



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

Decision and reason for decision of Julie (Position Number 62212962), Information Law Section, Legal Services and Assurance Branch, Department of Veterans' Affairs

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**Applicant:** Julie

**Decision date:** 14 December 2018

**FOI reference number:** FOI 25436

**Sent by email:** [foi+request-4941-629aa1bc@righttoknow.org.au](mailto:foi+request-4941-629aa1bc@righttoknow.org.au)

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Dear Julie

### Freedom of Information Request: FOI 25436

1. I have made a decision to release 42 documents relevant to your request. I have decided to:
  - **grant full access** to 19 documents; and
  - **grant part access** to 23 documents.

### Authority to make this decision

2. I, Julie (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**).

### Summary

3. On 7 November 2018, you made a request, under the FOI Act, for access to documents in the Department's possession. Your request was made in the following terms:

*Under FOI, I seek copy of any formal document (up to a maximum of 20 documents) that is used as a reference manual or training resource for Departmental staff, for Electronic Document and Record Management (EDRMS) functions.*

*The Department of Veterans' Affairs uses Hewlett-Packard Enterprise Content Manager version 9.1 (HPE CM9.1) as its Electronic Document and Records Management System (EDRMS). HPE Content Manager is what used to be HPE Records Manager (version 8.1) (and then TRIM before that).*

*I exclude from the scope of this FOI any draft documents, or any records that merely refer to Content Manager or Electronic Document and Record Management, but do not teach or inform Departmental staff how to do something in Content Manager.*

*Also I seek copy of the ICT Conditions of Use policy that the Department gives to all staff as part of their new employee induction.*

4. On 21 November 2018, the department informally consulted with you via email requesting for clarification about the documents you were seeking access to.
5. As the Department did not receive a response from you, on 26 November 2018, the Department wrote to you providing a notice of intention to refuse your request under section 24AB(2) of the FOI Act as we could not identify some of the documents you were seeking access to, and to the extent that some documents could be identified, processing your request would substantially and unreasonably divert the Department's resources from its other operations. We gave you an opportunity to consult with the department to revise your request so as to remove the practical refusal reasons.
6. On 27 November 2018, you clarified your request in the following terms:

*For Julie from the DVA's Information Law area,*

*I am currently in New Zealand on a holiday with my family, and missed your earlier correspondence providing only two days to give a response.*

*If only your Department was so prompt! Then I wouldn't have had five deemed decisions from your Department (including a breach of an OAI extension), some now months old with no update from the Department of Veterans' Affairs*

*Given your Department's long history of creating intentional delays and artificial barriers for access for FOI, this bizarre practical refusal consultation has much more to do with extending the due date for this FOI by a further 14 days, than engaging in any practical assistance.*

*You claim this FOI gives rise it gives rise to two practical refusal reasons:*

- > You claim the request does not provide such information as is*
- > reasonably necessary to enable the Department to identify the*

*> documents you are requesting (section 24AA(1)(a)(i) of the FOI Act);*

*> But then go on to contradict this stating that 'documents can be identified' but 'is likely to result in a substantial and unreasonable diversion of the Department's resources from its other operations (section 24AA(1)(b) of the FOI Act)'*

*Either documents can be identified or they cannot - they cannot be both at the same time.*

*The scope of the FOI is quite clear, as you restate it:*

*Under FOI, I seek copy of any formal document (up to a maximum of 20 documents) that is used as a reference manual or training resource for Departmental staff, for Electronic Document and Record Management (EDRMS) functions.*

*The Department of Veterans' Affairs uses Hewlett-Packard Enterprise Content Manager version 9.1 (HPE CM9.1) as its Electronic Document and Records Management System (EDRMS). HPE Content Manager is what used to be HPE Records Manager (version 8.1) (and then TRIM before that).*

*I exclude from the scope of this FOI any draft documents, or any records that merely refer to Content Manager or Electronic Document and Record Management, but do not teach or inform Departmental staff how to do something in Content Manager.*

*Also I seek copy of the ICT Conditions of Use policy that the Department gives to all staff as part of their new employee induction.*

*You correctly surmised earlier that the current reference manual or training documents or equivalent documents for Departmental staff to use/understand HPE CM9.1 (but don't forget the ICT Conditions of Use policy too), so you now claiming ignorance and lack of understanding is rather ridiculous.*

*I also find your other claim of substantial and unreasonable diversion of the Department's resources to be equally ridiculous- to achieve this the Department would have to take 40 hours or more to process the FOI.*

*How providing copy of existing reference documents like current reference manual or training documents or equivalent documents for Departmental staff to use/understand HPE CM9.1 (and the ICT Conditions of Use policy) could possible take 40 hours is something you don't explain, and logically the provision of an existing and current set of reference documents of this nature could not reasonably exceed a couple of hours.*

*Yet again it is apparent the Department is acting in bad faith, although I do appreciate that this FOI has avoided yet another non-response deemed decision from this Department, as*

*seriously 5 deemed decisions from this agency is just atrocious (as is the repeated prolonged intentional delays and just sheer unethical bloody mindedness of Veterans' Affairs).*

7. As it was unclear what was clarification of your request and what was commentary, I requested further clarification from you. On 6 December 2018, you confirmed your clarified scope via email. Your clarified scope was made in the following terms:

*current reference manual or training documents or equivalent documents for Departmental staff to use/understand HPE CM9.1  
ICT Conditions of Use policy*

8. As no extensions of time have been applied to process your request, a decision on your request is due by 17 December 2018.
9. 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*.
10. The Department has undertaken a reasonable search of its records and has identified 42 documents relevant to your request, as set out above. The documents relevant to your request are listed at **Schedule 1**.

## Decision

11. I have made a decision to release 42 documents relevant to your request. Details of these documents are set out in **Schedule 1**, together with applicable exemption provisions.

## Material taken into account

12. 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 part access to the documents follow.
13. I have taken the following material into account in making my decision:
- the terms of your request, dated 7 November 2018, and as clarified and confirmed on 27 November 2018 and 6 December 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 47E](#) Public interest conditional exemptions--certain operations of agencies
- [Section 47F](#) Public interest conditional exemptions--personal privacy

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

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

## **Reasons for decision**

15. I have decided to **grant access** to 23 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)***

16. Section 47E of the FOI Act provides that a document is conditionally exempt if its disclosure 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; and
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

17. I have decided that the parts of the document which is listed as exempt in accordance with this provision in **Schedule 1** contain information that if released, could have a substantial adverse effect on the proper and efficient conduct of the operations of the Department (section 47E(d) of the FOI Act).

18. I have redacted the internal positional mailboxes used by line areas within the Department and internal links to the Department's Sharepoint and intranet as release of the exempt material would pose a security risk to the Department's information and communications technology infrastructure.

19. The Department holds a vast amount of sensitive personal information about its clients and trust is placed in the Department to ensure this information is handled appropriately. Disclosing internal positional mailboxes and internal links may expose the Department to criminal activity and information being inappropriately accessed. Disclosure of the exempt information allows malicious actors to collect enough information of the Department's internal systems to craft a way around the security protocols.
20. Release of the above information would have a substantial adverse effect on the proper and efficient conduct of the operations of the Department because the Department's ICT Security section would have to focus on implementing additional security and take them away from conducting their other responsibilities.
21. 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 the document to give effect to this conditional exemption.
22. 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. 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.
23. Release of the surnames 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.
24. Accordingly, I have decided that the parts of 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:*

25. 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.
26. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factor which favour disclosure:

- (a) disclosure would promote the objects of the FOI Act, including enhance the scrutiny of government decision making.

27. 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; and
- (b) disclosure could reasonably be expected to harm the interests of an individual or group of individuals.

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

29. 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)***

30. 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).

31. Section 4 of the FOI Act provides that personal information has the same meaning as in the *Privacy Act 1988* (Privacy Act). Personal information is defined in section 6 of the Privacy Act as:

..information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not;
- (b) whether the information or opinion is recorded in a material form or not.

32. The elements of 'personal information' are:

- (a) it relates only to a natural person (not, for example, a company);
- (b) it says something about the individual;
- (c) it may be in the form of an opinion, it may be true or untrue, and it may form part of a database;

- (d) the individual's identity is known or is reasonably ascertainable using the information in the document.

33. If information is personal information, it will be conditionally exempt if disclosure would be 'unreasonable'. In considering whether disclosure would be unreasonable, section 47F(2) of the FOI Act requires me to take into account:

- (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; and
- (d) any other matter I consider relevant.

34. Further, the Guidelines state (at 6.127):

*The personal privacy exemption is designed to prevent the unreasonable invasion of third parties' privacy. The test of 'unreasonableness' implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.*

35. The term 'personal information' is defined in section 4(1) of the FOI Act (by way of reference to section 6(1) of the Privacy Act 1988), as follows:

*personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:*

*(a) whether the information or opinion is true or not; and*

*(b) whether the information or opinion is recorded in a material form or not.*

36. I have applied section 47F to material that contains the names of third parties and their personal information as outlined in **Schedule 1**.

37. Accordingly, I have decided that the parts of documents X 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) 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 factor which favour disclosure:
- (a) disclosure would promote the objects of the FOI Act.
40. 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.
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.

### **Access to documents**

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

### **Information Publication Scheme**

44. 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. I am of the view that details of your request should be made available on the Department's disclosure log. 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**

45. If you are dissatisfied with my decision, you may apply for internal review or request the **OAIC** review my 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**

46. 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.
47. You can make your application for internal review in one of the following ways:

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

### **OAIC review**

48. Under section 54L of the FOI Act, you may apply to the OAIC to review my decision. An application for review by 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 2000

49. 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**

50. If you wish to discuss this decision, please do not hesitate to contact the Information Law Section using the following details:

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

Yours sincerely

**Julie (Position Number 62212962)**  
Legal Officer

14 December 2018



## Schedule of documents

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**Applicant:** Julie

**Decision date:** 14 December 2018

**FOI reference number:** FOI 25436

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	Undated	Document Titling Protocol for Policy & Administration Correspondence	1-6	Release in full	
2	January 2018	TRIM/Content Manager 9 (CM9) Document Titling Principles	7-8	Release in part	Section 47E
3	22/03/2016	Digital Transition Rehabilitation & Compensation "How To's" for HP TRIM	9-23	Release in part	Section 47E
4	March 2016	Department of Veterans' Affairs Records Management Policy	24-48	Release in part	Section 47E
5	Undated	Processing Digitised Mail in CM9	49-73	Release in part	Section 47E
6	25/10/2018	Processing Digitised Mail in CM9 for Mail Coordinators – Training Manual	74-112	Release in part	Section 47E, section 47F
7	October 2017	Help sheet No. 01	113	Release in full	
8	October 2017	Help sheet No. 02	114-115	Release in part	Section 47E
9	October 2017	Help sheet No. 03	116-118	Release in part	Section 47E
10	October 2017	Help sheet No. 04	119-120	Release in full	
11	October 2017	Help sheet No. 05	121-122	Release in part	Section 47E
12	October 2017	Help sheet No. 06	123-125	Release in part	Section 47E
13	October 2017	Help sheet No. B07	126-127	Release in full	
14	October 2017	Help sheet No. B08	128-130	Release in full	
15	October 2017	Help sheet No. 09	131-133	Release in full	
16	October 2017	Help sheet No. 10	134-136	Release in part	Section 47F
17	October 2017	Help sheet No. 11	137-138	Release in full	
18	October 2017	Help sheet No. 12	139-141	Release in full	

19	October 2017	Help sheet No. 13	142-143	Release in part	Section 47F
20	October 2017	Help sheet No. 14	144-146	Release in full	
21	October 2017	Help sheet No. 15	147-148	Release in full	
22	October 2017	Help sheet No. 15B	149-152	Release in full	
23	October 2017	Help sheet No. 15C	153-154	Release in full	
24	October 2017	Help sheet No. 16	155-157	Release in part	Section 47E
25	October 2017	Help sheet No. 17	158-159	Release in full	
26	October 2017	Help sheet No. 18	160	Release in full	
27	October 2017	Help sheet No. 19	161	Release in part	Section 47F
28	October 2017	Help sheet No. 20	162-163	Release in part	Section 47F
29	October 2017	Help sheet No. 21	164	Release in part	Section 47F
30	October 2017	Help sheet No. 22	165-166	Release in full	
31	October 2017	Help sheet No. 23	167-168	Release in part	Section 47F
32	October 2017	Help sheet No. B24	169-170	Release in part	Section 47E
33	October 2017	Help sheet No. B25	171-173	Release in part	Section 47F
34	October 2017	Help sheet No. B26	174-175	Release in part	Section 47F
35	October 2017	Help sheet	176-177	Release in part	Section 47F
36	October 2017	Help sheet No. 00	178-180	Release in part	Section 47E
37	August 2018	RIM Article No. 04	181-183	Release in full	
38	August 2018	RIM Article No. 05	184-185	Release in full	
39	August 2018	RIM Article No. 01	186	Release in part	Section 47F
40	August 2018	RIM Article No. 02	187-188	Release in part	Section 47F
41	August 2018	RIM Article No. 03	189-190	Release in full	
42	23/10/2017	Use of DVA Electronic Facilities Policy	191-200	Release in full	



## 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).

## **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.

## **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).