



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

Decision and reason for decision of Position Number 62212962, Information Law Section,  
Legal Services and General Counsel Branch, Department of Veterans' Affairs

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Applicant: Verity Pane

Decision date: 11 October 2018

FOI reference number: FOI 24429

Dear Verity Pane,

### Freedom of Information Request: FOI 24429

1. I have made a decision to refuse access to one (1) document relevant to your request and to release three (3) documents relevant to your request in part.

### Summary

2. I, Position Number 62212962, Legal Officer, Information Law Section, am an officer authorised by the Secretary of the Department of Veterans' Affairs (**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* (**FOI Act**).
3. On 11 September 2018, you made a request for access to documents in the possession of the Department. Your request sought access to:

*"...Under FOI I seek copy of all Departmental emails and any other records in TRIM or on the Information Law and/or Legal Services G: drive that relate to scoping study calculations for DVA FOI 23544 & DVA FOI 23863 & DVA FOI 21147, including communications about collecting and sampling records related to DVA FOI 23544 & DVA FOI 23863 & DVA FOI 21147.*

*While the names of DVA officers performing their official duties in the course of their employment is not personal information, nor operational sensitive, and therefore consent is not given to redact such information, the email addresses and telephone numbers may be redacted with consent.*

*I note that each FOI applied to a discrete period and would have involved only the relevant delegate and one or two other Departmental staff in the normal course of events, therefore the scope is limited and would cover only a small number of documents...”*

4. As no extensions of time have been applied to process your request, a decision on your request is due by 11 October 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 four (4) 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 three (3) of 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 exemption provisions. Where I have decided to grant access in part, I have provided access to an edited copy of the documents, modified by deletions in accordance with section 22(2) of the FOI Act.
8. I have also made a decision to refuse one (1) document relevant to your request. The document that I have chosen to refuse access to is set out in Schedule 1, together with applicable exemption provisions.

## **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 your request dated 11 September 2018;
  - the types of documents that are in the possession of the Department;
  - 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 the following provisions of the FOI Act relevant to my decision:

- Section 11B Public interest exemption – factors
- Section 15 Request for Access
- Section 22 Access to edited copies with exempt or irrelevant material deleted
- Section 47E Public interest conditional exemptions – certain operations of the agency;
- Section 47F Public interest conditional exemptions – personal privacy;
- Section 47G Public interest conditional exemptions – business; and

- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

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 exemptions in accordance with the FOI Act:

#### ***Public interest conditional exemptions--certain operations of agencies (section 47E)***

13. I have found material in documents 1-4 to contain information that if released, could have a substantial adverse effect on the proper and efficient conduct of the Department.
14. 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. Where the document contains information exempt under section 47E(d), an edited copy has been prepared (pursuant to section 22 of the FOI Act) with these details redacted.
15. Because of the way the Department constructs the email addresses of individual officers, I have decided to redact the surnames of non-Senior-Executive Departmental staff within direct email addresses and email signature blocks to give effect to this conditional exemption. I have also decided to redact the direct contact details, and specific seating location of those staff.
16. The Department's role is to provide support and information to veterans and their dependents, Australian Defence Force personnel and other categories of people. The services and support which the Department provides include pensions and compensation, health care, rehabilitation and counselling services, amongst other things.
17. It is important that the Department is able to continue to provide these services and to carry out the other legislative functions and administrative and operational processes required of them. Certain processes and specific channels of communication have been implemented which enable clients and

other relevant stakeholders to contact the Department in a way that ensures all Departmental resources are managed as efficiently as possible.

18. Release of the surnames and direct contact details of those staff in the circumstances would adversely affect the Department as the established lines of communication could then be bypassed. It is reasonable to expect that this would disrupt and adversely affect the operations of the Department.
19. Accordingly, I have decided that the parts of the documents which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5) of the FOI Act.

*Application of the public interest test*

20. Section 11A(5) of the FOI Act provides that an agency 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 would, on balance, be contrary to the public interest.
21. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
  - (a) disclosure would promote the objects of the FOI Act; and
  - (b) disclosure would allow a person to access his or her personal information.
22. I also considered the following factors which do not favour disclosure:
  - (a) 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;
  - (b) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy;
  - (c) disclosure could reasonably be expected to prejudice the management function of an agency; and
  - (d) disclosure could reasonably be expected to harm the interests of an individual or group of individuals.
23. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

24. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

***Public interest conditional exemptions--personal privacy (section 47F)***

25. Section 47F 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 (including a deceased person).
26. Parts of documents 1-4 contain personal information of Departmental staff and the Department's clients including details of their personal affairs and names. This information satisfies the definition of personal information in section 4 of the FOI Act.
27. In accordance with section 47F(2) of the FOI Act, in determining whether the disclosure of this information would involve the unreasonable disclosure of personal information, I considered the following factors:
- (a) the extent to which the information is well known;
  - (b) whether the person to whom the information relates to is known to be (or to have been) associated with the matters dealt with in the documents; and
  - (c) the availability of the information from publicly available sources.
28. Accordingly, I have decided that parts of documents 1-4 which are listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5) of the FOI Act.

***Application of the public interest test:***

29. Section 11A(5) of the FOI Act provides that an agency 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 would, on balance, be contrary to the public interest.
30. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
- (a) disclosure would promote the objects of the FOI Act, including:
    - (i) inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the

Government in its dealings with members of the community;

- (ii) reveal the reason for a government decision and any background or contextual information that informed the decision; and
- (iii) enhance the scrutiny of government decision making.

(b) disclosure would inform debate on a matter of public importance; and

(c) disclosure would allow a person to access his or her personal information.

31. I also considered the following factors which do not favour disclosure:

- (a) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy; and
- (b) disclosure could reasonably be expected to harm the interests of an individual or group of individuals.

32. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

33. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

***Public interest conditional exemptions—business (section 47G)***

34. Section 47G of the FOI Act provides that 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.

35. Parts of document 4 contains business information of third parties including certain commercial arrangements between the Department and various organisations. Therefore, this information is within the meaning of section 47G(1) of the FOI Act.
36. I am satisfied the disclosure of the business information could reasonably be expected to have an unreasonable adverse effect on the business interests of the relevant organisations for the following reasons:
- (a) it relates to aspects of a number of organisations' business affairs;
  - (b) the information is not currently available from public sources;
  - (c) disclosure of the business information would be a disclosure of a business' capabilities and methods and could diminish the competitive nature of the business and affect the profitability of their business operations.
37. Accordingly, I have decided that the parts of document 4 which is listed as exempt in accordance with this provision in Schedule 1, meet the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5) of the FOI Act.

*Application of the public interest test:*

38. Section 11A(5) of the FOI Act provides that an agency 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 would, on balance, be contrary to the public interest.
39. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:
- (a) disclosure would promote the objects of the FOI Act; and
  - (b) disclosure would promote effective oversight of public expenditure.
40. I also considered the following factors which do not favour disclosure:
- (a) disclosure 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.
41. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

42. On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

### **Additional information**

43. I note that that document 4 contains information directly relevant to your FOI request (FOI 23544), in which you have sought internal review of the Department's charges decision. Information contained within this document is to be used to extract data and create a document in accordance with section 17 of the FOI Act in response to FOI 23544. As such, the document in its current form contains exempt material.
44. I have decided to refuse access to this document in full, as the amount of redactions that would need to be applied to the document (exemptions outlined in Schedule 1), would render the document meaningless to you.
45. Information within the documents that have been created after the date of this FOI request (11 September 2018), have been redacted in accordance with section 22 of the FOI Act. The FOI Act provides for a right to access documents held by the Department at the date of receipt of your request.

### **Access to documents**

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

### **Information Publication Scheme**

47. In accordance with section 11C(1)(a) of the FOI Act, the documents issued to you will not be made available in the disclosure log as it relates to your personal information and it would be unreasonable to publish this information.

### **Your rights of review**

48. 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**

49. 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.
50. 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.law@dva.gov.au](mailto:information.law@dva.gov.au)

### Information Commissioner review

51. Under section 54L of the FOI Act, you may apply to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the OAIC must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

**Online:** [www.oaic.gov.au](http://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](mailto:enquiries@oaic.gov.au)  
**In person:** Level 3, 175 Pitt Street, Sydney NSW.

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

### Contact us

53. 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.law@dva.gov.au](mailto:information.law@dva.gov.au)

Yours Sincerely,

### Position Number 62212962

Legal Officer

Information Law Section | Legal Services & General Counsel Branch

Legal Assurance and Governance Division

11 October 2018



## Schedule of documents

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**Applicant:** Verity Pane

**Decision date:** 11 October 2018

**FOI reference number:** FOI 24429

Doc ref	Date of document	Document description	Pages	Decision	FOI Act exemption provision
1	Various	FOI 21147 documents	1-9	Release in part	Section 47E(d)
2	Various	FOI 23544 documents	10-47	Release in part	Section 47E(d)
3	Various	FOI 23863 documents	48-83	Release in part	Section 47E(d)
4	No date	Exempt document	84-153	Exempt in full	Section 47E(d) Section 47F Section 47G



## Schedule of relevant provisions in the FOI Act

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### 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).

**15 Requests for access (as related to the requirements for requests)**

*Persons may request access*

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

*Requirements for request*

- (2) The request must:
- (a) be in writing; and
  - (aa) state that the request is an application for the purposes of this Act; and
  - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
  - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
- (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
  - (b) postage by pre-paid post to an address mentioned in paragraph (a);
  - (c) sending by electronic communication to an electronic address specified by the agency or Minister.

**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).

## Public interest conditional exemptions

### 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).

### 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).

#### **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).