



Mr Thomas Harmathy  
Right to Know  
Via email: [foi+request-7126-f702de4f@righttoknow.org.au](mailto:foi+request-7126-f702de4f@righttoknow.org.au)

Dear Mr Harmathy

**Decision made under the Freedom of Information Act 1982 – Release in part**

I refer to your FOI request via the Right to Know website, on 3 March 2021, seeking access to:

*The initial classification for the video game “We Happy Few”.*

You request also sought access to:

*The final reports of the amended decision to “make the game R18+”.*

**Documents subject to this request**

The Classification Board have undertaken a search of its records and identified one (1) document that falls within the scope of your request.

1. *Decision Report – We Happy Few – 21 May 2018*

Please note that the subsequent decision to rate the game, We Happy Few as R18+ is publicly available. This report can be found at: <https://www.classification.gov.au/sites/default/files/2019-09/crb-decision-3july2018-we-happy-few.pdf>

**Decision**

I have decided to release the document relevant to your request in part. The document in issue contains minor redactions made under section 47F of the *Freedom of Information Act 1982* (the FOI Act) Act for privacy.

**Statement of reasons**

I have taken the following material into account in making my decision:

- the content of the document that falls within the scope of your request;
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act
- 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; and
- the following provisions of the FOI Act:
  - section 22
  - Section 47F

I have decided to grant partial access to the document within the scope of your request subject to the following exemption in accordance with the FOI Act:

**Section 47F (Personal Privacy)**

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).

The document marked as partially exempt under this provision contains personal information, including names of individuals responsible for classifying this particular title. This information is not in the public domain and I see no public purpose in disclosing it. I do not consider it appropriate to disclose personal information where it is not otherwise available. If this information were disclosed there is a reasonable expectation that these details could be subject to misuse, contrary to the wishes of the individuals.

Accordingly, I have decided that part of document is exempt in accordance with this provision and meets 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).

*Application of the public interest test:*

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.

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;
- (b) disclosure would inform debate on a matter of public importance;
- (c) disclosure would promote effective oversight of public expenditure; and
- (d) disclosure would allow a person to access his or her personal information.

I agree that disclosure would promote the objects of the FOI Act. I do not consider that disclosure of the personal information would inform debate on a matter of public importance, nor would it provide effective oversight of public expenditure. Further, the personal information does not relate to the applicant and therefore that public interest consideration is irrelevant in this circumstance.

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;
- (b) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future.

As set out in section 11B(4) of the FOI Act, 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 in confidence in the Commonwealth Government;
- (b) access to the document could result in any person misinterpreting or misunderstanding the document;
- (c) the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made; or
- (d) access to the document could result in confusion or unnecessary debate.

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

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.

### **Publication of information in the FOI disclosure log**

Section 11C of the FOI Act requires publication of released documents on the online FOI disclosure log, subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable. I have decided that the documents released to you under this matter will be published on the department of Infrastructure, Transport, Regional Development and Communications (the Department) FOI disclosure log.

### **Your rights of review**

You may apply directly to the Office of the Australian Information Commissioner (OAIC) to review this decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how your request has been handled. You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website [www.oaic.gov.au](http://www.oaic.gov.au) or phone the OAIC on 1300 363 992.

### **Contacts**

If you wish to discuss this matter, please contact the department's FOI Coordinator on (02) 6274 7393 or via email at [FOI@infrastructure.gov.au](mailto:FOI@infrastructure.gov.au).

Yours sincerely,



Sally Ryan  
Acting Director  
Classification Board  
22 March 2021