



Ref no. 16/001544

30 June 2016

Phillip Sweeney

By email: foi+request-1924-39a2c051@righttoknow.org.au

Dear Mr Sweeney

Request for Internal Review under the *Freedom of Information Act 1982* (Cth) (FOI Act)

I refer to your FOI request dated 7 May 2016 (your **original FOI request**), in which you sought the following information:

“a copy of the document recently lodged with APRA by the legal firm representing Dr Benjamin Koh seeking APRA to enforce Section 156C of the Life Insurance Act 1995 which alleges victimisation by one or more senior managers of Comminsure”.

The Australian Prudential Regulation Authority (APRA) acknowledged receipt of your original FOI request on 19 May 2016. APRA made a decision to refuse access to the document as it is protected under section 38 of the FOI Act and section 56 of the APRA Act (the **original FOI decision**) in response to your original FOI request on 1 June 2016.

APRA received your request for an internal review of APRA's original FOI decision (the **internal review application**) by email, on 1 June 2016.

In your internal review application you cited the following reasons for seeking an internal review of APRA's original FOI decision:

“The original decision letter has not taken into account that I have requested that the names of any persons who have alleged to have contravened Section 156C of the Life Insurance Act 1995 can be redacted.

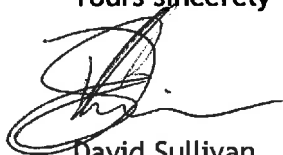
The circumstances of the victimisation of Dr Koh are already in the public domain and are therefore do not fall within the “secrecy provisions” that APRA is so ready to utilise”.

Notice of decision

I attach a notice of decision with statement of reasons. The statement of reasons sets out your rights of review.

Please contact me if you have any queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Sullivan', with a long horizontal flourish extending to the right.

David Sullivan
FOI Officer
Tel: 02 9210 3000
Fax: 02 9210 3411
foi@apra.gov.au

**NOTICE OF DECISION MADE UNDER SECTION 23
OF THE FREEDOM OF INFORMATION ACT 1982 (CTH) (FOI ACT)
WITH REASONS FOR DECISION PROVIDED UNDER SECTION 26**

Applicant: Phillip Sweeney

Decision-maker: David Sullivan, an authorised officer of the Australian Prudential Regulation Authority (APRA) for the purposes of section 23(1) of the FOI Act.

Relevant documents: Request for legal documents relating to Benjamin Koh and CommInsure.

My decision: Uphold the original FOI decision and *refuse access*, under section 38 of the FOI Act and section 56 of the *Australian Prudential Regulation Authority Act 1998* (Cth), as well as section 47F of the FOI Act.

MATERIAL FACTS

1. I refer to your FOI request dated 7 May 2016 (your **original FOI request**), in which you sought the following information:

“a copy of the document recently lodged with APRA by the legal firm representing Dr Benjamin Koh seeking APRA to enforce Section 156C of the Life Insurance Act 1995 which alleges victimisation by one or more senior managers of CommInsure”.
2. APRA acknowledged receipt of your original FOI request on 19 May 2016. APRA made a decision to refuse access to the document as it is protected under section 38 of the FOI Act and section 56 of the APRA Act (the **original FOI decision**) in response to your original FOI request on 1 June 2016.
3. APRA received your request for an internal review of APRA’s original FOI decision (the **internal review application**) by email on 1 June 2016.

EVIDENCE AND MATERIAL RELIED ON

4. In making my decision, I have relied on the following evidence and material:
 - a) the Applicant’s request received 7 May 2016;
 - b) acknowledgment email with attached letter from FOI Officer to the Applicant dated 19 May 2016;
 - c) file note written by FOI Officer dated 31 May 2016;
 - d) email, cover letter and notice of decision dated 1 June 2016;
 - e) relevant sections of the APRA Act;
 - f) relevant sections of the FOI Act; and

- g) guidelines issued by the Office of the Australian Information Commissioner to date (FOI Guidelines).

REASONS FOR DECISION

5. The FOI Officer notified you on 1 June 2016 of APRA's decision to refuse access, because the document is protected under section 38 of the FOI Act and section 56 of the APRA Act.

6. Paragraph 6 of the original FOI decision are reproduced below:

"I have taken the following approach in relation to the application of section 56 of the APRA Act and section 38 of the FOI Act:

- i. under section 38 of the FOI Act, a document is exempt if disclosure is prohibited under a provision of an enactment and section 38 expressly applies to that provision;
- ii. subsection 56(11) of the APRA Act expressly applies section 38 of the FOI Act so that any document that is a 'protected document' within the meaning of subsection 56(1) of the APRA Act is also an exempt document under section 38 of the FOI Act;
- iii. under section 56(2) of the APRA Act it is an offence to directly or indirectly disclose protected documents unless a specified exemption applies. This offence provision is binding on me as an APRA staff member. The offence is punishable by up to two years imprisonment;
- iv. a 'protected document' is defined in section 56(1) of the APRA Act to include documents given or produced under or for the purposes of a prudential regulation framework law, and containing information relating to the affairs of a financial sector entity. The *Life Insurance Act 1995* (Cth) (*Life Insurance Act*) and the APRA Act are prudential regulation framework laws. The document relates to CommInsure, which is a financial sector entity. The document was provided to APRA in accordance with its regulatory functions and powers under the Life Insurance Act and the APRA Act. Therefore, the document you requested is a protected document unless it is otherwise publicly available; and
- v. The document you requested is not otherwise publicly available."

7. You made the following statement in support of your internal review application:

"The original decision letter has not taken into account that I have requested that the names of any persons who have alleged to have contravened Section 156C of the Life Insurance Act 1995 can be redacted.

The circumstances of the victimisation of Dr Koh are already in the public domain and are therefore do not fall within the "secrecy provisions" that APRA is so ready to utilise."

Secrecy Provisions

8. I have considered your statement in detail. Certain circumstances surrounding Dr Koh's whistleblowing complaint are certainly in the public domain. Indeed, the fact

that Dr Koh contacted APRA to request that APRA explore prosecution of certain employees of the Commonwealth Bank is publicly known. However, the detailed content of the document is not something that is in the public domain. The document relates to the affairs of the financial sector entity and was provided to APRA in accordance with its regulatory functions and powers under the Life Insurance Act and the APRA Act. Redacting the names of any persons alleged to have contravened section 156C of the Life Insurance Act would not affect this. Therefore I find that it is an exempt document under section 39 of the FOI Act and section 56 of the APRA Act.

Personal Privacy

9. I have also considered the application of the conditional exemption provided by section 47F of the FOI Act for personal privacy. Section 47F(1) of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.
10. Personal information includes information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can be reasonably ascertained from the information or opinion (s 4(1)). The identity of any individuals to whom the information relates would be readily apparent from the document or readily ascertainable notwithstanding any redactions in the context and circumstances.
11. The disclosure of the document would be unreasonable for the following reasons:
 - i. the document is not readily available from publicly accessible sources;
 - ii. the nature of the information, that is, that disclosure may result in serious consequences;
 - iii. the document was provided to APRA in accordance with its regulatory functions and powers;
 - iv. a disclosure of the information would be of no demonstrable relevance to the affairs of government and is likely to do no more than excite or satisfy the curiosity of people about the individual whose personal information would be disclosed; and
 - v. given the position Dr Koh is in, the release of his legal correspondence with regulators would cause additional stress which amounts to an unreasonable release.
12. In light of the above I consider that a conditional exemption applies in respect of the document. Under section 11A(5) of the FOI Act, access to a conditionally exempt document must be provided unless it would be contrary to the public interest.
13. Section 11B(3) sets out four factors favouring access which must be considered if relevant. They are that disclosure would promote the objects of the Act, inform debate on a matter of public importance, promote effective oversight of public expenditure, or allow a person to access their personal information. I do not consider disclosure of the document necessary to promote the objects of the FOI Act. I do not consider the other factors to be relevant.
14. The disclosure of the information is contrary to the public interest because:

- i. disclosure could reasonably be expected to impede the flow of information to APRA, as Dr Koh is opposed to the release of the information;
 - ii. the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information.
-
15. Therefore I consider that disclosure of the document in the circumstances would, on balance, be contrary to the public interest (s 11A(5)).
16. Accordingly, I have decided to uphold the original FOI decision to refuse access to the document, according to section 56 of the APRA Act and section 38 of the FOI Act, as well as section 47F of the FOI Act.

ADVICE TO APPLICANT AS TO RIGHTS OF REVIEW

Application for review by Information Commissioner

- h) Pursuant to section 54L of the FOI Act, you have the right to apply to the Information Commissioner for a review of the original decision or a review of a decision made on review.
- i) Any application must be in writing and must give details of an address where notices may be sent and include a copy of the original decision or the decision made on internal review.
- j) An application for review by the Information Commissioner should be sent:
 - Online: www.oaic.gov.au
 - Post: GPO Box 2999, Canberra ACT 2601
 - Fax: +61 2 9284 9666
 - Email: enquiries@oaic.gov.au
 - In person:
Level 3, 25 National Circuit
Forrest, ACT, or at
Level 8, Piccadilly Tower, 133 Castlereagh Street,
Sydney, NSW

Application for review by Administrative Appeals Tribunal

- k) If the decision on review by the Information Commissioner is not to grant access to all of the documents within your request, you would be entitled to seek review of that decision by the AAT.
- l) The AAT is an independent review body with the power to make a fresh decision. An application to the AAT for a review of an FOI decision does not attract a fee. The AAT cannot award costs either in your favour or against you, although it may in some circumstances recommend payment by the Attorney-General of some or all of your costs. Further information is available from the AAT on 1300 366 700.

Complaints to the Information Commissioner

- m) You may complain to the Commissioner concerning action taken by this agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Commissioner will conduct an independent investigation of your complaint.
- n) You may complain to the Commissioner either orally or in writing, by any of the methods outlined above, or by telephone, on 1300 363 992.



David Sullivan
FOI Officer

Australian Prudential Regulation Authority

Date: *30 June 2016*

FREEDOM OF INFORMATION ACT 1982

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.

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).

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.

AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY ACT 1998

56 Secrecy—general obligations

- (1) In this section:

body regulated by APRA includes a body that has at any time been a body regulated by APRA.

court includes a tribunal, authority or person having the power to require the production of documents or the answering of questions.

financial sector entity has the same meaning as in the *Financial Sector (Collection of Data) Act 2001*.

officer means:

- (a) an APRA member; or
- (b) an APRA staff member; or
- (c) any other person who, because of his or her employment, or in the course of that employment:
 - (i) has acquired protected information; or
 - (ii) has had access to protected documents;other than an employee of the body to which the information or document relates.

personal information has the same meaning as in the *Privacy Act 1988*.

produce includes permit access to.

protected document means a document given or produced (whether before or after the commencement of this section) under, or for the purposes of, a prudential regulation framework law and containing information relating to the affairs of:

- (a) a financial sector entity; or
- (b) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the *Corporations Act 2001*) to a body regulated by APRA or to a registered entity; or
- (c) a person who has been, is, or proposes to be, a customer of a body regulated by APRA or of a registered entity;; or

- (ca) a person in relation to whom information is, or was, required to be given under a reporting standard made in accordance with subsection 13(4A) of the *Financial Sector (Collection of Data) Act 2001*;

other than:

- (d) a document containing information that has already been lawfully made available to the public from other sources; or
- (e) a document given or produced under, or for the purposes of, a provision of the *Superannuation Industry (Supervision) Act 1993*:
 - (i) administered by the Commissioner of Taxation; or
 - (ii) being applied for the purposes of the administration of a provision administered by the Commissioner of Taxation.

It also includes a document that is given to APRA under Part 7.5A of the *Corporations Act 2001*, other than a document containing information that has already been lawfully made available to the public from other sources.

protected information means information disclosed or obtained (whether before or after the commencement of this section) under, or for the purposes of, a prudential regulation framework law and relating to the affairs of:

- (a) a financial sector entity; or
- (b) a body corporate (including a body corporate that has ceased to exist) that has at any time been, or is, related (within the meaning of the *Corporations Act 2001*) to a body regulated by APRA or to a registered entity; or
- (c) a person who has been, is, or proposes to be, a customer of a body regulated by APRA or of a registered entity;; or
- (ca) a person in relation to whom information is, or was, required to be given under a reporting standard made in accordance with subsection 13(4A) of the *Financial Sector (Collection of Data) Act 2001*;

other than:

- (d) information that has already been lawfully made available to the public from other sources; or
- (e) information given or produced under, or for the purposes of, a provision of the *Superannuation Industry (Supervision) Act 1993*:
 - (i) administered by the Commissioner of Taxation; or
 - (ii) being applied for the purposes of the administration of a provision administered by the Commissioner of Taxation.

It also includes information that is given to APRA under Part 7.5A of the *Corporations Act 2001*, other than information that has already been lawfully made available to the public from other sources.

registered entity means a corporation that is, or has at any time been, a registered entity within the meaning of the *Financial Sector (Collection of Data) Act 2001*.

- (2) A person who is or has been an officer is guilty of an offence if:
 - (a) the person directly or indirectly:
 - (i) discloses information acquired in the course of his or her duties as an officer to any person or to a court; or
 - (ii) produces a document to any person or to a court; and
 - (b) the information is protected information, or the document is a protected document; and
 - (c) the disclosure or production is not in accordance with subsection (3), (4), (5), (5AA), (5A), (5B), (5C), (6), (7), (7A), (7B) or (7C).

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (3) It is not an offence if the disclosure of protected information or the production of a protected document by a person is for the purposes of a prudential regulation framework law.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) It is not an offence if the disclosure of protected information or the production of a protected document by a person:
- (a) is by an employee of the person to whose affairs the information or document relates; or
 - (b) occurs after the person to whose affairs the information or document relates has agreed in writing to the disclosure or production.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) It is not an offence if the disclosure of protected information or the production of a protected document by a person:
- (a) occurs when the person is satisfied that the disclosure of the information, or the production of the document, will assist a financial sector supervisory agency, or any other agency (including foreign agencies) specified in the regulations, to perform its functions or exercise its powers and the disclosure or production is to that agency; or
 - (b) is to another person and is approved by APRA by instrument in writing.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

- (5AA) It is not an offence if the disclosure of protected information or the production of a protected document is made:
- (a) by an officer of an agency to which the information or document has been disclosed or produced under paragraph (5)(a); and
 - (b) for the same purpose as the information or document was so disclosed or produced to that agency.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5AA) (see subsection 13.3(3) of the *Criminal Code*).

- (5A) It is not an offence if the production by a person of a document that was given to APRA under section 9 or 13 of the *Financial Sector (Collection of Data) Act 2001* is to the Australian Statistician for the purposes of the *Census and Statistics Act 1905*.

Note: A defendant bears an evidential burden in relation to matters in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

- (5B) It is not an offence if the production by a person of a document that was given to APRA under section 9 or 13 of the *Financial Sector (Collection of Data) Act 2001* is to:
- (a) the Reserve Bank of Australia; or
 - (b) another prescribed authority.

Note: A defendant bears an evidential burden in relation to matters in subsection (5B) (see subsection 13.3(3) of the *Criminal Code*).

- (5C) If:
- (a) a document is a reporting document given to APRA under section 13 of the *Financial Sector (Collection of Data) Act 2001*; and
 - (b) either:
 - (i) a determination has been made under section 57 that the document does not, or documents of that kind do not, contain confidential information; or

- (ii) a determination has been made under section 57 that a specified part of the document, or of documents of that kind, does not contain confidential information;

it is not an offence to disclose the document or that part of the document, or any information contained in the document or that part of the document, to any person (including by making the document, the part of the document or the information available on APRA's website).

- (6) It is not an offence if the disclosure of protected information or the production of a protected document is to:

- (a) an APRA member; or
- (b) an APRA staff member;

for the purposes of the performance of APRA's functions, or the exercise of APRA's powers, under a law of the Commonwealth or of a State or a Territory.

Note: A defendant bears an evidential burden in relation to the matters in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

- (6A) It is not an offence if the disclosure of protected information or the production of a protected document is to:

- (a) an auditor who has provided, or is providing, professional services to a general insurer, authorised NOHC or a subsidiary of a general insurer or authorised NOHC; or

- (b) an actuary who has provided, or is providing, professional services to a general insurer, authorised NOHC or a subsidiary of a general insurer or authorised NOHC;

and the disclosure is for the purposes of the performance of APRA's functions, or the exercise of APRA's powers, under a law of the Commonwealth or of a State or Territory.

- (7) It is not an offence if the information, or the information contained in the document, as the case may be, is in the form of a summary or collection of information that is prepared so that information relating to any particular person cannot be found out from it.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7) (see subsection 13.3(3) of the *Criminal Code*).

- (7A) It is not an offence if the information, or the information contained in the document, as the case may be, is all or any of the following:

- (a) the names of bodies that are regulated by APRA;
- (b) the addresses at which bodies referred to in paragraph (a) conduct business;
- (c) any other information that is reasonably necessary to enable members of the public to contact persons who perform functions in relation to bodies referred to in paragraph (a).

Note: A defendant bears an evidential burden in relation to the matters in subsection (7A) (see subsection 13.3(3) of the *Criminal Code*).

- (7B) It is not an offence if the information, or the information contained in the document, as the case may be, is:

- (a) a statement of APRA's opinion as to whether or not a body regulated by APRA is complying, or was complying at a particular time, with a particular provision of a prudential regulation framework law; or
- (b) a description of:
 - (i) court proceedings in relation to a breach or suspected breach by a person of a provision of a prudential regulation framework law; or
 - (ii) activity engaged in, or proposed to be engaged in, by APRA in relation to such a breach or suspected breach; or
- (c) a description of action under a prudential regulation framework law that APRA has taken or is proposing to take in relation to:

- (i) a body regulated by APRA; or
- (ii) an individual who holds or has held a position with or in relation to such a body.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7B) (see subsection 13.3(3) of the *Criminal Code*).

- (7C) If information referred to in subsection (7A) or paragraph (7B)(a) that relates to a body that is, or has at any time been, regulated by APRA under the *Superannuation Industry (Supervision) Act 1993* is disclosed to the Registrar of the Australian Business Register established under section 24 of the *A New Tax System (Australian Business Number) Act 1999*, the Registrar may enter the information in that Register.

Note: A defendant bears an evidential burden in relation to the matters in subsection (7C) (see subsection 13.3(3) of the *Criminal Code*).

- (8) A person who is, or has been, an officer cannot be required to disclose to a court any protected information, or to produce in a court a protected document, except when it is necessary to do so for the purposes of a prudential regulation framework law.
- (9) If a person discloses information or produces a document under this section to another person, the first person may, at the time of the disclosure, impose conditions to be complied with in relation to the information disclosed or the document produced.
- (10) A person is guilty of an offence if the person fails to comply with a condition imposed under subsection (9).

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (11) A document that:

- (a) is a protected document; or
- (b) contains protected information;

is an exempt document for the purposes of section 38 of the *Freedom of Information Act 1982*.

Note: For additional rules about personal information, see the *Privacy Act 1988*.

- (12) A disclosure of personal information is taken to be authorised by this Act for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6 if:

- (a) the information is protected information and the disclosure is made in accordance with any of subsections (4), (5), (5AA), (6), (7A), (7B) and (7C); or
- (b) the information is contained in a protected document and the disclosure is made by the production of the document in accordance with any of those subsections.