



8 June 2016

Mr Vito Guzzardi

Only via email: foi+request-1806-37757912@righttoknow.org.au

Dear Mr Guzzardi

Freedom of Information request 16-6

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

Background to Decision

You requested access to documents relating to *Nathan Bock*. Specifically you sought access to:

- *All documents related to Nathan Bock and [his] subsequently being cleared by ASADA.*

Your request was received on Saturday 9 April 2016. An acknowledgment of your request was sent to you via email on 12 April 2016. That correspondence informed you that a decision was due to be made by Monday 9 May 2016.

On Friday 6 May 2016 you were notified that the deadline for a decision was extended by 30 days under section 15(6) of the FOI Act. This was to allow for consultation with an affected third party. Accordingly, the decision is due to you by **Wednesday 8 June 2016**.

Authority and Materials Considered

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

In reaching my decision I have taken into consideration:

- The relevant provisions of the FOI Act;
- Relevant guidelines issued by the Office of the Australian Information Commissioner; and
- Relevant Tribunal and Federal Court decision concerning the operation of the FOI Act.

Summary of Decision

I have identified 15 documents as being within the scope of your request. The documents are outlined at **Annexure A**. I have refused your request for access to 13 of those documents under the exemptions outlined below in response to each document. A copy of the exemption provisions relied on in reaching this decision are at **Annexure B**. I have released two of those documents to you, noting that they are already in the public domain.

Several of the documents are identified only as 'Supporting Document [X]'. This is because to disclose the titles of those documents or to provide additional details would subvert the exemptions applied to them. Where a document can be identified without undermining the exemption it has been appropriately done so.

Reasons for Decision

Document 1

I have decided that the CEO's recommendation is wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemptions found at sections 37(1)(a), and s47C to this document.

Section 37(1)(a) – Prejudice the conduct of an investigation

Section 37(1)(a) provides that a document is an exempt document if its disclosure would, or could reasonably be expected to, prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure or possible failure, to comply with a law relating to taxation, or prejudice the enforcement or proper administration of the law in a particular instance. This exemption is not subject to the public interest test.

There is an active ASADA investigations relating to the material in this recommendation which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the document is exempt under s37(1)(a) of the FOI Act.

Section 47C – Deliberative Process

Section 47C provides that a document is conditionally exempt if its disclosure under the FOI 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 an agency, minister, the Government of the Commonwealth or the Government of Norfolk Island. This exemption is subject to a proper application of the public interest test.

Document 1 is a document which falls under the category of deliberative matter. The CEO Recommendation is just that, a recommendation as to a course of action which constitutes a function of ASADA (the agency).

As section 47C is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of public expenditure;
- Enhance the scrutiny of government decision making;
- Promote the objects of the FOI Act

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice the fair treatment of an individual where the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- Could reasonably be expected to impede the administration of justice generally, including procedural fairness;

- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency (specifically ASADA);
- Could reasonably be expected to impede the administration of justice for an individual.

Based on the above factors I have decided that the document be exempt in full under s47C of the FOI Act as those factors against disclosure outweigh those in favour.

Document 2

I have decided that the Interim Report is wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemption found at section 37(1)(a).

Section 37(1)(a) – Prejudice the conduct of an investigation

There are active ASADA investigations relating to the material in this report which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the document is exempt under s37(1)(a) of the FOI Act.

Document 3

I have decided that Document 3 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemptions found at sections 47G and 47E of the FOI Act.

Section 47G – Business

Section 47G(1)(b) of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs or an organisation or undertaking, in a case in which the disclosure of the information could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purposes of the administration of a law of the Commonwealth or a Territory or the administration of matters administered by the agency. This exemption is subject to a proper application of the public interest test.

Document 3 is such a document in that it relates to the business affairs of the Australian Football League. In order for ASADA to perform its functions it must be able to effectively and efficiently share information with and receive information from, sporting administration bodies. To release this document under the FOI Act which has been provided to ASADA by a sporting organisation in the course of an investigation could jeopardise the future supply of such information.

As section 47G is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of government expenditure;
- Enhance the scrutiny of government decision making;

- Promote the objects of the FOI Act.

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency (specifically ASADA).

Based on the above factors I have decided that the document be exempt in full under s47G of the FOI Act as those factors against disclosure outweigh those in favour.

Section 47E – Certain operations of agencies

Section 47E(d) 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.

As outlined in *Paul Farrell and Australian Customs and Border Protection Service*,¹ the relevant section creates two elements which must be satisfied in order for a document to be conditionally exempt. Firstly that the document 'would or could reasonably be expected to' and secondly 'have a substantial adverse effect on the proper and efficient conduct of the operations of an agency'. This exemption is subject to a proper application of the public interest test.

ASADA is reliant on the cooperation of national sporting organisations in order to properly undertake its legislative functions. Without a significant level of trust in the confidentiality of material provided to ASADA, there is a reasonable expectation that national sporting organisations would reduce the amount and/or type of information provided to ASADA in order to protect that information from public disclosure.

The release of material provided by the AFL to ASADA during the course of investigations could reasonably be expected to adversely affect the flow of such information in future investigations.

As section 47E(d) is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of government expenditure;
- Enhance the scrutiny of government decision making;
- Promote the objects of the FOI Act.

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;

¹ [2015] AICmr 52

- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency (specifically ASADA).

Based on the above factors I have decided that the document be exempt in full under s47E(d) of the FOI Act as those factors against disclosure outweigh those in favour.

Document 6

I have decided that Document 6 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemption found at section 47E of the FOI Act.

Section 47E – Certain operations of agencies

Section 47E(d) 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.

As outlined in *Paul Farrell and Australian Customs and Border Protection Service*,² the relevant section creates two elements which must be satisfied in order for a document to be conditionally exempt. Firstly that the document 'would or could reasonably be expected to' and secondly 'have a substantial adverse effect on the proper and efficient conduct of the operations of an agency'. This exemption is subject to a proper application of the public interest test.

ASADA is reliant on the cooperation of national sporting organisations in order to properly undertake its legislative functions. Without a significant level of trust in the confidentiality of material provided to ASADA, there is a reasonable expectation of national sporting organisations reducing the amount and quality of information provided to ASADA in order to protect that information from public disclosure.

The release of material provided by the AFL to ASADA during the course of investigations could reasonably be expected to adversely affect the flow of such information in future investigations.

As section 47E(d) is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of government expenditure;
- Enhance the scrutiny of government decision making;
- Promote the objects of the FOI Act.

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency (specifically ASADA).

² [2015] AICmr 52

Based on the above factors I have decided that the document be exempt in full under s47E(d) of the FOI Act as those factors against disclosure outweigh those in favour.

Document 8 and 11

I have decided that Documents 8 and 11 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemption found at section 37(1)(a) to all of these documents.

Section 37(1)(a) – Prejudice the conduct of an investigation

There are active ASADA investigations relating to the material in these supporting documents which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the documents are exempt under s37(1)(a) of the FOI Act.

Documents 7, 12 and 13

I have decided that Documents 7, 12 and 13 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemptions found at sections 37(1)(a) and 45 of the FOI Act.

Section 37(1)(a) – Prejudice the conduct of an investigation

There are active ASADA investigations relating to the material in these supporting documents which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the documents are exempt under s37(1)(a) of the FOI Act.

Section 45 – Material obtained in confidence

Section 45 of the FOI Act provides that a document is an exempt document if its disclosure under the FOI Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence. This exemption is not subject to the public interest test.

The Guidelines issued by the Information Commissioner outline that breach of confidence is a failure of the recipient (in this case ASADA) to keep information, which has been communicated in circumstances giving rise to the obligation of confidence, confidential. To found an action for breach of confidence the following five criteria must be satisfied:

1. It must be specifically identified;
2. It must have the necessary quality of confidentiality;
3. It must have been communicated and received on the basis of a mutual understanding of confidence;
4. It must have been disclosed or threatened to be disclosed without authority; and
5. Unauthorised disclosure of the information has or will cause detriment.³

³ See: *AF and Department of Immigration and Citizenship* [2013] AICmr 54 and *B and Department of Immigration and Citizenship* [2013] AICmr 9

Documents 7, 12 and 13 are statements provided to ASADA by persons connected with Operation Cobia. These statements meet the five criteria outlined above and accordingly are exempt under s45 of the FOI Act.

Document 9

I have decided that Document 9 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemptions found at sections 37(1)(a) and 47F of the FOI Act.

Section 37(1)(a) – Prejudice the conduct of an investigation

There are active ASADA investigations relating to the material in this supporting document which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the document is exempt under s37(1)(a) of the FOI Act.

Section 47F – Personal Information

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information about any person (including a deceased person). This is a conditional exemption and as such is subject to the proper application of the public interest test.

Document 9 is an image of a personal diary extract obtained by ASADA during the course of its investigations. The disclosure of this diary entry would involve the unreasonable disclosure of personal information.

As section 47F is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of public expenditure;
- Enhance the scrutiny of government decision making;
- Promote the objects of the FOI Act

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice the fair treatment of an individual where the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- Could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency (specifically ASADA);
- Could reasonably be expected to impede the administration of justice for an individual.

Based on the above factors I have decided that the document be exempt in full under s47F of the FOI Act as those factors against disclosure outweigh those in favour.

Document 10

I have decided that Document 10 should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemption found at section 47F of the FOI Act.

Section 47F – Personal Information

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information about any person (including a deceased person). This is a conditional exemption and as such is subject to the proper application of the public interest test.

Document 10 is a copy of a bank record ASADA obtained during the course of its investigations. The disclosure of this record would involve the unreasonable disclosure of personal information.

As section 47F is a conditional exemption it is subject to the public interest test. Relevant factors I have considered in favour of releasing this document include:

- Promote effective oversight of public expenditure;
- Enhance the scrutiny of government decision making;
- Promote the objects of the FOI Act

Relevant factors against releasing the documents in question are:

- Could reasonably be expected to prejudice the fair treatment of an individual where the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- Could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;
- Could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- Could unreasonably breach the privacy of an individual.

Based on the above factors I have decided that the document be exempt in full under s47F of the FOI Act as those factors against disclosure outweigh those in favour.

Documents 14 and 15

I have decided that the correspondence should be wholly exempt from disclosure. As outlined below I am of the view that it is appropriate to apply the exemption found at section 37(1)(a).

Section 37(1)(a) – Prejudice the conduct of an investigation

There are active ASADA investigations relating to the material in this correspondence which, if released, would or could reasonably be expected to prejudice the conduct of an investigation of a breach, or possible breach, of the law. That material, if released, could also be expected to prejudice the enforcement and proper administration of the law in a particular instance. Accordingly, the document is exempt under s37(1)(a) of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to ASADA for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. If you wish to make such an application please contact legal@asada.gov.au.

Where possible please attach reasons why you believe review of the 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://forms.business.gov.au/aba/oaic/foi-review-/>

email: enquiries@oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601

in person: Level 3, 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/freedom-of-information/foi-reviews.

Questions about this decision

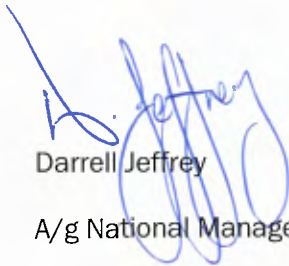
If you wish to discuss this decision, please contact the following officer:

Patrick Dale

Lawyer

legal@asada.gov.au

Yours sincerely



Darrell Jeffrey

A/g National Manager Operations



Australian Government

Australian Sports Anti-Doping Authority

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ANNEXURE A

<u>Document No.</u>	<u>Date</u>	<u>Size</u>	<u>Name of Document</u>	<u>Decision</u>	<u>Exemptions</u>
1	19/05/15	34 pages	CEO Recommendation	Exempt in full	37(1)(a), s47C
2	29/10/13	104 pages	Final Report – Operation Cobia - Gold Coast Suns Football Club (AFL)	Exempt in full	37(1)(a)
3	4/10/13	2 pages	Supporting Document 1	Exempt in full	47E(d), 47G
4	13/02/13	9 pages	Supporting Document 2 – 2010 Prohibited List	Release in full	N/A
5	12/02/13	9 pages	Supporting Document 3 – 2011 WADA Prohibited List	Release in full	N/A
6	27/03/14	18 pages	Supporting Document 4	Exempt in full	47E(d)
7	31/08/13	5 pages	Supporting Document 5	Exempt in full	37(1)(a), 45
8	31/03/13	4 pages	Supporting Document 6	Exempt in full	37(1)(a)
9	19/10/13	1 image	Supporting Document 7	Exempt in full	37(1)(a), 47F
10	29/07/13	1 page	Supporting Document 8	Exempt in full	47F

11	04/10/13	6 pages	Supporting Document 9	Exempt in full	37(1)(a)
12	30/10/13	7 pages	Supporting Document 10	Exempt in full	37(1)(a), 45
13	30/10/13	10 pages	Supporting Document 11	Exempt in full	37(1)(a), 45
14	29/07/15	2 pages	Correspondence	Exempt in full	37(1)(a)
15	30/07/15	1 page	Correspondence	Exempt in full	37(1)(a)



ANNEXURE B

FREEDOM OF INFORMATION ACT 1982 - SECT 37

Documents affecting enforcement of law and protection of public safety

(1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

(a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;

(b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or

(c) endanger the life or physical safety of any person.

(2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

(a) prejudice the fair trial of a person or the impartial adjudication of a particular case;

(b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or

(c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

(2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:

(a) witnesses; or

(b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or

(c) any other people who, for any other reason, need or may need, such protection.

(3) In this section, *law* means law of the Commonwealth or of a State or Territory.

FREEDOM OF INFORMATION ACT 1982 - SECT 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.

FREEDOM OF INFORMATION ACT 1982 - SECT 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](#)).

FREEDOM OF INFORMATION ACT 1982 - SECT 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](#)).

FREEDOM OF INFORMATION ACT 1982 - SECT 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).

(2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:

(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 the agency or Minister considers relevant.

(3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

Access given to qualified person instead

(4) Subsection (5) applies if:

(a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and

(b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.

(5) The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:

(a) carries on the same occupation, of a kind mentioned in the definition of *qualified person* in subsection (7), as the first-mentioned qualified person; and

(b) is to be nominated by the applicant.

(6) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in [section 23](#).

(7) In this section:

"qualified person " means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- (a) a medical practitioner;
- (b) a psychiatrist;
- (c) a psychologist;
- (d) a counsellor;
- (e) a social worker.

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

FREEDOM OF INFORMATION ACT 1982 - SECT 47G

Public interest conditional exemptions--business

(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

(a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or

(b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

(2) Subsection (1) does not apply to trade secrets or other information to which [section 47](#) applies.

(3) 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.

(4) 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.

(5) For the purposes of subsection (1), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

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