



Statement of reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Position Number 62210022

Applicant: Verity Pane
Decision date: 13 September 2018
FOI reference number: FOI 23543

Dear Mr Harris

Freedom of Information Request: FOI 23543

1. I have made a decision to release the documents relevant to your request in part.

Summary

2. I, Position Number 62210022, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).
3. On 16 July 2018, you made a request for access to documents in the possession of the Department. Your request sought access to:

"...I seek under FOI copy of the client satisfaction survey (<https://www.dva.gov.au/consultation-and-grants/client-satisfaction-survey>) sample selection methodology (a survey it is claimed is carried out biannually).

According to DVA's website the sample is allegedly chosen 'randomly', but previous media reporting (<https://www.news.com.au/national/calls-for-royal-commission-into-department-of-veterans-affairs-after-client-survey-overlooks-the-young/news-story/aea46ea1cdfabad6c437899a4c3e001d>) and previous ANAO commentary affirms is overly weighed towards veterans over 85 years old and war widows, who will have little or no contact with DVA's liability and compensation areas, and will generally have little regular contact with the Department (their exposure mostly through using their DVA Gold Cards at external medical services).

As the survey, as a human research activity, would have had to have been properly formulated and cleared for use, a formal sample selection methodology as to how selection for the survey is determined must exist.

Also, I would seek any documentation recording or explaining as to why the survey is only carried out via the telephone via CATI (Computer-Assisted Telephone Interviewing) compared to online collection, using Survey Monkey or the other like platform (especially given the cost benefits).

As only a very small number of documents could possibly fall within this specific scope, assessment time would be minimal. The names of private individuals (which is not public servants performing their duties) and external commercial organisations may be redacted from the copy to be provided, should you wish to voluntarily devote time to that.

I seek this information to engage, with the necessary background information, in the public debate as to the reliability and suitability of the sample selection methodology DVA uses, given how it purports what those statistics represent (sample frame error seems to be significant problem based on current data, given sample is overly weighted to those with only peripheral engagement with DVA, and no engagement with DVA's liability and compensation functions for many years)..."

4. The timeframe for processing your request was extended by 30 days in accordance with section 15(6) of the FOI Act. As such, a decision on your request is due by 14 September 2018.
5. I have decided not to impose a charge in relation to this request, in accordance with regulation 3(1) of the *Freedom of Information (Charges) Regulations 1982*.
6. The Department has undertaken a reasonable search of its records and has identified two (2) documents relevant to your request, as set out above. The documents relevant to your request are listed at Schedule 1.

Decision

7. I have made a decision to release the documents relevant to your request in part. The documents that I have chosen to grant access in part are set out in Schedule 1, together with applicable FOI Act provisions. Where I have decided to grant access in part, I have provided access to an edited copy of documents, modified by deletions in accordance with section 22(2) of the FOI Act.
8. During the processing of your request we consulted a third party potentially affected by the release of the documents. As previously advised to you, this third party was Orima Research Pty Ltd. That third party has not objected to the information being released, noting redactions have been made under section 22(1) of the FOI Act to remove irrelevant material. As the third party has made no objections to the remaining content being released, in accordance with section 27(8) of the FOI Act, I am able to release the documents to you with this decision. During the above consultation process, the contact wanted to note that Orima Research Pty Ltd did not end up undertaking the focus groups as mentioned at page 10 of Document 2. Instead, it conducted an internal stakeholder workshop for reviewing the questionnaire, as detailed at page 11 of Document 2.

Material taken into account

9. In accordance with section 26(1)(a) of the FOI Act, my findings on any material question of fact, the material on which those findings were based and the reasons for my decision to grant partial access to the documents follows.
10. I have taken the following material into account in making my decision:
 - the terms of the request;
 - the types of documents that are in the Department's possession;
 - the content of the documents that fall within the scope of your request;

- Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth. I also considered section 22 of the FOI Act (Access to edited copies with exempt or irrelevant material deleted);
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines); and
- the views of a third party consulted by the Department under section 27 of the FOI Act.

11. A full extract of all FOI Act provisions used to make my decision are provided in Schedule 2.

Reasons for Decision

12. I have decided to grant access to documents within the scope of your request, subject to the following provision in accordance with the FOI Act:

Access to edited copies with exempt or irrelevant matter deleted (section 22)

13. Section 22 of the FOI Act provides that if an agency decides to refuse access to an exempt document, or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access, and it is possible and reasonably practical for the agency to prepare an edited copy of the document modified by deletions, and it is not apparent that the applicant would decline access to the edited copy; then the agency can provide an edited copy of a document. Where an edited copy of a document is provided, the agency must give the applicant notice in writing.
14. Both documents 1 and 2 contain information that is irrelevant to your request and as such, this material has been removed in accordance with section 22(2) of the FOI Act. The information that has been removed in these two documents does not relate to the sample survey methodology.
15. Exemptions have been applied to all 27 documents listed at Schedule 1, and edited copies of these documents are provided to you in accordance with s 22(2) of the FOI Act, so as to not disclose material considered to be exempt under the FOI Act.

Access to documents

16. The documents released to you in accordance with the FOI Act are enclosed.

Information Publication Scheme

17. The Information Publication Scheme requires the Department to publish information released in response to individual requests made under the FOI Act, except in specified circumstances. As such details of your request will be published by the Department on its disclosure log, which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>.

Your rights of review

18. If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal Review

19. Under section 54 of the FOI Act, you may apply in writing to the Department 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 the decision is necessary. The internal review will be carried out by another officer within 30 days.
20. You can make your application for internal review in one of the following ways:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

Information Commissioner Review

21. Under section 54L of the FOI Act, you may apply to the Office of 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:
22. You can make your application for Information Commissioner review in one of the following ways:

Online: www.oaic.gov.au
Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney NSW.

23. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

24. If you wish to discuss this decision, please do not hesitate to contact me using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Email: information.access@dva.gov.au

Yours Sincerely,

Position number 62210022
Authorised officer

13 September 2018



Schedule of documents

Applicant: Verity Pane

Decision date: 13 September 2018

FOI reference number: FOI 23543

Doc ref	Date of document	Document description	Pages	Decision	Exemption provision
1	13 June 2018	Third Party Document – Word Order – Orima Research Pty Ltd	12	Partial Release	s 22
2	3 May 2018	Orima Research Pty Ltd Proposal	42	Partial Release	s 22



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

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

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
 - (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

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

Access to edited copy

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

Notice to applicant

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

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
 - (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

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

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
- (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii); including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the Administrative Decisions (Judicial Review) Act 1977 does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.
(see section 11A).