

Attachment A – Schedule of documents and reasons

Document Number	Document Description	Decision on access/ Redactions applied	Page no.
1	AEC Formality [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	1
2	AEC Media advice - Referendum voting instructions (25 Aug 2023)	Release in full	2
3	AEC Media Advice - Referendum voting instructions	Release in part - s 47F – Personal privacy - s 47E(d) - certain operations of the agency	4
4	AEC media advice	Release in part - s 47F – Personal privacy	5
5	AEC statement re ticks, crosses [SEC=OFFICIAL].pdf	Release in part - s 47F – Personal privacy	6
6	draft TPs - formality [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	8
6a	Ballot paper formality - draft TPS.pdf	Release in part - s 47F – Personal privacy	9
7	FOR REVIEWAPPROVAL Ticks crosses - updated media advice	Release in part - s 47F – Personal privacy - S 47E(d)- certain operations of the agency	10
7a	Media advice - Referendum formality	Release in full	11
8	FW IEB - voice referendum	Release in part - s 47F – Personal privacy	13
9	FW Media release	Release in part - s 47F – Personal privacy	15
10	FW_Voice	Release in part - s 47F – Personal privacy	16
11	RE: 7 News Request [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	17
12	Re: AAP query [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	20
13	RE_ ABC Afternoon Briefing IV - Zoom Link.pdf	Release in part - s 47F – Personal privacy	23
14	RE: ABC Media Watch query / AEC rules [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	24
15	RE: ABC statement [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	27

16	Re: [E] RE: Referendum media request - Yahoo News Australia [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	29
17	RE: Enquiry [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	33
18	RE: follow up question [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	35
18a	RE: query from daily telegraph [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy - s 22 – out of scope	37
19	RE: Happy? [SEC=OFFICIAL]	Exempt • s 42 – Legal Professional Privilege	
20	RE: Informality rates [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	42
21	Re: Interview request [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	45
22	Re: Media advice: Referendum voting instructions [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	48
23	RE: Media request: Tom Rogers [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	52
24	RE: Possible Misinformation On Adelaide Radio [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	58
25	Re: Ray Hadley Morning Show interview request [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	60
26	RE: Referendum media request - Yahoo News Australia	Release in part - s 47F – Personal privacy	64
27	RE: The Australian request [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	67
28	RE: Tick/cross on ballot paper - inquiry [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	70
29	RE: Ticks and crosses [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	74
30	RE: TODAY SHOW STATEMENT REQUEST [SEC=OFFICIAL]	Release in part - s 47F – Personal privacy	76

31	Re: Tom Rogers [SEC=OFFICIAL]	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy • S 22 – out of scope 	78
32	RE: Urgent website update please - Website FAQ [SEC=OFFICIAL]	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	82
33	RE URGENTABC Radio Sydney Breakfast [SEC=OFFICIAL]	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	87
34	RE: Voice referendum voting system	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	90
35	RE: Voice referendum	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	92
36	Request	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	94
37	Ticks / crosses [SEC=OFFICIAL]	Release in part <ul style="list-style-type: none"> • s 47F – Personal privacy 	95
38	ELT formality paper	Release in part: <ul style="list-style-type: none"> • Section 22 – out of scope • Section 47F – personal privacy • Section 47C – details of consultation/deliberation undertaken by the agency 	97
39	Scrutineers Handbook	Release in full document available at Scrutineers Handbook (aec.gov.au)	108
40	Briefing video	Exempt <ul style="list-style-type: none"> • Section 47E(d) - certain operations of the agency 	
41	Briefing slides	Release in part <ul style="list-style-type: none"> • Section 47E(d) - certain operations of the agency • Section 22 – out of scope 	180
42	Election procedures handbook	Release in part <ul style="list-style-type: none"> • Section 22 – out of scope 	201
43	OIC return	Release in part <ul style="list-style-type: none"> • Section 22 – out of scope 	311
44	Email from Kath Gleeson - RE: Scripts re ticks and crosses	Release in part <ul style="list-style-type: none"> • Section 47F – personal privacy • Section 47E(d) - certain operations of the agency 	398
45	Email from Kath Gleeson - FW: For comment/input please	Out of scope	
45a	Attachment to Document 45	Exempt <ul style="list-style-type: none"> • Section 47E(d) - certain operations of the agency 	

45b	Attachment to Document 45	Exempt <ul style="list-style-type: none"> Section 47E(d) - certain operations of the agency 	
46	Email from Natasha Scandrett - FW: FOR COMMENT	Exempt <ul style="list-style-type: none"> Section 47E(d) - certain operations of the agency 	
47	OLP week 4 day 2 trainer script	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	402
48	OLP LMD week 2 day 3 trainer script	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	457
49	Ballot paper scrutiny – eLearning transcript	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	513
50	Initial scrutiny supervisor – eLearning transcript	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	525
51	Further scrutiny – eLearning transcript	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	542
52	Fresh scrutiny supervisor – eLearning transcript	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	561
53	Remote TEW F2F training script	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	578
54	Remote TEW F2F PowerPoint presentation	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	643
55	Conducting a Ref – eLearning transcript	Release in part <ul style="list-style-type: none"> Section 22 – out of scope 	752
56	Email	Release in part <ul style="list-style-type: none"> Section 22 – out of scope Section 47E(d) - certain operations of the agency Section 47F 	769
56a	Attachment to document 56	Release in full	770
57	Referendum Formality – Legal Advice	Release in full – document available at referendum-formality-savings-provisions-legal-advice.pdf (aec.gov.au)	771
58	ELT Formality Paper	Release in part: <ul style="list-style-type: none"> Section 22 – out of scope 	772

		<ul style="list-style-type: none"> • Section 47F – personal privacy • Section 47C – details of consultation/deliberation undertaken by the agency 	
59	Letter	Exempt <ul style="list-style-type: none"> • s 47E(d) - certain operations of the agency 	
60	Ballot paper formality slideshow	Release in part <ul style="list-style-type: none"> • Section 22 – out of scope 	827
61	Media release – referendum formality	Release in full	849
62	Email from Legal – AGS Advice	Release in part <ul style="list-style-type: none"> • s 42 – Legal professional privilege • s 47F – Personal privacy 	851
63	Email from Andrew Johnson – AGS advice	Release in part <ul style="list-style-type: none"> • s 42 – Legal professional privilege • s 47F – Personal privacy • S 22 – out of scope 	852
63a	Draft Legal Advice from AGS	Release in part <ul style="list-style-type: none"> • S 42 – legal professional privilege 	854
64	Email from Legal	Exempt <ul style="list-style-type: none"> • Section 42 – legal professional privilege 	
65	Email from Legal – Comments now requested by 11:30 today	Exempt <ul style="list-style-type: none"> • Section 42 – legal professional privilege 	
66	Email from Legal – FW: Comments now requested by 11:30 today	Exempt <ul style="list-style-type: none"> • s 47E(d) - Certain operations of the agency • S 42 – legal professional privilege 	
67	Email from Legal – FW: Query re extracts of legal advice	Exempt <ul style="list-style-type: none"> • s 47E(d) - Certain operations of the agency • S 42 – legal professional privilege 	
67a	Letter	Exempt <ul style="list-style-type: none"> • s 47E(d) - Certain operations of the agency 	
67b	2023 AGS Legal Advice	Release in part <ul style="list-style-type: none"> • s 42 – Legal professional privilege 	864
67c	1988 AGS Legal Advice	Release in part <ul style="list-style-type: none"> • S 42 – Legal professional privilege. 	874
68	Email from Legal	Exempt <ul style="list-style-type: none"> • S 42 – Legal professional privilege • S 22 – Out of scope 	
69	Email from Legal	Exempt <ul style="list-style-type: none"> • S 42 – Legal professional privilege • S 22 – Out of scope 	

70	Email from Legal	Exempt <ul style="list-style-type: none"> • S 42 – Legal professional privilege 	
70a	1983 AGD Legal Advice	Exempt <ul style="list-style-type: none"> • S 42 - Legal professional privilege. • S 22 – Out of scope 	
70b	1984 AGD Legal Advice	Exempt <ul style="list-style-type: none"> • S 42 - Legal professional privilege. • S 22 – Out of scope 	
70c	1984 AGD Legal Advice	Exempt <ul style="list-style-type: none"> • S 42 – Legal professional privilege. 	
70d	1999 AGD Legal Advice	Exempt <ul style="list-style-type: none"> • s 42 - Legal professional privilege • S 22 – Out of scope 	
70e	1988 AGD Legal Advice	Duplicate document to 67c.	
70f	2007 AGS Legal Advice	Exempt <ul style="list-style-type: none"> • S 42 – Legal professional privilege 	
70g	1999 AGD Legal Advice	Exempt <ul style="list-style-type: none"> • s 42 – Legal professional privilege 	
71	Email from Legal	Release in part <ul style="list-style-type: none"> • S 47E(d) - Certain operations of the agency. • s 47F – personal information 	882
72	Email from Media – Draft MR	Release in part <ul style="list-style-type: none"> • S 47C • S 47E(d) - Certain operations of the agency. • s 47F – Personal privacy • Section 22 – out of scope 	884
73	Email from Kath Gleeson – Re: AGS Advice	Duplicate document – 63.	
74	Email from Legal	Exempt <ul style="list-style-type: none"> • s 42 – Legal professional privilege 	
75	Email from Legal	Exempt <ul style="list-style-type: none"> • S 22 – Out of scope • S 42 – Legal professional privilege • S 47F – Personal privacy 	
76	Email to Legal	Exempt <ul style="list-style-type: none"> • s 47E(d) - certain operations of the agency 	
77	Email from Rachael Spalding – RE: Query re extracts of legal advice	Exempt <ul style="list-style-type: none"> • s 47E(d) - certain operations of the agency 	
78	Email from Andrew Johnson – RE: Happy?	Exempt <ul style="list-style-type: none"> • Section 42 – Legal professional privilege • Section 47E(d) - certain operations of the agency 	

78a	Legal Advice - 17 June 1988	Duplicate document - 67C	
79	Email from legal	Exempt <ul style="list-style-type: none"> • Section 42 – Legal professional privilege 	
79a	Letter	Out of scope <ul style="list-style-type: none"> • Draft/earlier version of document 	
80	Email from Kath Gleeson – FW: Scripts re ticks and crosses	Release in part <ul style="list-style-type: none"> • Section 47F – personal privacy • Section 47E(d) - certain operations of the agency 	889
81	Ballot paper formality guidelines	Release in full – document available at https://www.aec.gov.au/Elections/candidates/files/ballot-paper-formality-guidelines.pdf	

Attachment B – Reasons – Freedom of Information Request No. LEX4640/4641/4643/4645

Authority

As the Chief Legal Officer I am an authorised decision-maker under section 23 of the FOI Act.

Retrieval process

To identify documents for your request, I arranged for relevant staff likely to be able identify documents to undertake a comprehensive search of the relevant electronic holdings used by the AEC.

Relevant Documents

With regard to the Relevant Documents identified in Attachment A, I have decided:

Access in full

- a) to grant access in full to document numbers 2, 7a, 39, 56a, 57, 61, 81.

Release in part (edited copies)

- b) to grant access to an edited copy of the following documents from which exempt matter and irrelevant information has been deleted under section 22 of the FOI Act:
 - Document numbers 1, 3, 4, 5, 6, 6a, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 18a, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 41, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 60, 62, 63, 63a, 67b, 67c, 71, 72, 80

Refuse access

- c) to refuse access to the following documents as providing access would be contrary to the public interest or they are exempt documents or the documents are out of scope
 - 19, 40, 45, 45a, 45b, 46, 59, 64, 65, 66, 67, 67a, 68, 69, 70, 70a, 70b, 70c, 70d, 70f, 70g, 74, 75, 76, 77, 78, 79, 79a.

Material taken into account

I have taken the following material into account in making my decision:

- a) the content of the documents that fall within the scope of your FOI Request;
- b) the FOI Act, specifically section 22, 42, 47C, 47E(d) and 47F;
- c) the guidelines ('FOI Guidelines') issued by the Australian Information Commissioner under section 93A of the FOI Act;

- d) the FOI Guidance Notes, July 2011 issued by the Department of Prime Minister and Cabinet; and
- e) the *Privacy Act 1988*.

Detailed Reasons

Attachment A indicates each Relevant Document to which access is refused or access is granted. My reasons for refusing or granting access are given below.

Exemptions

Section 42 – Legal Professional Privilege

Findings

I found that the documents, as identified in Attachment A, were documents of such a nature that they would be privileged from production in legal proceedings on the ground of legal professional privilege.

Consideration

Under subsection 42(1) of the FOI Act, 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.

Section 42 of the FOI Act provides:

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.

The documents identified are documents that:

1. Clearly demonstrate a legal adviser-client relationship.

2. Are communications for the purpose of giving or receiving legal advice.
3. Contain independent and confidential legal advice.

The decision maker acknowledges the waiver of privilege in regard to certain legal advice received by AGS, that has since been published by the AEC. This legal advice has not been considered exempt in the making of this decision.

Outcome

Accordingly, I am satisfied that the documents identified fall within the scope of the exemption for legal professional privilege and are therefore exempt from disclosure.

Section 47C - deliberative processes

Findings

I found that the documents, as identified in Attachment A contained information that 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 the AEC.

Consideration

Section 47C of the FOI Act conditionally exempts a document if its disclosure under the FOI Act would disclose 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 the AEC (among other entities), with certain exceptions.

Section 47C of the FOI Act provides:

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.

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).

I found that the documents identified disclosed consultation/deliberation that has taken place during the deliberative processes involved in the functions of the AEC.

Initial Outcome

Accordingly, I am satisfied that the documents identified fall within the scope of the conditional exemption for deliberative matter provided by section 47C of the FOI Act.

Weighing of public interest factors

Under subsection 11A(5) of the FOI Act, access to a document covered by a conditional exemption must be given unless it would be contrary to the public interest.

My weighing of public interest factors follows:

I find that the factors in favour of disclosure the documents identified are:

- a. to promote the objects of the FOI Act (section 11B(3)(a) of the FOI Act)

I find that the factors against disclosure of the documents identified are that:

- a. Disclosure could reasonably be expected to disclose internal deliberative processes, and that disclosure could reasonably be expected to impact the effective and efficient functioning of the government. Particularly in relation to the delivery of the 2023 referendum.
- b. Disclosure could reasonably be expected to inhibit frankness and candour of staff within the AEC.
- c. Disclosure could reasonably be expected to have a substantial adverse impact on the AEC's functions if this deliberative information is disclosed.
- d. Disclosure could reasonably be expected to prejudice the effective and efficient functioning of the AEC.

In accordance with subsection 11B(4) of the FOI Act I excluded from my consideration the following matters:

- a. access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- 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.

In my view, having regard to the above considerations and factors set out in sections 11B and 47C of the FOI Act, I have decided that the balancing of considerations weighs in favour of not releasing the section 47C information in the released documents.

Final Outcome

Accordingly, I am satisfied that the documents, as identified in Attachment A are conditionally exempt under section 47C of the FOI Act and, because disclosure would be contrary to the public interest, the documents should be treated as exempt from disclosure under the FOI Act.

s47E Public interest conditional exemptions - certain operations of agencies

Findings

I found that the documents, as identified in Attachment A contained information that would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Consideration

Section 47E of the FOI Act conditionally exempts a document if its disclosure under the FOI Act would or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Paragraph 47E(d) of the FOI Act provides:

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

.....

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

In making my decision I had regard to:

- a. the extent to which the information is well known; and
- b. the extent to which, and how, disclosure of the information would or could reasonably be expected to adversely effect the proper and efficient conduct of the operations of AEC.

The AEC is an independent statutory authority. It is funded to deliver one purpose and one outcome: *Maintain an impartial and independent electoral system for eligible voters through active electoral roll management, efficient delivery of polling services, and targeted education and public awareness programs.* It can therefore be said that the AEC's primary function is to deliver the voting franchise.

If some documents were released then there would be a real and substantial risk of a need to divert resources towards countering misinformation while delivering the referendum and ensuring that the public are appropriately informed about exercising the franchise. I note that the obligation to counter misinformation and educate voters regarding the franchise differs from the AEC engaging, or concerning itself, with general matters of public debate. Rather these matters go to the core functions of the AEC.

Other documents may disclose sensitive escalation channels and processes that the AEC relies on in order to efficiently conduct referendum activities. In particular to communicate with staff across polling places on voting day.

Accordingly, the disclosure of the documents in issue could reasonably be expected to adversely affect the ability of the AEC to appropriately, efficiently, and accurately perform its legislative functions and deliver the franchise in the most effective manner. That would reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the AEC's operations.

Initial outcome

Accordingly, I am satisfied that the documents identified fall within the scope of the conditional exemption for certain operations of agencies provided by section 47E of the FOI Act.

Weighing of public interest factors

Under subsection 11A(5) of the FOI Act, access to a document covered by a conditional exemption must be given unless it would be contrary to the public interest. I have weighed public interest factors follows.

I find that the factors in favour of disclosure the documents identified are:

- a. promoting the objects of the Act, particularly in increasing scrutiny, discussion, comment and review of the Government's activities (section 3(2)(b) of the FOI Act);
- b. informing debate on a matter of public importance, namely how the AEC conducts referendums and applies the relevant legislation; and
- c. facilitating access to information to members of the public that allows them to be satisfied that proper processes have been followed by the agency.

I find that the factors against disclosure of the documents identified are that:

- a. disclosure could reasonably be expected to divert crucial resources of the agency during a delivery period;
- b. disclosure could reduce the full and frank communication of ideas between the AEC and the Parliament;
- c. disclosure could reasonably be expected to prejudice the AEC's management function and ability to perform its functions;
- d. disclosure could reasonably be expected to prejudice the effective and efficient functioning of the AEC.

In accordance with subsection 11B(4) of the FOI Act, I excluded from my consideration the following matters:

- a. access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- 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.

In my view, having regard to the above considerations and factors set out in sections 11B and 47E of the FOI Act, I have decided that the balancing of considerations weighs in favour of not releasing the section 47E information in the released documents.

In reaching this conclusion, I note that the public interest in scrutiny of AEC's activities has already been largely met by the AEC's communication of relevant referendum information, media coverage, and the recent challenge in the Federal Court that was dismissed last week. That is not in itself a reason to not disclose documents or parts of those documents. But, in circumstances where disclosure would likely have negative consequences, it is an important consideration.

Final Outcome

Accordingly, I am satisfied that the documents identified in Attachment A are conditionally exempt under section 47E of the FOI Act and, because disclosure would be contrary to the public interest, the documents should be treated as exempt from disclosure under the FOI Act.

Section 47F - personal privacy

Findings

I found that the documents, as identified in Attachment A contained the personal information of AEC staff, and third parties, including names and contact details.

Consideration

Section 47F of the FOI Act conditionally exempts a document if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information about any person (with certain exceptions regarding the disclosure to a person of their own personal information).

Subsection 47F(1) of the FOI Act provides:

47F Public interest conditional exemptions—personal privacy

General rule

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

In making my decision I had regard to:

- the extent to which the information is well known;
- 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;
- the availability of the information from publicly accessible sources;
- Part 6 (Conditional Exemptions) of the FOI Guidelines;
- Submissions made by third parties in response to consultation.

I determined that the personal information identified - that is the names, contact details, role titles and other personal information - in these documents is not well known, nor is it available from publicly accessible sources.

Initial outcome

Accordingly, I am satisfied that the documents identified fall within the scope of the conditional exemption for personal privacy provided by section 47F of the FOI Act.

Weighing of public interest factors

Under subsection 11A(5) of the FOI Act, access to a document covered by a conditional exemption must be given unless it would be contrary to the public interest.

My weighing of public interest factors follows.

I consider that the public interest in releasing the full names of these individuals is extremely low. I have considered the relevant factors in s 11B of the FOI Act, and the release of this information would not aid the public in scrutinising, commenting or reviewing the activities of the AEC, nor would it further inform any public debate on a matter of importance (s 11B(3)(b)).

I have also balanced this public interest with the consideration of whether this disclosure of personal information would be unreasonable.

- a. The disclosure of this information could reasonably be considered to prejudice the relevant individuals' right to privacy.
- b. The disclosure of AEC staff members' and/or third parties names and personal information may expose these parties to harm or a continued harassment campaign.

In accordance with subsection 11B(4) of the FOI Act I excluded from my consideration the following matters:

- a. access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- 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.

In my view, having regard to the above considerations and the factors set out in sections 11 and 47F of the FOI Act, I have decided that the balancing of considerations weighs in favour of not releasing the personal information in the released document.

Final Outcome

Accordingly, I am satisfied that the documents identified in Attachment A are conditionally exempt under section 47F of the FOI Act and, because disclosure would be contrary to the public interest, that the documents should be treated as exempt from disclosure under the FOI Act.

Preparation of edited copy

In accordance with section 22 of the FOI Act, I considered whether it is possible and practicable to prepare an edited copy of the Relevant Documents from which exempt and irrelevant material are redacted.

Findings

I found that:

- it is possible to prepare an edited copy of some documents (identified in Attachment A as “release in part”) modified by deletions, ensuring that:
 - access to the edited copy would be required to be given under section 11A (access to documents on request) of the FOI Act; and
 - the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the FOI Request;
- it is reasonably practicable for the AEC to prepare the edited copy, having regard to:
 - the nature and extent of the modifications; and
 - the resources available to modify the document; and
- it is not apparent that you would decline access to the edited copy.
 - I found that it is not possible or practical to prepare an edited copy of some documents (identified in Attachment A as “exempt”), due to the nature and extent of the modifications that would be required to ensure that no exempt information is released.

I had regard to section 22 of the FOI Act and paragraphs 3.95–3.100 of the FOI Guidelines.

Outcome

I concluded that it is both possible and practicable to prepare an edited copy of the documents that are identified in Attachment A as “release in part.”

I concluded that it is not possible or practicable to prepare an edited copy of the documents that are identified in Attachment A as “exempt.”

Attachment C - FOI Review rights

Internal review

Under section 54 of the FOI Act, you may apply in writing to the AEC for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

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

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian 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: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints>

email: foidr@oaic.gov.au

post: Director of FOI Dispute Resolution, GPO Box 5218, Sydney NSW 2001

fax: 02 9284 9666

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. Complaints can be lodged in one of the following ways:

online: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints>

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney 2001

More information about complaints is available on the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>

If you are not sure whether to lodge an Information Commissioner review or an Information Commissioner complaint, the Office of the Australian Information Commissioner has more information at: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

