



Our ref: FOI2023-27

12 January 2024

Trent Morrison-Francis

**BY EMAIL:** [foi+request-10818-a9e8aa0f@righttoknow.org.au](mailto:foi+request-10818-a9e8aa0f@righttoknow.org.au)

Dear Mr Morrison-Francis,

**Freedom of Information request – Internal Review Request**

I refer to your request dated 4 December 2023 made under the *Freedom of Information Act 1982* (the **FOI Act**). You have requested an internal review of CSC's primary decision under the FOI Act dated 4 December 2023.

Attached at Annexure A to this letter is my decision and statement of reasons for that decision. A schedule of documents identified as falling into the scope of your request is at Annexure B.

Yours sincerely

Amy Ward  
Senior Manager, Compliance & Casework  
General Counsel Team  
Commonwealth Superannuation Corporation



Commonwealth  
Superannuation  
Corporation

Commonwealth Superannuation Corporation (CSC)  
ABN: 48 882 817 243 AFSL: 238069  
RSEL: L0001397

Canberra  
GPO Box 2252  
Canberra ACT 2601  
Australia  
P. +61 2 6275 7000

Sydney  
GPO Box A2614  
Sydney South NSW 1235  
Australia  
P. +61 2 9240 4888

[csc.gov.au](http://csc.gov.au)

**STATEMENT OF REASONS RELATING TO AN INTERNAL REVIEW FOI REQUEST BY MR TRENT MORRISON-FRANCIS**

I, Amy Ward, Senior Manager Compliance & Casework, am an officer authorised under section 23 of the FOI Act to make decisions in relation to the Commonwealth Superannuation Corporation (**CSC**). In accordance with section 54C of the FOI Act, I am required to review the primary decision and make a fresh decision. As the decision maker on the internal review, I am in no way bound by the primary decision.

What follows is my decision and reasons for the decision in relation to your request.

**DECISION ON INTERNAL REVIEW**

New searches were conducted as part of this review and these searches identified three documents consisting of 129 pages that I consider fall within the scope of your request.

Having carefully examined this material listed above, I have decided to:

- vary the original FOI decision;
- release the **3** documents in part to you.

**BACKGROUND**

On 31 October 2023, CSC received your FOI request seeking:

*All active Memorandum of Understanding, Heads of Agreement, Data Sharing Agreements, and Service Contracts that result in the sharing of veteran data, even if de-identified. I am looking for similar documents for programs and agreements that ceased within the last 10 years or are still active.*

On 4 December 2023, CSC provided you with an FOI decision to refuse your request under subsection 24A(1) of the FOI Act. On 4 December 2023 you sought an internal review of CSC's decision, requesting:

*Please note I am seeking all documents that relate to veterans like me and where you share my data with.*

*The OAIC had clear guidelines on what data is and I note you even in your own privacy policy state what you claim data is.*

**EVIDENCE/MATERIAL ON WHICH MY FINDINGS WERE BASED**

I have taken the following materials into account in making my decision of internal review:

1. the terms of FOI request dated 31 October 2023,
2. CSC's primary decision on 4 December 2023,
3. the request for an internal review of the original decision on 4 December 2023,
4. fresh searches by relevant business areas for documents falling within your request,
5. search minutes detailing documents found that fall within the scope of your request,
6. consultation with the Department of Defence, Department of Veterans Affairs, and the Australian Tax Office,
7. the FOI Act,
8. factors relevant to my assessment whether or not the disclosure of the documents would be in the public interest, and
9. the guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

## REASONS FOR DECISION

### ***Material to which section 47E applies***

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

I am satisfied that the parts of the documents marked 's47E' contain information which, if disclosed, would or could reasonably be expected to, have a substantial adverse effect on the department's proper and efficient operations.

Where a document is found to be conditionally exempt, the department must give access to that document unless access to the document, on balance, would be contrary to the public interest. I have addressed the public interest considerations below.

### ***Material to which section 47E(c) applies – Personnel of the Commonwealth or by an agency***

Section 47E(c) of the FOI Act permits an agency to conditionally exempt material in a document in circumstances where disclosure would or could reasonably be expected to:

*(c) have a substantial adverse effect on management or assessment of personnel by an agency.*

I have been advised that staff working at the Australian Taxation Office, Department of Defence and Department of Veteran Affairs, operate in a sensitive environment, and that staff have been subject to aggressive and abusive behaviour from third parties. I am aware that safety and integrity are a high priority for these agencies and, in order to protect staff against the risk of inappropriate and unsolicited approaches, personal attacks and harassment, officer names and contact details should not be disclosed. On this basis, I am satisfied that disclosing officer names and direct contact details would, or could reasonably be expected to, have a substantial adverse effect on the ability of the agencies to manage their personnel as it would undermine their ability to protect their officers.

Similarly, the same reasons apply in relation to the contact details of CSC's staff. CSC has established communication channels for its members, and members of the public, to make enquiries with CSC, including through a contact centre.

### ***Material to which section 47E(d) applies - Proper and efficient conduct of operations of agency***

I have decided that certain material contained in the documents is conditionally exempt under section 47E(d) of the FOI Act. Section 47E(d) of the FOI Act permits an agency to conditionally exempt material in a document in circumstances where disclosure would or could reasonably:

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

Disclosure of information relating to how CSC protects its data and its cyber security measures (to prevent unauthorised access) would or could reasonably be expected to have a substantial adverse effect on:

- the conduct of CSC's operations and the beneficiaries it protects and
- CSC's ability to adequately protect its operational and member data.

### **Material to which section 47F(1) applies – Personal Privacy**

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

*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).*

The term 'personal information' is defined in section 4 of the FOI Act to mean:

*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.*

When determining whether the disclosure of personal information would be unreasonable, subsection 47F(2) of the FOI Act requires me to consider:

- a) the extent to which the information is well known
- b) 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
- c) the availability of the information from publicly accessible sources,
- d) any other matters that I consider relevant.

Given there is information which includes sensitive details such as member names, contact details, scheme membership details and other sensitive and personal information that is not well known, I have decided that certain material contained in the documents is conditionally exempt under subsection 47F(1) of the FOI Act.

### **PUBLIC INTEREST TEST**

Pursuant to subsection 11A(5) of the FOI Act, CSC must give access to conditionally exempt documents unless access to the documents at that time would, on balance, be contrary to the public interest. I have therefore considered whether disclosure of the documents would be contrary to the public interest. Subsection 11A(5) of the FOI Act sets out the following factors favouring access to a document:

- promote the objects of the FOI Act (including all matters set out in sections 3 and 3A);
- 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.

In weighing public interest factors I have concluded against disclosure of the conditionally exempt information, on the basis that disclosure:

- could reasonably be expected to prejudice the ability of CSC and affected agencies to undertake its operations and effectively manage and protect personnel;
- could reasonably be expected to prejudice the ability of CSC to undertake its operations properly and efficiently;
- would prejudice individual's personal privacy and the FOI Act recognises the need to protect unreasonable intrusions on the privacy of individuals; and
- the release of personal information could cause stress to the persons to whom the information relates.

Therefore, I am satisfied that the materials referred to above are conditionally exempt under sections 47E(c) and (d) and 47F(1) of the FOI Act. Therefore, the information should be redacted, pursuant to section 22 of the FOI Act.

## PUBLICATION

Section 11C of the FOI Act requires agencies to publish documents released through an FOI request on our website within 10 days of release. Except in certain circumstances including when the documents contain personal or business information that would be unreasonable to publish.

Given the nature of document 1, including substantial information about CSC's cybersecurity systems, this business information would be unreasonable to publish. A decision has been made not to publish the document that will be released to you.

Documents 2 and 3 that are being released to you contain personal and business information that would be unreasonable to publish. As a result, a redacted copy of the documents will be published on our disclosure log within 10 days of them being released to you.

## REVIEW AND COMPLAINT RIGHTS

If you are unsatisfied with my decision, section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (OAIC) to seek a review of this decision. If you want to have the decision reviewed by the OAIC you must apply in writing within 60 days of the receipt of the decision letter and you can lodge your application in one of the following ways:

Online: <a href="http://www.oaic.gov.au">www.oaic.gov.au</a> Post: GPO Box 2999, Canberra ACT 2601 Fax: +61 2 9284 9666 Email: <a href="mailto:enquirxxx@xxx.xx">enquirxxx@xxx.xx</a>	In person: Level 3, 175 Pitt Street, Sydney NSW 2000
--	---

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au).

Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

### ***Complaint***

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better.

### ***Complaints to the Commonwealth Ombudsman***

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

The Commonwealth Ombudsman generally prefers applicants to seek, and receive a decision on, review before complaining about a decision.

### ***Complaints to the Information Commissioner***

You may also complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A

complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Phone: 1300 363 992

Website: [www.oaic.gov.au](http://www.oaic.gov.au)



FOI Request: Mr Trent Morrision-Francis  
SCHEDULE OF DOCUMENTS

\*for ease of reference: we have mentioned where documents were released in full as part of the original decision.

Doc No.	Pages	Date	Description	Decision on access	Exemption
1.	18	6 July 2023	Memorandum of Understanding – Between ATO and CSC – Military superannuation data exchange.	Released in part with exempt information removed.	s 47E s 47E(c) s 47E(d) s 47F(1) (personal privacy)
2.	77	21 March 2021	Data Management Agreement between the Department of Defence, the Department of Veterans' Affairs, and the Commonwealth Superannuation Corporation.	Released in part with exempt information removed.	s 47E s 47E(c) s 47E(d) s 47F(1) (personal privacy)
3.	34	30 June 2015	Service Level Agreement between CSC, The Defence Organisation and ComSuper.	Released in part with exempt information removed.	s 47E s 47E(c) s 47E(d) s 47F(1) (personal privacy)