at the legislation or FOI resources by the Office of the Australian Information Commissioner (OAIC).

Examples of regularly used exemptions by OCO

- Legal professional privilege (Section 42)
- Public interest conditional exemption – certain operations of agencies (Section 47E(d))
 - Used when redacting staff member details (DART staff particularly)
- Public interest conditional exemption – personal privacy (Section 47F)
 - Used when redacting third party information
- Public interest conditional exemption – business (Section 47G)
 - Used when redacting monetary amount from DART work orders relating to Restorative Engagement.

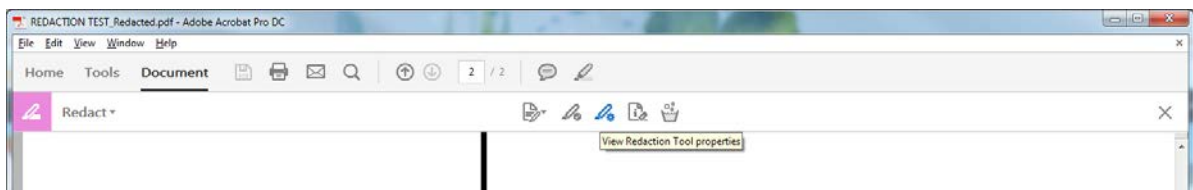
How to mark documents for redaction

Adobe Acrobat Pro Settings

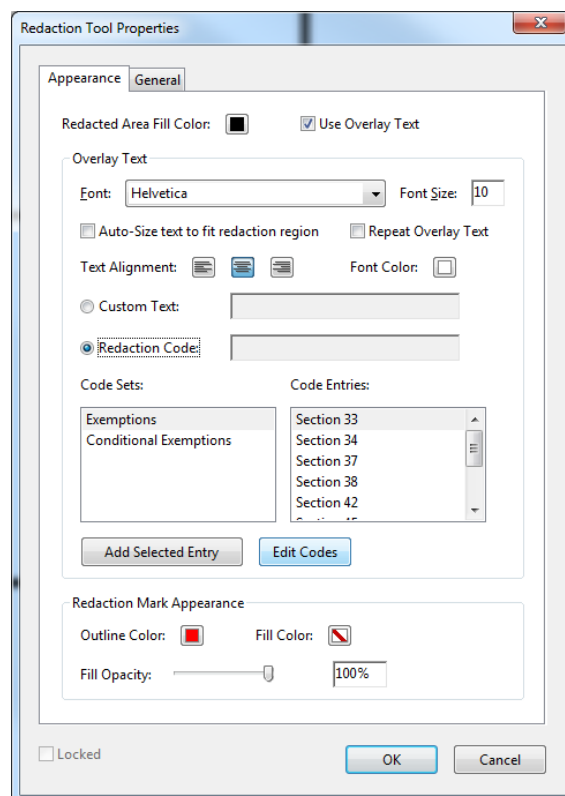
Writing over the applied redactions as they are being done will assist the decision maker to remember the reasoning behind the redaction. This can allow multiple staff to continue an FOI decision, using the same approach, if required.

In order to do this easily a change of settings in Adobe Acrobat Pro is required:

1. Open a PDF document in Adobe;
2. Click on 'tools' – 'redact';
3. Under the third icon – Redaction Tool Properties (see below)



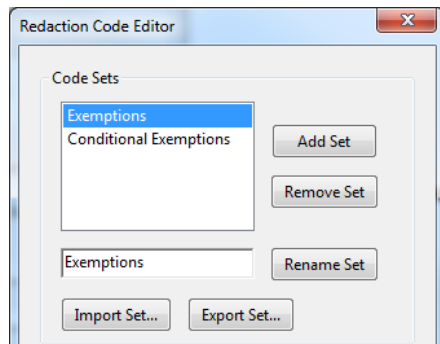
4. Another screen appears – click on the 'use overlay text' box;
5. More settings will appear (if they do not – ensure the Locked box at the bottom left hand corner is not ticked);
6. Select font colour to WHITE (so if the documents are ever printed in black and white – the comments will still appear) – Select Centre view;
7. Click on the 'Redaction Code:' option;
8. Open the 'Edit Codes' option (see below);



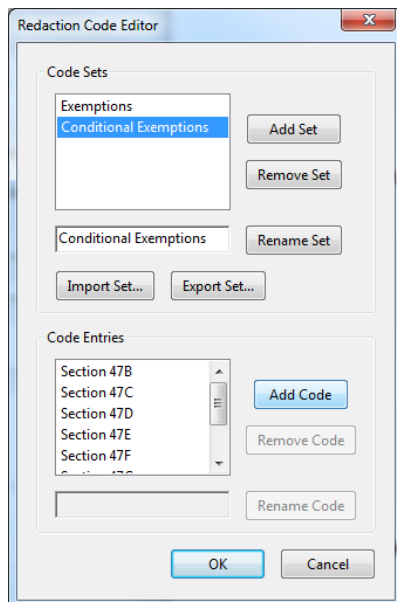
9. Another screen will open. Under Code Sets – Add or rename the Code Sets to:

Contains deletions under FOI

- Exemptions
- Conditional Exemptions



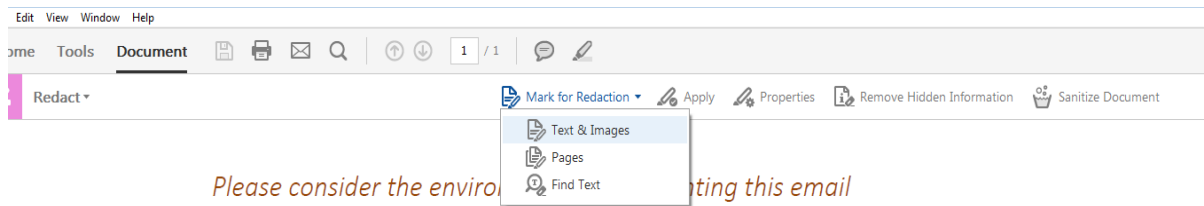
10. When the '**Exemptions**' Code Set is selected – Go down to Code Entries – Press 'Add Code' – Rename these to the sections in the FOI Act for Exemptions (Sections 33-47A);
11. Change the Code Set to '**Conditional Exemptions**' (Sections 47B – 47J) and follow the same step as point 8 above (see below). Press Ok to close both open windows;



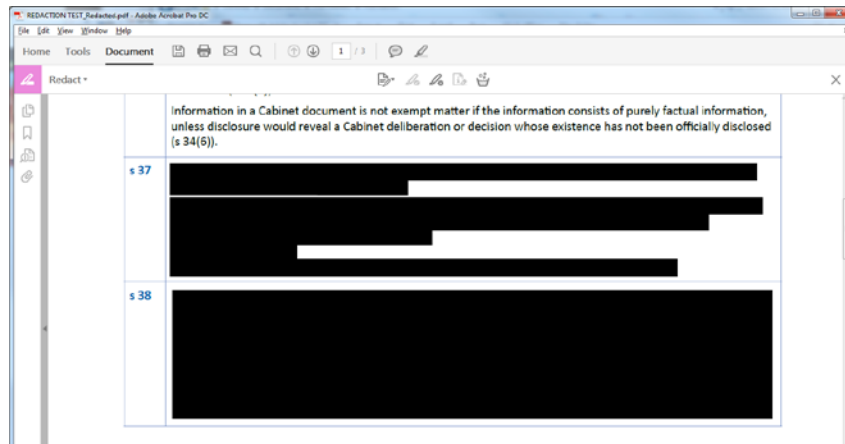
Marking redactions

1. Open PDF document in Adobe Acrobat Pro;
2. Tools;
3. Redact;
4. Mark for redaction – 'Text & Images' (see image below);
 - a. Do not 'apply redactions' until you have finalised your primary decision and it has been approved.

Contains deletions under FOI



5. Use the cursor to select text (a red outline box will appear);
6. Press the ctrl key, whilst redacting to creating a freeform box around text for a neater finish – it will also assist when the exemption is written over the redacted section (see the second redaction below);



Inserting the exemption to marked redactions

12. Insert the relevant MARKED redaction to the PDF (following instructions above) – it is best if you can keep full squares etc. and not odd shapes (i.e. when there are dot points);
13. Right click over the applied redaction – down the bottom the two options 'Exemptions' and 'Conditional Exemptions' will appear – Select the relevant section by clicking on one.
 - If you press the wrong one or change the decision on which section to rely on – click on the section already selected to de-select it.
14. The selected exemption setting will then appear when you hover over an MARKED redaction. It will be fully clear once redactions are applied.
15. These settings will now be set for future use ONLY on the computer you are using.

DART Complaint Files

DART complaint files are uploaded to Objective by the DFO Coordination and Support Team. A new file is created for the ex-DART complainant with three folders within.

Locate this files:

Objective Global Folder - New File Plan - Core Business – Defence – Defence/Reporting Abuse – Advice/Legal Advice/Correspondence - Freedom of Information – Applicant name

There are three relevant folders:

1. Taskforce complaint file

This is where all of the original DART documents are kept.

2. FOI-2017-XXXXX – Working Folder

Save all documents (PDF version only) falling within scope of the request and the schedule template.

3. FOI-2017-XXXXX – Final documents

Final versions of the documents are saved here (all redactions applied and out of scope documents removed).

Note: ALL surnames [and initials](#) of DFO staff should be redacted before release – due to staff safety concerns.

[Steps for processing DART documents:](#)

1. Create a folder for the documents on your computer;
2. Go through the Taskforce complaint file and save each document falling within scope of the request as a PDF into your FOI folder;
3. Save documents into the working folder in Objective under the FOI;
4. Start working through each document:
 - a. right click on the document in Objective and select 'edit new version';
 - b. create any redactions needed (see instructions above);
 - c. insert header (as above);
 - d. save and close document (reduce size as above if required);
 - e. right click to release from editing; and
 - f. rename the document to reflect the document number in FOI scope documents.
 - less than 100 documents numbering format is 01
 - 100 documents or more numbering format is 001
5. Continue steps (below) for the Primary Decision.

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Document to be included where applicant has requested their entire DART file

Documents to be included where complainant has requested their entire file	
Documents to be included	Brief to the Reparation Payments Assessor
	CMS Assessment Note <ul style="list-style-type: none"> Note: usually contained in the Brief to the Reparation Payments Assessor
	Personal Account Form / Provision of Additional Information Form <ul style="list-style-type: none"> Note: usually contained in the Brief to the Reparation Payments Assessor
	Letters sent to the complainant from the Taskforce, including but not limited to: <ul style="list-style-type: none"> Procedural Fairness Letter Final Outcome Letter Case Closure Letter
	Administrative and/or Disciplinary Sanction Recommendation Report <ul style="list-style-type: none"> <u>DO</u> send this Report if the complainant has been consulted on referral to the Chief of the Defence Force. This is because the complainant has already been informed that one or more of their alleged abusers/mismanages are still serving.
	Brief to Delegate for Approval to Participate in Restorative Engagement Program
	Returned Briefing Pack for Facilitator
	Returned Briefing Pack for Defence Representative
	DLA Piper Files
	Complainant Service Record
	Crime Group Referral Package (not including Defence documents)
	The following types of Defence documents relating to the complainant can be sent to the complainant with any necessary redactions applied: <ul style="list-style-type: none"> Medical records and reports Work performance evaluations and reports
Documents <i>not</i> to be included (unless	Emails between the complainant and the Taskforce <ul style="list-style-type: none"> The letter sent to the complainant to accompany the documents explains that email correspondence between the complainant and

Documents to be included where complainant has requested their entire file	
specifically requested)	the Taskforce is not included because the complainant already has copies of this correspondence
	Taskforce internal policy documents
	Taskforce documents in draft form
	<p>The following types of Defence documents generally require careful review for exemptions and advice from Defence before being sent to the complainant:</p> <ul style="list-style-type: none"> • Redress of Grievance: <ul style="list-style-type: none"> ○ all working documents related to the ROG, including the Quick Assessment Brief • Service Police records of other persons • Australian Military Court: <ul style="list-style-type: none"> ○ Charge Sheet, Findings and Punishment Sheet, Registrar's Referral to the Chief Military Justice, Brief of Evidence to the Registrar, Brief of Evidence to the Service Police, Disclosure of Prosecution Case, Summons to accused, witnesses and jurors, all documents related to jurors. ○ Note: some military inquiries can only be released by the Defence Minister – rely on comments from Defence in relation to such documents.
Documents that <u>may</u> require thorough redactions	<p>Administrative and/or Disciplinary Sanction Recommendation Report.</p> <p>Check whether the complainant was consulted on this Report (i.e. already knows this information) on referral of the matter to the Chief of the Defence Force. This is because if the alleged abuser/mismanager is still serving, this report is personal information that the Taskforce has an obligation not to disclose.</p>
	ADO service records of third persons – personal information exemption (section 47F)

DART redaction examples

Information Type	Examples
Personal information about other persons (exemption under)	<p>Information about alleged abusers</p> <ul style="list-style-type: none"> • Information about alleged abusers obtained by the Taskforce that was <i>not</i> provided by the complainant will generally constitute

Contains deletions under FOI

Information Type	Examples
	<p>personal information and should be redacted - section 47F of the FOI Act.</p> <ul style="list-style-type: none"> Examples: Date of Birth, service status, whether alleged abuser is named in other complaints to the Taskforce, correct spelling of names
	<p>Information about other complainants to the Taskforce</p> <ul style="list-style-type: none"> Information about other complainants to the Taskforce that was <i>not</i> provided by the complainant will generally constitute personal information exemption
	<p>Identity of Taskforce staff</p> <ul style="list-style-type: none"> If Taskforce staff have direct contact with complainants (i.e. case coordinators), their first names may be released to complainants on the basis that this information is already known. If Taskforce staff do not have direct contact with complainants, their full names should be redacted
	<p>Direct contact details of Taskforce staff should be redacted as they relate to the specific operations of that taskforce (extension numbers, email addresses, mobile numbers) – Section 47E of the FOI Act.</p>
Information that would prejudice the operation of the Taskforce.	<p>Internal policy documents</p> <ul style="list-style-type: none"> Example: policy document created by Assessments Group on categories of abuse (Section 47E of the FOI Act. Public Interest test is applicable)
	<p>Information given to the Taskforce on the basis of confidentiality</p> <ul style="list-style-type: none"> Example: Restorative Engagement feedback surveys received from Facilitators and Defence Representatives – states on survey that information is to be treated confidentially so should be redacted. <p>Consider: Section 45 of the FOI Act (Obtained in Confidence – conditional exemption).</p>
	<p>Fee for services in the Facilitator work orders (section 47G)</p>

Step 7: Primary Decision

Create the decision letter (see **Attachment C**). (The template will automatically generate after the FOI decision button is selected under the main tab of the FOI in Resolve). Ensure to replace/update the schedule within the primary decision.

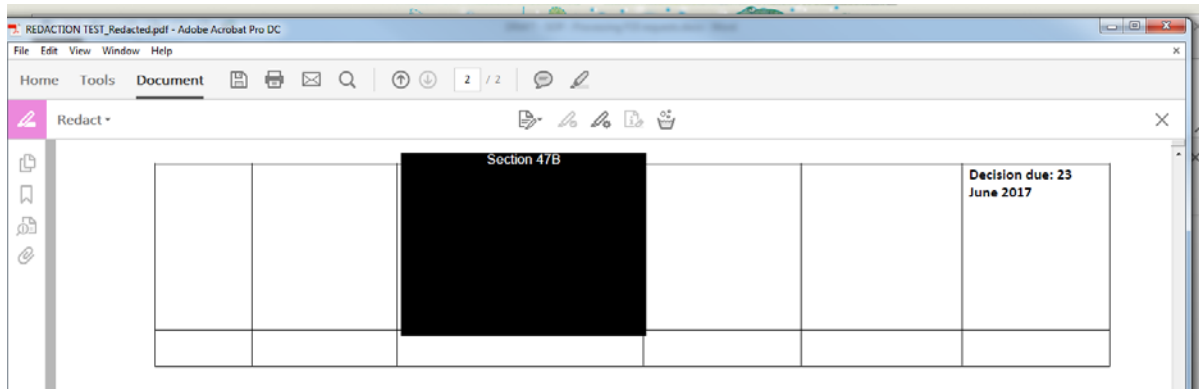
The primary decision should include:

- An overview of the decision (i.e. number of pages released in full or in part or no documents);
- What you have taken into account when making your decision (include, any additional letters from the applicant if there was a consultation regarding scope or third party contentions);
- The reasoning behind the decision (i.e. do the exemptions used require the public interest element to be satisfied – if so, how have they been?);
- Notice of whether the decision may be published on the OCO Disclosure Log;
- The applicant's rights of review.

Applying final redactions to documents for release

1. Ensure that any changes proposed by the FOI decision maker have been made.
2. Finalise the redactions within the marked redactions combined document:
 - If no redactions are to be applied, select 'Remove Hidden Information'.
3. Double click document in Resolve (you do not need to create a new version);
4. Select 'Apply Redactions' in Adobe Acrobat Pro, and then select 'Remove Hidden Information';
5. You will then need to click 'remove' – this removes all hidden data;
6. Review document/s to ensure that information has been redacted and to ensure that the document relate to the correct applicant.
7. Save the final document/s in Resolve (drag and drop) under *Outgoing Documents*.
8. Right click and select 'Document Properties', include in the comments what action has been taken (forming a numbered list by inserting 01. etc. for each action).
9. Save the documents in Objective under the 'Final Documents' folder (Select all, drag and drop).

The final redaction should appear as below – with the Exemption relied upon written over the redaction.



FOI due dates and requesting an extension

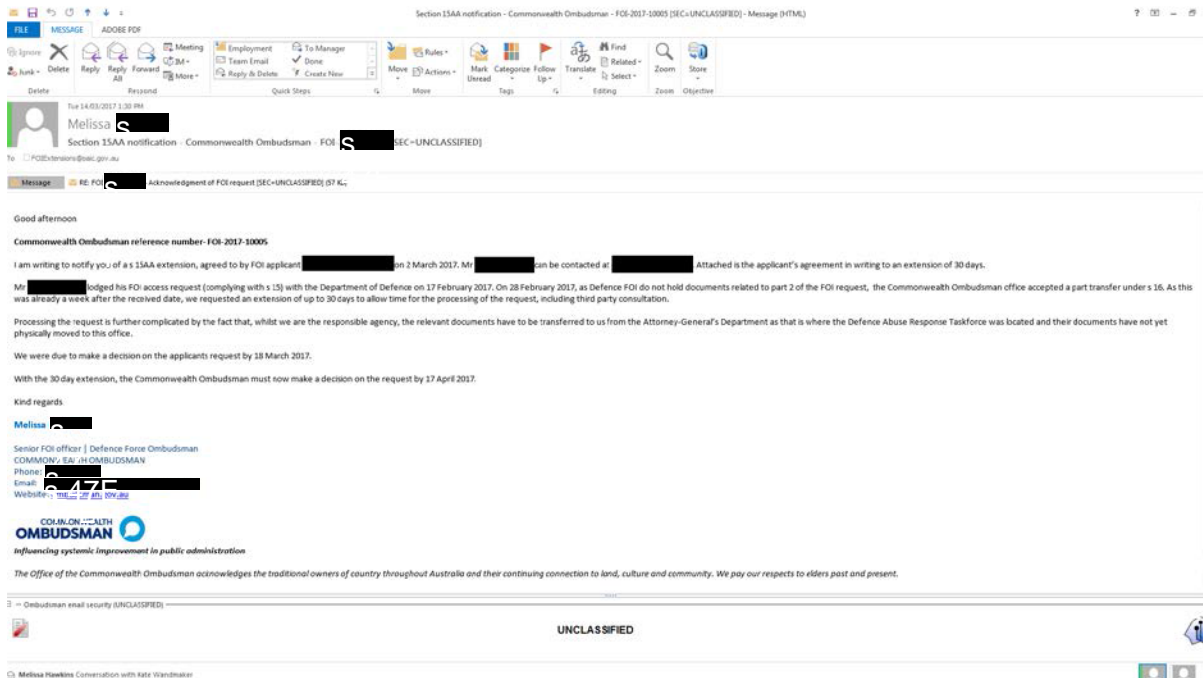
A decision on an FOI request is due within 30 days of receiving the request. This does not always mean the documents within the decision also have to be provided on the same day as the decision. Such as when the documents are sent via registered Australian Post to the applicant.

A request for an extension can only be made for an extra 30 days.

There are two ways to request an extension:

1. Ask the applicant if they consent ; OR
2. Through the OAIC.

Where the request for extension is by agreement with the applicant, the OAIC needs to be notified by email (FOIEXTensions@oaic.gov.au), a Section 15AA notification. Example email below:



Releasing FOI requested documents

[Sending documents to the applicant](#)

The applicant may stipulate how they would like to receive the documents relating to their FOI request. If they do not, we will generally send the documents via email as long as the total size of the attachments is under 14MB – see above instructions for reducing the size of a document.

DO NOT release documents to an applicant if a third party objects to the release of the document/or sections of a document, until the third parties rights of review have expired.

Note: If an applicant paid a Charge to process the FOI – a receipt of payment should be released with the documents.

[Sending documents via email](#)

1. Draft email using words to the effect:

Dear Mr/Ms/Mrs XX

*Please find **attached** the following two documents in response to your Freedom of Information request of DAY MONTH 2017:*

- 1. Decision letter dated DAY MONTH 2017.*
- 2. Documents released under the decision of DAY MONTH 2017.*

Yours sincerely

2. Attach the decision letter (signed by the decision maker);
1. Attach the prepared documents (to zip folder the attachments – select all documents and right click ‘Send to’ – ‘compressed’ Zip).
2. If still too large you may have to send multiple emails to the applicant. Ensure to notify them in the initial email that there will be further emails to follow – select delivery receipt under ‘Options’ the email screen. This will assist to identify if the documents have been sent.

[Sending documents via Registered Post](#)

1. Firstly, contact the applicant to ensure they are able to access the information on a CD and that they are happy to receive the documents in this format. If not they may have to be emailed over a number of emails (reduce files and save in a multiple zip files);
2. Create a CD with the documents saved as a USB function:
 - You will need to have all the finalised documents in a folder on your computer;
 - Insert CD and name it the relevant FOI applicant name and date;
 - Drag all the finalised documents to the CD, ensuring the correct amount of documents are there then right click and burn.
3. Print the cover letter to accompany the documents from Resolve (Approver to sign then scan the signed document)

4. Place the CD and the cover letter inside the Registered Post envelope:
 - A Person to Person label **must** be attached to the envelope, unless the documents are being sent to a PO Box;
 - Write the applicant's address on the front of the envelope;
 - Write the contact details of the Commonwealth Ombudsman on the back of the envelope (GPO Box 442 Canberra ACT 2602) but **DO NOT** label the envelope as coming from DFO to ensure the privacy of the applicant;
 - Sender details should say: Commonwealth Ombudsman, GPO Box 442, Canberra ACT 2601.
5. Place an OCO label on the seal of the envelope and sign over it;
6. Take outgoing mail to Kevin **S 47F** at the mail room for action (if his desk is unattended, you can leave the mail in the outgoing trays against the back wall);
7. Save scanned letter and link to Objective final documents folder in Resolve, ensure to include registered post tracking number in Resolve.

Disclosure log

The FOI disclosure log lists documents that have been released to an applicant through the FOI process. If documents WILL be published on the Disclosure Log – they must be uploaded within **10 working days (public holidays not included)** of the documents being released to the applicant.

The disclosure log requirement does NOT apply to documents that would be unreasonable to publish:

- **personal information** about any person if publication of that information would be 'unreasonable' (section 11C(1)(a) of the FOI Act);
- information about the **business, commercial, financial or professional affairs** of any person if publication of that information would be 'unreasonable' (section 11C(1)(b) of the FOI Act);
- other information, covered by a determination made by the Australian Information Commissioner, if publication of that information would be 'unreasonable' (section 11C(1)(c) of the FOI Act); and
- any information if it is not reasonably practicable to publish the information because of the extent of modifications that would need to be made to delete the information listed in the above points (section 11C(1)(d) of the FOI Act).

How to publish and FOI decision on the OCO disclosure log

Draft and email to Kate **S 47F** who will forward to Doris with the following:

Dear Doris

I would be grateful if you could advise our IT Help Desk whether you approve of the following proposed changes to update our FOI Disclosure Log.

FOI Reference number	Date of access	FOI request	Information published	Other information
<i>Resolve FOI number</i>	<i>Date of decision</i>	<i>Scope of request – <u>do not include applicant name</u></i>	<i>FOI document 1-12 (attached)</i>	<i>Exemptions used</i>

Closing the Resolve file

Note: from the date of the primary decision, the applicant has 30 days to request an internal review of the decision and 60 days to seek an external review by OAIC.

1. In Resolve, choose the Admin tab – ensure the Disclosure Log determination is selected;
2. Under the 'Reports' tab – fill in the relevant drop down answers in both Report 1 and Report 2 tabs. This is for statistical purposes.
3. Ensure ALL actions under the 'Actions' tab are finalised;
4. Ensure ALL relevant outgoing documents are updated in the 'Documents' tab;
5. Ensure ALL records are up to date and finalised in Objective;
6. On the top left hand side of the FOI entry screen – select 'Close FOI'.

Useful information and links

[Office of the Australian Information Commissioner](#)

[FOI Act](#)

[FOI guide for using the Act](#)

[FAQs for agencies](#)

[FOI agency resources](#)

[List of FOI contacts in other agencies](#)

Defence:

FOI@Defence.gov.au

Melissa Davidson

Assistant Director – Information Access

s 47E

melissa.davidson@defence.gov.au

Nicole Hanna

FOI Case Officer

Information Management and Access

s 47E

Nicole.hanna@defence.gov.au

DVA:

FOI@dva.gov.au

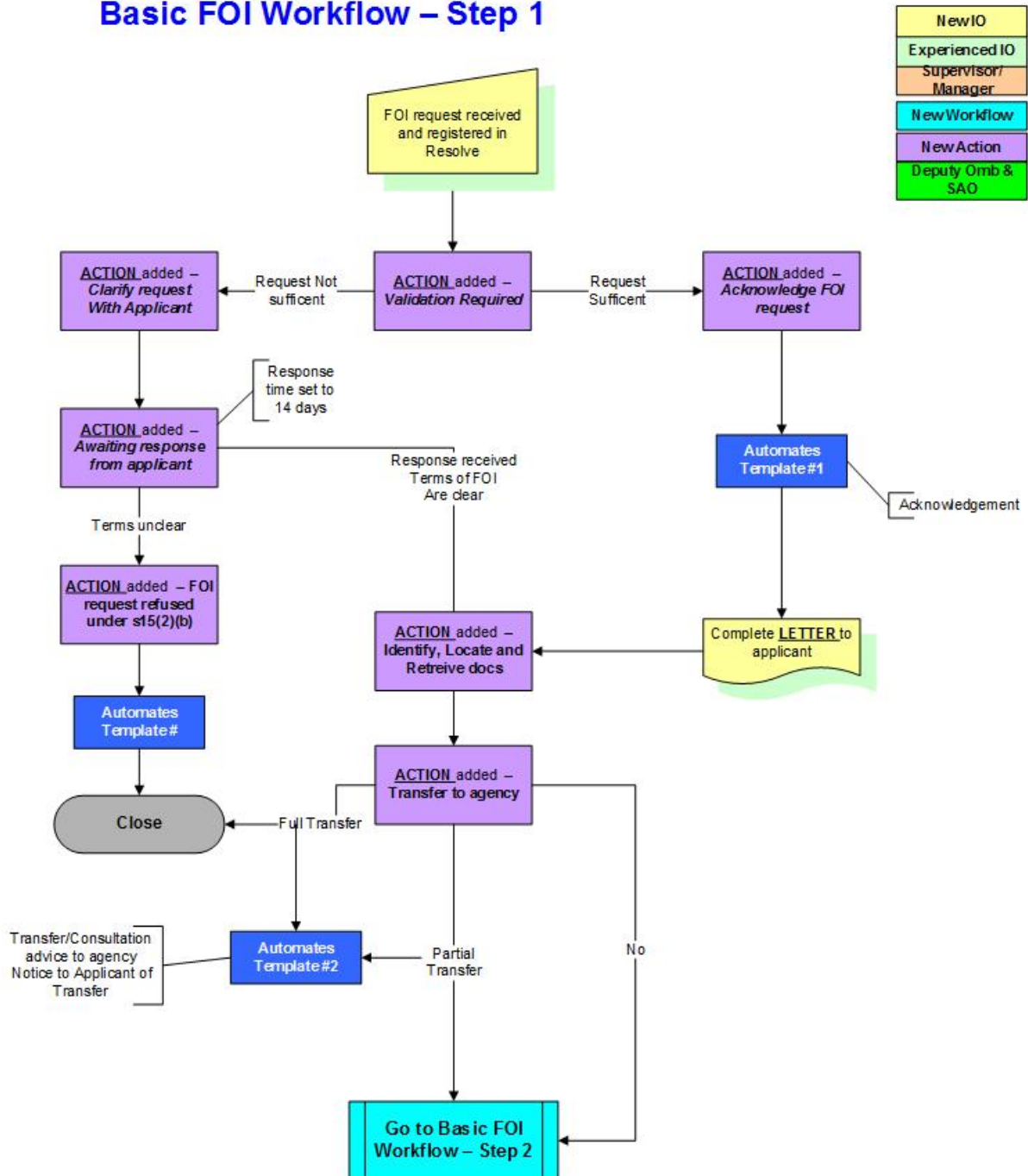
Comcare:

FOI@comcare.gov.au

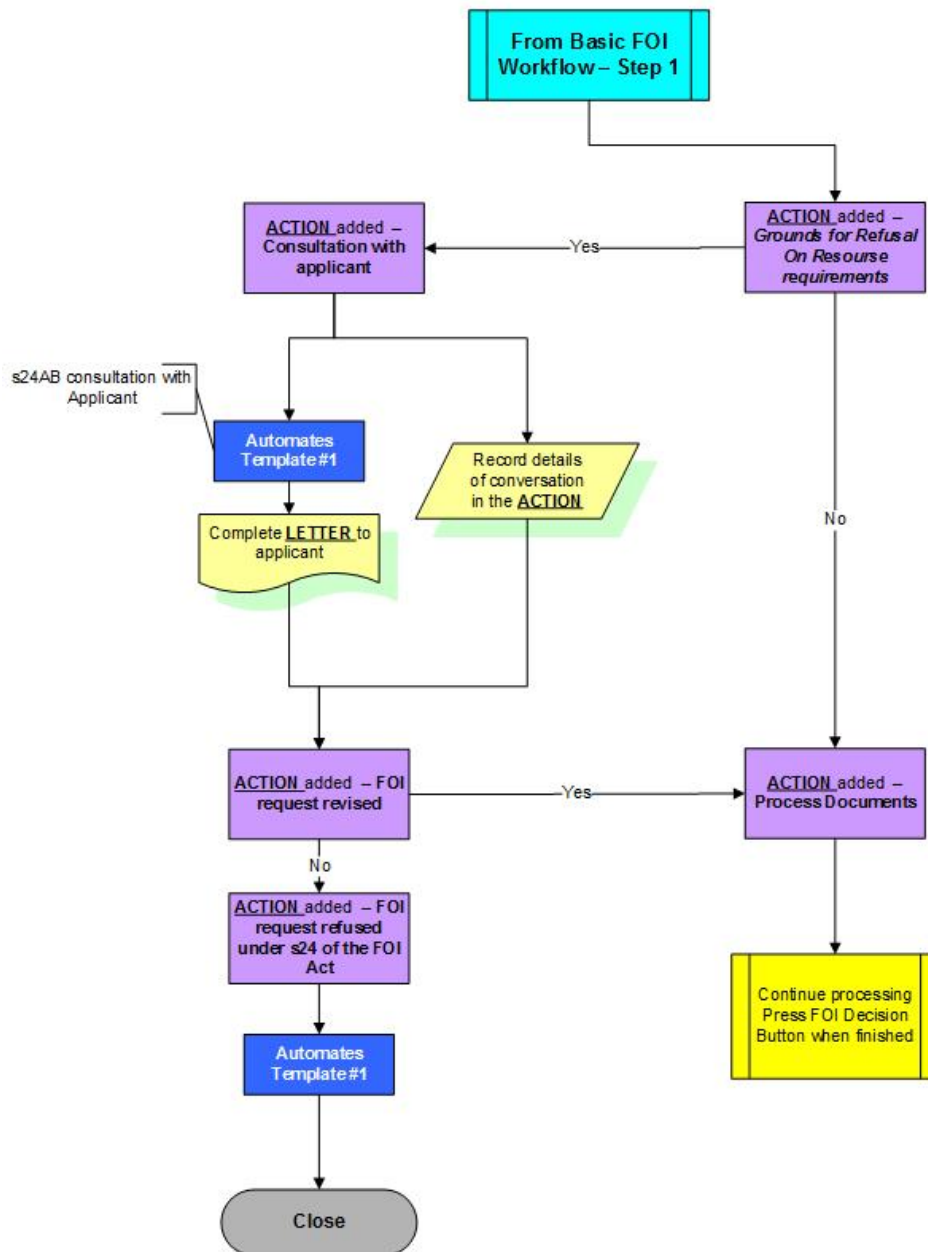
Attachment A – Resolve FOI workflow

Commonwealth Ombudsman
Basic FOI Workflow – Step 1

Monday, 13 May 2013

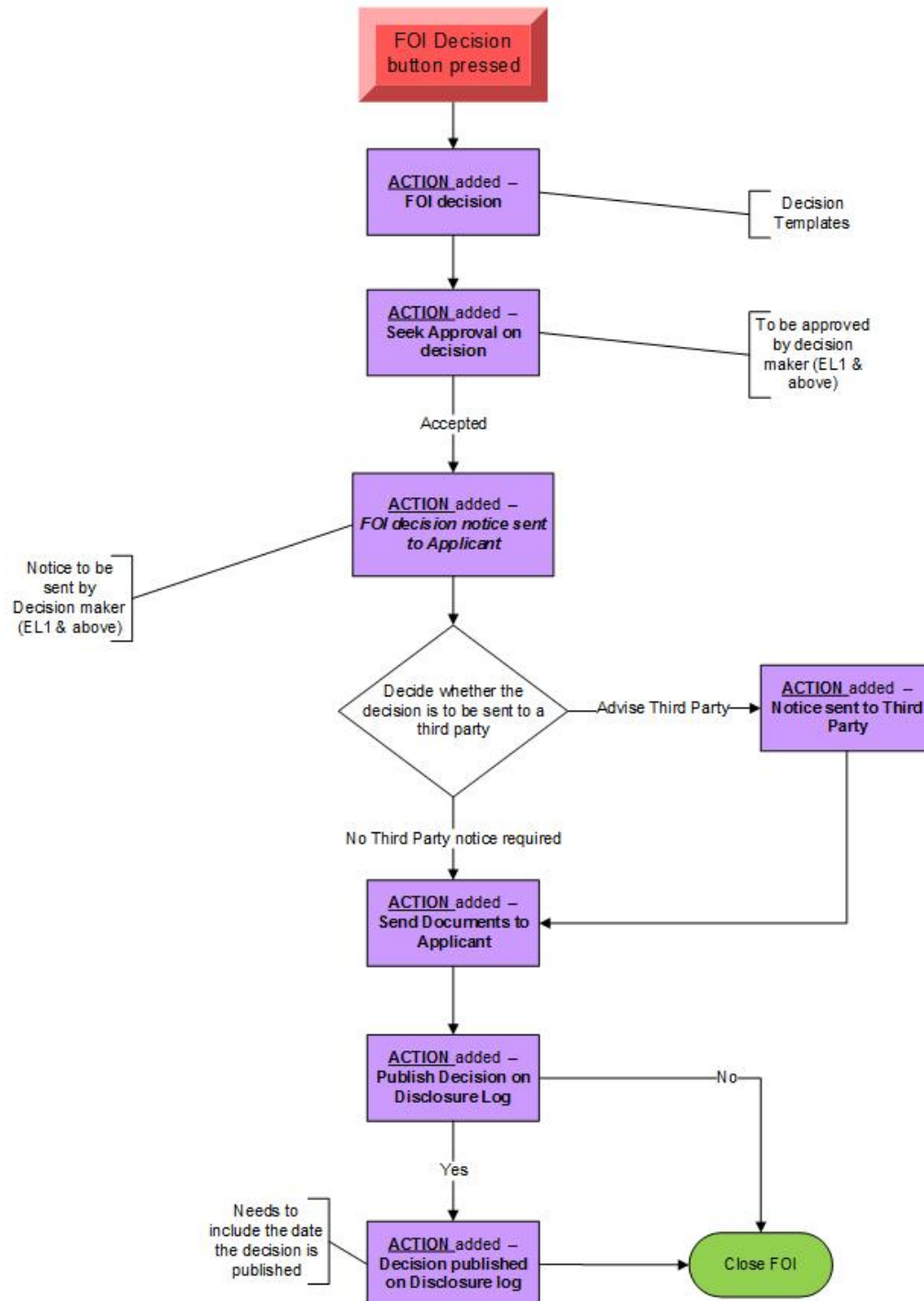


NewIO
Experienced IO
Supervisor/ Manager
NewWorkflow
NewAction
Deputy Omb & SAO



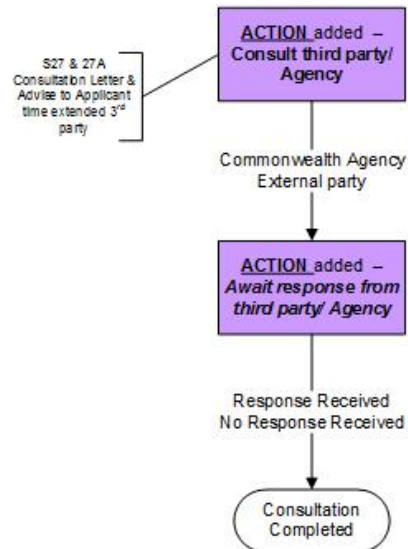
Commonwealth Ombudsman
FOI Decision Workflow – Step 3

Monday, 13 May 2013

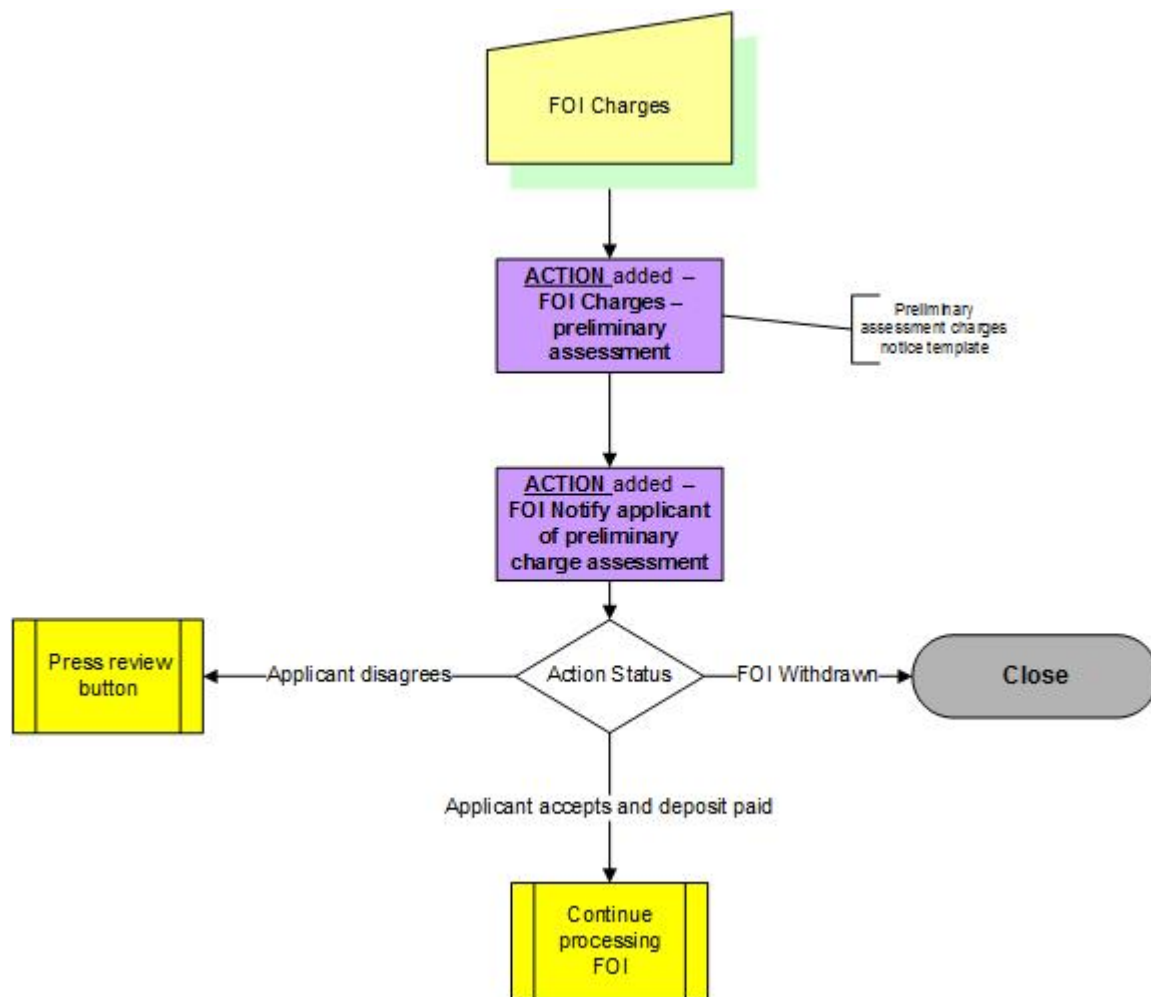


Commonwealth Ombudsman Contact with Third Party

NewIO
Experienced IO
Supervisor/ Manager
NewWorkflow
NewAction
Deputy Omb & SAO



Contains deletions under FOI



Schedule of Documents – Freedom of Information Request FOI -2017-XXXX

Doc No.	Date	Pages/ Folio	Description of Document	Decision on access	Exemption
1.				<i>Released in full when there are no redactions</i>	
2.				<i>Access in part When redactions are made, you will need to include what sections used in the exemption</i>	<p>Section 47E(d) – public interest conditional exemption – certain operations of agencies</p> <p>Section 47F – public interest conditional exemption – personal privacy</p> <p><i>The above exemptions are used when redactions are of staff member names and/or third party information</i></p>
3.				<i>Access in part</i>	<p>Section 47F – public interest conditional exemption – personal privacy</p> <p><i>Redaction of third party names/information only</i></p>

Attachment C – Template for DART FOI decision letter (A430075)



Our ref: FOI/s 47F

25 November 2016

s 47F

Dear Ms Harris

Your Freedom of Information (FOI) request dated insert date of email

I refer to your email dated 28 September 2016 in which you sought access to a document(s) under the *Freedom of Information Act 1982*. Your request was framed in the following way:

- A complete copy of insert name Defence Abuse Response Taskforce file/s

This letter constitutes notice of my decision on your request for access. I am authorised to make decisions on behalf of our office under section 23 of the FOI Act.

Decision

Our office identified insert number documents relevant to your request. I have decided to grant you full access to insert number of these documents, and to provide you with partial access to the remaining insert number. My reasons for this decision are set out at Attachment A to this letter.

Attachment B contains a schedule setting out the relevant documents. Please note that in processing your request we have not included copies of relevant duplicate documents. There are also further documents on insert name file, namely emails between insert name and the Taskforce, copies of which s/he already has. While we have not included them here, please let us know if you would like additional copies of them.

Our office identified the documents provided by searching the records management system operated by the former Defence Abuse Response Taskforce.

Review rights

Internal review

Under section 54 of the FOI Act, you may apply in writing to our office for an internal review of my decision. The internal review application must be made within 30 days of the date on which you were notified of my decision.

Where possible, please attach reasons for why you believe review of the decision is necessary. The internal review will be carried out by another Ombudsman officer within 30 days.

1

POSTAL INDUSTRY OMBUDSMAN • PRIVATE HEALTH INSURANCE OMBUDSMAN • OVERSEAS STUDENTS OMBUDSMAN

GPO Box 442 Canberra ACT 2601 • Phone 1300 362 072 • www.ombudsman.gov.au

Review by the Australian Information Commissioner (IC)

Under section 54L of the FOI Act, you may apply to the Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

- online at <https://forms.australia.gov.au/forms/oaic/foi-review/>
- via email to enquiries@oaic.gov.au
- by overland mail to GPO Box 2999, Canberra ACT 2601
- in person to Level 2, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/foi-portal/review_complaints.html#foi_merit_reviews.

Complaints to the IC

You may complain to the IC about action taken by the Ombudsman in relation to your FOI request.

While there is no particular form required to make a complaint to the IC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way in which your request was processed. It should also identify the Ombudsman's office as the agency about which you are complaining.

You may lodge your complaint either

- online at www.oaic.gov.au;
- by overland mail to GPO Box 2999, Canberra ACT 2601, or
- by email to enquiries@oaic.gov.au.

Contacts

If you require clarification of any of the matters discussed in this letter you should contact me on 1300 362 072.

Yours sincerely

Kate **S 47F**

ATTACHMENT A – Reasons for decision

Material taken into account

In making my decision I had regard to the following:

- The terms of your request
- The content of the documents to which you sought access
- Consultation responses from third parties approached in accordance with the FOI Act
- Advice from other, relevant Ombudsman officers
- Relevant provisions of the FOI Act, and
- The IC's Guidelines on FOI, available at www.oaic.gov.au (the Guidelines).

Findings of fact and reasons for decision

Where the schedule of documents at Attachment B indicates that an exemption has been applied to a document, or part of a document, my findings of fact and reasons for deciding that the exemption provision applies to that document, or part of that document, are set out below.

Public interest conditional exemption – certain agency operations: section 47E

Section 47E provides in part 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 the agency.*

Would, or could reasonably be expected to, have a substantial adverse effect

Given the nature of the Taskforce's role, it is reasonable to expect that disclosure of Staff names could subject Taskforce staff to the possibility of threats, harassment or inappropriate contact from complainants. This, in turn, could reasonably be expected to have a substantial adverse effect on the personnel of the Taskforce, and as such, to management of those personnel by the Taskforce and now the Defence Force Ombudsman (DFO).

Further, the Taskforce's policies were designed to ensure the confidentiality of information in the documents and these policies were applied in relation to the documents held.

The Taskforce's role and processes did not require that it check or test the accuracy of the information in the documents by disclosing any allegations to third parties. As a body which assessed information (as opposed to one which investigated complaints) the Taskforce relied on its ability to assess the plausibility of facts without having to confer with each third party mentioned in a complaint.

Given its role, it is reasonable to expect that disclosure of the redacted parts of documents would substantially undermine confidence in the Taskforce or the DFO in the future to properly protect information about individuals referred to in the documents.

The disclosure of the redacted parts of the documents would be contrary to the policies of the Taskforce, and the purpose for which it was established. If such a disclosure was made, it would establish a precedent for any future disclosure, and could alter the basis upon which the DFO, assesses future complaints of abuse including requiring it to more formally investigate them and

thus require it to allocate more resources to rigorously do so. However, the purpose of the expanded DFO is to redress harm rather than to provide rigorous investigation.

Disclosure not in the public interest

In deciding whether or not access should be given to this information on the basis of public interest I have taken a number of matters into account. These matters include the public interest factors for and against disclosure as outlined in the Guidelines, as well as matters peculiar to our agency's functions and operating environment.

In my opinion, the public interest is best served by withholding this information on the grounds that:

- the Taskforce was, and the DFO will be, best able to manage its personnel if it is not required to disclose documents which identify staff using their names
- the individuals whose personal information is in the documents may not be aware that the information exists
- the purpose for which the Taskforce was established and the role of the DFO was expanded was to repair harm done to individuals rather than punishment of offenders, complaints are not investigated and is not determinative of people's rights, it assessed and responded to individual cases of abuse in the Department of Defence
- there is an interest in preventing disclosure of information consistent with the Taskforce's policies and procedures which are designed to protect documents containing personal information relating to a complaint as well as third parties, including alleged abusers

Further, I am of the view that disclosure of the information would not achieve any of the following outcomes provided for by the FOI Act:

- Promote the objects of the FOI Act,
- Inform debate on a matter of public importance,
- Promote effective oversight of public expenditure, or
- Allow a person to access his or her own personal information.

Public interest conditional exemption – personal privacy: section 47F

Section 47F conditionally exempts a document to the extent that its disclosure would involve the unreasonable disclosure of personal information about any person.

Section 11A of the FOI Act provides that while an agency must give a person access to a document if it is conditionally exempt, access may be refused if the document's disclosure would, on balance, be contrary to the public interest.

Personal information

'Personal information' is defined in section 4 of the FOI Act as:

Information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

The elements of personal information are:

1. It relates only to a natural person (e.g. not a company),
1. It says something about the individual,

2. It may be in the form of an opinion, it may be true or untrue, and it may form part of a database, and
3. The individual's identity is known or is reasonably ascertainable using the information in the document.

Given the sensitive nature of the information involved in the assessment and response to complaints, the Taskforce's policies and processes were designed and to ensure the confidentiality of personal information in documents, including the names of complainants and alleged abusers unless disclosure was required by law. Those policies and processes have been applied with respect to such personal information comprising the s 47F Material.

Further, the policies and processes are designed to ensure the confidentiality of the s 47F Material, which identifies the surnames of officers handling, or associated with documents the subject of, the complaints. This is because, given the nature of its role, it is reasonable to apprehend that disclosure of these names will subject those who worked for the Taskforce or supported the exercise of its functions to the possibility of harassment from complainants. Those policies and processes have been applied with respect to such information in the documents.

Disclosure unreasonable

If information is personal information, it will be conditionally exempt if its disclosure would be 'unreasonable'. In considering whether disclosure would be unreasonable, subsection 47F(2) of the FOI Act requires me to take into account:

1. The extent to which the information is well known,
1. 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,
2. The availability of the information from publicly accessible sources, and
3. Any other matter I consider relevant.

Taking those factors into account, I am satisfied that disclosure of the information would be unreasonable.

Disclosure not in the public interest

In deciding whether or not access should be given to this information on the basis of public interest I have taken a number of matters into account. These matters include the public interest factors for and against disclosure as outlined in the Guidelines, as well as matters peculiar to our agency's functions and operating environment.

In my opinion, the public interest is best served by withholding this information on the grounds that:

- the individuals whose personal information is in the documents may not be aware that the information exists
- the purpose for which the Taskforce was established is to repair harm done to individuals rather than punishment of offenders, it did not investigate complaints and is not determinative of people's rights, it assessed and responded to individual cases of abuse in the Department of Defence
- there is an interest in preventing disclosure of information consistent with the Taskforce's policies and procedures which are designed to protect documents containing personal information relating to a complaint as well as third parties including alleged abusers

- the Taskforce was and the DFO will be best able to manage its personnel if it is not required to disclose documents which identify staff using their names

Further, I am of the view that disclosure of the information would not achieve any of the following outcomes provided for by the FOI Act:

- Promote the objects of the FOI Act,
- Inform debate on a matter of public importance,
- Promote effective oversight of public expenditure, or
- Allow a person to access his or her own personal information.

Public interest conditional exemption – business information: section 47G

Under the FOI Act a document is conditionally exempt if its disclosure would involve releasing:

- Information about the business, commercial or financial affairs of a person/an organisation,
- In circumstances where that disclosure would, or could reasonably be expected to, adversely affect that person/organisation, in an unreasonable way, with regard to its business, commercial or financial affairs.

Section 11A of the FOI Act provides that while an agency must give a person access to a document if it is conditionally exempt, access may be refused if the document's disclosure would, on balance, be contrary to the public interest.

Information about the affairs of an organisation

The fees received by the facilitator to conduct the Restorative engagement conference have been redacted.

Unreasonable adverse effect

It could be adverse to the facilitator's business to have the amount they were paid to facilitate the conference made available as it is commercial information.

Disclosure not in the public interest

In deciding whether or not access should be given to the information on the basis of public interest I have taken a number of matters into account. These matters include the public interest factors for and against disclosure as outlined in the Guidelines.

In my opinion, the public interest is best served on this occasion by withholding the information as if the information is disclosed facilitator's may be reluctant to facilitate conferences and the DFO would not be able to continue the Restorative Engagement Conferences developed by the Taskforce.

Further, I am of the view that disclosure of the information would not achieve any of the following outcomes provided for by the FOI Act:

- Promote the objects of the FOI Act,
- Inform debate on a matter of public importance,
- Promote effective oversight of public expenditure, or
- Allow a person to access his or her own personal information.

Accordingly, I am satisfied the information in the documents marked to which access is granted in part is conditionally exempt and that it should not be disclosed.

Schedule of Documents – Freedom of Information Request FOI s 47F

Doc No.	Date	Pages/ Folio	Description of Document	Decision on access	Exemption
1.				<i>Released in full when there are no redactions</i>	
2.				<i>Access in part When redactions are made, you will need to include what sections used in the exemption</i>	<p>Section 47E(d) – public interest conditional exemption – certain operations of agencies</p> <p>Section 47F – public interest conditional exemption – personal privacy</p> <p><i>The above exemptions are used when redactions are of staff member names and/or third party information</i></p>
3.				<i>Access in part</i>	<p>Section 47F – public interest conditional exemption – personal privacy</p> <p><i>Redaction of third party names/information only</i></p>

ATTACHMENT C – Relevant FOI Act provisions

11A Access to documents on request

Scope

- (1) This section applies if:
- (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.
- Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:
- (a) section 12 (documents otherwise available);
 - (b) section 13 (documents in national institutions);
 - (c) section 15A (personnel records);
 - (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.
- Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).
- (5) 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.
- Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.
- Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).
- Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.
- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of **exempt document** in subsection 4(1).

11B Public interest exemptions—factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
 - (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.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
 - (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (aa) access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and

- (b) it is possible for the agency or Minister to prepare a copy (an *edited copy*) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
- (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
- (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

38 Documents to which secrecy provisions of enactments apply

- (1) Subject to subsection (1A), a document is an exempt document if:
 - (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and
 - (b) either:
 - (i) that provision is specified in Schedule 3; or
 - (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.

- (3) This section applies in relation to a document so far as it contains personal information about a person if:
 - (a) the person requests access to the document; and
 - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the *Migration Act 1958* as affected by section 503D of that Act.
- (4) In this section:
enactment includes a Norfolk Island enactment.

42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
 - (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
 - (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.
- Note: For **operational information**, see section 8A.

45 Documents containing material obtained in confidence

- (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.

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
 - (a) trade secrets; or

- (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) Subsection (1) does not have effect in relation to a request by a person for access to a document:
 - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (***deliberative matter***) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:
 - (a) an agency; or
 - (b) a Minister; or
 - (c) the Government of the Commonwealth; or
 - (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
 - (a) operational information (see section 8A);
 - (b) purely factual material.

Note: An agency must publish its operational information (see section 8).
- (3) This section does not apply to any of the following:
 - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;

- (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

47E Public interest conditional exemptions—certain operations of agencies

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

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).