

Joshua

From: INFORMATION.ACCESS
Subject: LEX ##### - Information Access Request - Veterans name

Dear Mr/Ms

Thank you for agreeing to withdraw your FOI request (LEX #####) and moving your request to Administrative access under LEX #####.

The Department intends to finalise your request by **by Due date/ or as soon as possible**. We will be in touch if any further extension of time is required.

Kind regards

<insert signature block>



Decision and Statement of Reasons issued under the *Privacy Act 1988 (Cth)*

Decision and reason for decision of OFFICERNAME (Position Number *****),
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI/LEX reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

APP 12 – Personal Information Request: LEX XXX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has identified XX(x) document[s] relevant to your request.
2. I have made a decision to grant access to the document falling within the scope of your request, subject to redactions being made in accordance Australian Privacy Principle (APP) 12 of the *Privacy Act 1988 (Cth)* (Privacy Act).
3. The documents that I have decided to release are outlined in **Schedule 1**.

Authority to make decision

4. I, OFFICERNAME (Position Number *****), Information Access Officer, Information Access Unit, Client Access Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with APP12.

Commented ^{s 47E; s 4} Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented. Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg. Insurance companies, family

Commented ^{s 47E; s 4} The wording has to be alphabet (digit). ie. three (3) documents

Summary

5. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

'...[scope]...'

6. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
7. As no extensions of time/ an extension of time have/has been applied to process your request, a decision on your request is due by [date].

Material taken into account

8. My findings on any material question of fact, the material on which those findings were based and the reasons for my decision to grant access to the documents are below:
9. I have taken the following material into account in making my decision:
- the terms of your request [dated] and [as revised];
 - the types of information and documents that are in the Department's possession
 - the content of the documents that fall within the scope of your request
 - any relevant correspondence between yourself and the Department, and
 - APP 12 of the Privacy Act.
10. A full extract of APP 12 and other relevant provisions of the Privacy Act is provided at **Schedule 2**.

Australian Privacy Principle 12—redaction of personal information

11. Access requests made under APP 12 allows a person to request their own personal information, and any non-personal information or the personal information of third parties goes beyond the scope of your request.
12. Further, under APP12 an agency is not required to give access to personal information if it is not required or authorised to refuse access to that information by or under the *Freedom of*

Information Act 1982 (Cth) (FOI Act) or another Commonwealth Act that provides for access to documents.

13. As such, I have made a decision to redact the following information that I consider to be another person's personal information and where I consider the material would otherwise be exempt under sections 47F (personal privacy) and 47E (operations of an agency) [insert any other provisions relied upon] of the FOI Act:

- a. The surnames, signatures, position titles and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling;
- b. The surnames, signatures, position titles and direct contact details of serving members of the Australian Defence Force; and
- c. The signatures of third party individuals.
- d. [insert any other information that has been removed].

Access to documents

14. The documents released to you in accordance with the Privacy Act are enclosed.

How to make a complaint to the Department

15. Although there are no formal review rights under the Privacy Act, if you are dissatisfied with my decision, I encourage you to contact the Information Access unit to resolve any concerns you may have or to make a complaint about the decision.

16. You can contact the Information Access Unit, in one of the following ways:

Post: Information Access Unit
Department of Veterans' Affairs, GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

External complaint to the OAIC

17. If you are dissatisfied with the Department's decision or handling of your request, you also have a right to submit a complaint to the Office of the Australian Information Commissioner (OAIC).

18. Please note that the OAIC will generally not investigate a complaint in circumstances where the person has not first raised the matter with the Department, unless it was not appropriate to ~~require this first step~~ (subsection 40(1A) of the Privacy Act).

19. You can lodge a complaint with the OAIC in one of the following ways:

Online: www.oaic.gov.au,
Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney NSW 2000

20. More information about accessing personal information under the Privacy Act and your complaint rights are published by the OAIC and available online at <https://www.oaic.gov.au/privacy/australian-privacy-principles-guidelines/chapter-12-app-12-access-to-personal-information/>.

Contact us

21. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the details above.

Yours sincerely,

Officename (Position Number *****)

Information Access Officer

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	DD/MM/YYYY	Electronic records	1 – 50	Part Access	s 22, s 47F
2	Various	MRCA Client File - NZSMXXXXX-01	51 – 100	Full Access	s 22

Commented ^{s 47E, s 4} This is an example. Proper legal citation is lower case s 47F



Schedule of relevant provisions in the *Privacy Act 1988* (Cth)

36 Complaints

- (1) An individual may complain to the Commissioner about an act or practice that may be an interference with the privacy of the individual.
- (2) In the case of an act or practice that may be an interference with the privacy of 2 or more individuals, any one of those individuals may make a complaint under subsection (1) on behalf of all of the individuals.
- (2A) In the case of a representative complaint, this section has effect subject to section 38.
- (3) A complaint shall be in writing.
- (4) It is the duty of:
 - (a) members of the staff of the Commissioner; and
 - (b) members of the staff of the Ombudsman who have had powers of the Commissioner delegated to them under section 99;to provide appropriate assistance to a person who wishes to make a complaint and requires assistance to formulate the complaint.
- (5) The complaint shall specify the respondent to the complaint.
- (6) In the case of a complaint about an act or practice of an agency:
 - (a) if the agency is an individual or a body corporate, the agency shall be the respondent; and
 - (b) if the agency is an unincorporated body, the principal executive of the agency shall be the respondent.
- (7) In the case of a complaint about an act or practice of an organisation, the organisation is the respondent.

Note: Sections 98A to 98C contain further rules about how this Part operates in relation to respondent organisations that are not legal persons.
- (8) The respondent to a complaint about an act or practice described in subsection 13(2), (4) or (5), other than an act or practice of an agency or organisation, is the person or entity who engaged in the act or practice.

40 Investigations

- (1) Subject to subsection (1A), the Commissioner shall investigate an act or practice if:
 - (a) the act or practice may be an interference with the privacy of an individual; and
 - (b) a complaint about the act or practice has been made under section 36.
- (1A) The Commissioner must not investigate a complaint if the complainant did not complain to the respondent before making the complaint to the Commissioner under section 36. However, the Commissioner may decide to investigate the complaint if he or she considers that it was not appropriate for the complainant to complain to the respondent.
- (1B) Subsection (1A) does not apply if the complaint is about an act or practice that may breach:
 - (a) section 20R, 20T, 21T or 21V (which are about access to, and correction of, credit reporting information etc.); or
 - (b) a provision of the registered CR code that relates to that section.
- (2) The Commissioner may, on the Commissioner's own initiative, investigate an act or practice if:
 - (a) the act or practice may be an interference with the privacy of an individual or a breach of Australian Privacy Principle 1; and

- (b) the Commissioner thinks it is desirable that the act or practice be investigated.
- (3) This section has effect subject to section 41.

12 Australian Privacy Principle 12—access to personal information

Access

12.1 If an APP entity holds personal information about an individual, the entity must, on request by the individual, give the individual access to the information.

Exception to access—agency

12.2 If:

- (a) the APP entity is an agency; and
- (b) the entity is required or authorised to refuse to give the individual access to the personal information by or under:
 - (i) the Freedom of Information Act; or
 - (ii) any other Act of the Commonwealth, or a Norfolk Island enactment, that provides for access by persons to documents;

then, despite subclause 12.1, the entity is not required to give access to the extent that the entity is required or authorised to refuse to give access.

Exception to access—organisation

12.3 If the APP entity is an organisation then, despite subclause 12.1, the entity is not required to give the individual access to the personal information to the extent that:

- (a) the entity reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
- (b) giving access would have an unreasonable impact on the privacy of other individuals; or
- (c) the request for access is frivolous or vexatious; or
- (d) the information relates to existing or anticipated legal proceedings between the entity and the individual, and would not be accessible by the process of discovery in those proceedings; or
- (e) giving access would reveal the intentions of the entity in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- (f) giving access would be unlawful; or
- (g) denying access is required or authorised by or under an Australian law or a court/tribunal order; or
- (h) both of the following apply:
 - (i) the entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in;
 - (ii) giving access would be likely to prejudice the taking of appropriate action in relation to the matter; or
- (i) giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
- (j) giving access would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process.

Dealing with requests for access

12.4 The APP entity must:

- (a) respond to the request for access to the personal information:
 - (i) if the entity is an agency—within 30 days after the request is made; or
 - (ii) if the entity is an organisation—within a reasonable period after the request is made; and
- (b) give access to the information in the manner requested by the individual, if it is reasonable and practicable to do so.

Other means of access

12.5 If the APP entity refuses:

- (a) to give access to the personal information because of subclause 12.2 or 12.3; or
- (b) to give access in the manner requested by the individual;

the entity must take such steps (if any) as are reasonable in the circumstances to give access in a way that meets the needs of the entity and the individual.

12.6 Without limiting subclause 12.5, access may be given through the use of a mutually agreed intermediary.

Access charges

12.7 If the APP entity is an agency, the entity must not charge the individual for the making of the request or for giving access to the personal information.

12.8 If:

- (a) the APP entity is an organisation; and
- (b) the entity charges the individual for giving access to the personal information;

the charge must not be excessive and must not apply to the making of the request.

Refusal to give access

12.9 If the APP entity refuses to give access to the personal information because of subclause 12.2 or 12.3, or to give access in the manner requested by the individual, the entity must give the individual a written notice that sets out:

- (a) the reasons for the refusal except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and
- (b) the mechanisms available to complain about the refusal; and
- (c) any other matter prescribed by the regulations.

12.10 If the APP entity refuses to give access to the personal information because of paragraph 12.3(j), the reasons for the refusal may include an explanation for the commercially sensitive decision.

Commented ^{s 47E, s 4} If FOI redactions have been applied to the Privacy request we will be required to list these here



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reasons for decision of **Officername (Position Number *****)**,
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has identified **XX(x)** document[s] relevant to your request.
2. I have made a decision to grant full access to XX documents, and grant access in part to XX document(s).
3. I have made a decision to grant full access to XX documents, grant access in part to XX document(s) and refused access to XX document(s).
4. I have made a decision to grant access in part to XX document(s).
5. I have made a decision to grant access in part to XX document(s) and refused access to XX document(s).
6. I have also made a decision to grant indirect access to documents XX and XX pursuant to section 47F(5) of the FOI Act.

**Commented [s 47E; s 4] Mr/Mrs FirstName Surname (organisation name), representing nvr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family**

Commented [s 47E; s 4] The wording has to be alphabet (digit) ie three (3) documents

Commented [s 47E; s 47F] It is acceptable to use numerals for numbers larger ie, ١٥٢

7. The document[s] that I have chosen to [grant access/ in part] [or] [refuse access to] [are] [is] set out in **Schedule 1**, together with applicable exemption provision[s]. Where I have decided to grant access in part, I have provided access to an edited copy of the document[s], modified by deletions in accordance with section 22(2) of the *Freedom of Information Act 1982 (Cth)* (FOI Act).

Authority to make decision

8. I, Officename (Position Number *****), Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

9. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

10. On [date], the Department acknowledged your request via email.
11. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
12. On [date] you agreed to the removal of surnames, signatures, position titles and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.
13. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.
14. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
15. On [date] you were advised that the Department was required to undertake a third party consultation in accordance with section [26A] [27] [27A] of the FOI Act. [detail here whether the third party responded and how the response was taken into consideration]

Commented [s 47E; s 47] Update if an old acknowledgment letter was used and active agreement was not sought

16. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
17. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
18. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.
19. As you are seeking access to document[s] that contain your own personal information/ the personal information of the person you represent, Regulation 7(1) of the *Freedom of Information (Charges) Regulations 2019* provides that no charge is payable.
20. I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.
21. As a decision on your request was not made within the timeframe as prescribed in section 15(5)(b) of the FOI Act, Regulation 7(2) of the *Freedom of Information (Charges) Regulations 2019* prescribed that no charge is payable.
22. Detail here if charges were applied and information about any payment.

Indirect Access

23. The Department has contacted Mr/Mrs Surname on Day Month Year and he has consented to the release of his documents to Mr/Mrs Surname. During this conversation it was raised with Mr/Mrs Surname that the requested documents held sensitive Psychiatrist reports. These reports would be released to a qualified person under section 47F(5)(a) of the FOI Act. The qualified person must carry on the same occupation as the qualified person who provided the documents. Mr/Mrs Surname has provided the name and contact information of the qualified person, Dr First name Surname.
24. On Day Month Year, the Department contacted Mr/Mrs Surname about the sensitivity of Mr Veterans surname's Psychologist and Psychiatrist reports and advised that the reports would be released indirectly to a qualified person such as Mr Veteran's surname treating

Commented [s 47E; s 4] Use this paragraph if contact has been made with the client

Psychiatrist. The nominated qualified person must carry on the same occupation as the qualified person who provided the documents. The Department has sought the contact information of the qualified person from you. Once the contact information of the qualified person has been received the reports will be released under section 47F(5)(a) of the FOI Act.

Commented [6 47E; 6 4] Use this paragraph is contact has been made with the representative

25. The Department may provide a qualified person with access to a document that would otherwise be provided to an applicant where:

- a. The personal information was provided by a qualified person acting in their capacity as a qualified person, and
- b. It appears to the Department that disclosing the information to the applicant might be detrimental to their physical or mental health, or wellbeing.

26. Where indirect access is to be provided, the applicant is to nominate a qualified person. The nominated qualified person must carry on the same occupation as the qualified person who provided the document.

Material taken into account

27. 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 [refuse] [grant partial] access to the document[s] follow[s].

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

- the terms of your request on [date] [and as revised];
- relevant authority signed by Mr/Mrs Surname which authorises you to act on his behalf;
- the types of information and documents that are in the Department's possession;
- the content of the document that fall within the scope of your request;
- the availability of information relevant to your request, including the practicality and time required in which the Department may create a document under section 17 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

Commented [6 47E; 6 4] Delete if client is the applicant

Commonwealth. I also considered the following provision[s] 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 agencies
- Section 47F Public interest conditional exemptions--personal privacy

- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**);
- [insert further items as appropriate]; and
- the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A] of the FOI Act.

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

Reasons for decision

30. I have decided to **grant access** to [the] document[s] within the scope of your request, subject to the following exemption[s] in accordance with the FOI Act:

31. I have decided to **refuse access** to [the] document[s] within the scope of your request in accordance with the following exemption[s] in the FOI Act:

Public interest conditional exemptions--certain operations of agencies (sections 47E(c) and 47E(d))

32. The documents within the scope of your application contain the [names] [contact information] of staff of the Department. I have decided that s 47E(c) and 47E(d) applies to this material, as identified in **Schedule 1**.

33. Section 47E(c) conditionally exempts documents where disclosure would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or an agency. Management of personnel by the Department includes, among other things, human resources policies and activities, recruitment, and work health and safety.

Section 47E(d) conditionally exempts documents where 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.

34. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. For example, staff are generally required to identify themselves in correspondence with clients by a given name and position number.
35. This is consistent with the approach taken by other Commonwealth agencies with similar functions, including provision of support services and administration of statutory benefits schemes.
36. Implementation of these policies provides staff at more junior levels with confidence that they will not be inappropriately named or contacted in relation to actions taken in the course of their routine work for the Department.
37. Disclosure of identifying information about staff members contained within the documents would be inconsistent with these Departmental policies. Knowledge that identifying information about them may be disclosed in documents accessed under the FOI Act would be likely to undermine the confidence of staff in Departmental policies intended to support their work health and safety. Staff concern about inappropriate contact and the potential for harassment by clients is based on known instances of such things occurring. For example, public identification of individual staff members in an online client forum.
38. An adverse effect on the Department's ability to manage staff could reasonably be expected to result from widespread staff concern about disclosure of identifying information about staff members. Staff members may experience concern even when not based on personal experience of harassment.
39. I also note that the Department provides a wide range of services to its clients. To facilitate efficient conduct of its operations, the Department has established channels for communication on specific topics and in relation to specific services. These channels, such as email inboxes and telephone support lines, enable services to be delivered efficiently by directing clients to the most appropriate point of contact. In addition, the Department is able to manage staffing efficiently by providing staff with access to communication points attached to a role rather than to an individual.
40. Disclosure of identifying information about staff members in these documents would disclose contact details for individual staff members, which is not generally available. Once

contact details for individual staff members are disclosed they are likely to become publically known through private correspondence. Making it possible for clients to address correspondence to individual staff members or to seek to contact individuals directly is likely to undermine Departmental arrangements to channel communications based on role rather than individual. Reduced efficiency in communication and delivery of services could reasonably be expected to result.

41. Accordingly, for the reasons outlined above I consider that certain material, as identified in Schedule 1, meets the criteria for conditional exemption under section 47E(c) and 47E(d) of the FOI Act.

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

42. 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).

43. 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.

44. 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.

45. 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.
46. The documents outlined in **Schedule 1** contain the [names] [contact information] of staff of the Department. Contact details of an individual staff member, such as their [email address] [phone number] [signature] is personal information about that person.
47. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. As outlined above, staff are generally required to identify themselves in correspondence with clients by a given name and position number. This reduces the likelihood that individuals are reasonably identifiable in a different context. For example, it reduces the likelihood that a private social media profile can be linked with an individual who is a staff member of the Department.
48. I consider that disclosure of personal information of individual staff members in the document would be unreasonable because it would be inconsistent with Departmental policies and procedures designed to support a safe and efficient working environment. Additionally, it would be unreasonable because it would be contrary to the expectations of those individual staff members, who may rely on those Departmental policies and procedures for assurance of their personal privacy.
49. (Department of Defence staff names and contact details) Documents on your file also contain the names of Department of Defence staff and serving Australian Defence Force members. Contact details of an individual member of staff of the Department of Defence, including the name, signature and email address, meets the definition of personal information.

50. I consider that disclosure of personal information of individual staff members of the Department of Defence would be unreasonable because it would be inconsistent with policies and practices across the Commonwealth which are designed to support a safe and efficient working environment for members of the Australian Public Service. Further, I consider that it would be unreasonable to disclose this information in circumstances where staff members have an expectation that their personal privacy will be assured.
51. **(Third party medical practitioners)** Documents on your file also contain personal information of third party medical practitioners. This includes names, contact details and signatures. I consider that it is likely that this personal information was included in these documents on the understanding that the documents were intended for a limited audience. I also note that personal signatures are sensitive personal information which can be used for proof of identity purposes. I therefore consider that the release of this material under the FOI Act, being outside of its originally intended audience, would be unreasonable.

52. I consider it appropriate to release the names and contact information of medical practitioners within the documents, where that information is available in publicly accessible sources or otherwise clearly known to you.

53. 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).

Application of the public interest test – sections 47E(c), (d) and 47F

54. 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.
55. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factor which favours disclosure:
- (a) disclosure would promote the objects of the FOI Act by providing access to government held information.
56. I also considered the following factors which do not favour disclosure:
- (a) disclosure could be expected to adversely affect the management of staff of the Department, resulting in a likely reduction in the capability of the Department to

efficiently carry out its functions;

- (b) disclosure could be expected to adversely affect the delivery of services by the Department in accordance with its functions; and
- (c) Disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, both in relation to the third-party individuals and staff of the Department and other commonwealth agencies.

57. I have placed greater weight on these factors. I consider that disruption of established channels for communication and delivery of services would be likely to follow disclosure of contact information about individual staff members. I consider that impairment of the Department's ability to efficiently deliver services to veterans and their families could reasonably be expected as a result. Further, I consider that there is little public interest in the disclosure of information identifying individuals who are, or have been, staff members in roles more junior than the Senior Executive Service. Disclosure of that information could reasonably be expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.

58. **(Defence staff and Third party medical practitioners)** Further, I consider that there is little public interest in the disclosure of the personal information of Department of Defence staff and third-party medical practitioners. Disclosure of that information could reasonably be expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.

59. 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.

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

Delete exempt or irrelevant material from documents and provide access to edited copies (section 22)

61. [The Department may refuse access to a document on the grounds that it is exempt. If so, the Department must consider whether it would be reasonably practicable to prepare an edited copy of the document for release, that is, a copy with relevant deletions made under](#)

section 22 of the FOI Act. The Department is under the same obligation to consider preparing an edited copy of a document by removing information that would reasonably be regarded as irrelevant to the request.

62. As explained above, some of the documents subject to your request contain exempt/irrelevant information.
63. On [date] you agreed to the removal of [description of material in acknowledgment letter] as out of scope or irrelevant to the scope of your request.
64. Further, I have also removed the name of the staff member who compiled the document, where it is printed in the top left corner or bottom of the PDF document on the basis that it is out of scope or irrelevant because it does not form part of the original document.
65. Detail here any here if the document(s) contain any other irrelevant material.
66. On this basis, I have prepared the documents for release by removing the exempt and irrelevant material in accordance with section 22 of the FOI Act. The material that has been edited for release is marked within the documents as well as at **Schedule 1**.

Access to documents

67. The document[s] released to you in accordance with the FOI Act [is][are] enclosed.
68. Following payment of the outstanding charge as set out above, the Department will provide the document[s] released to you in accordance with the FOI Act.
69. [Only to be used if third party raised objections and the FOI decision maker makes a decision against those objections to release material]. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.

Information Publication Scheme

70. 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.

71. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.
72. In accordance with section 11C(1)(a) of the FOI Act, details of your request and the document(s) issued to you will not be made available in the Department's FOI Disclosure Log as it relates to your [personal information] [business, commercial, financial or professional affairs] and it would be unreasonable to publish this information. [detail any other reason that would deem it unreasonable to publish]

Your rights of review

73. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (**OAIC**) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Deemed refusal

74. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (**OAIC**). In accordance with section 54E(b) of the FOI Act, internal review is not available as the Department did not finalise your FOI request within the prescribed statutory timeframe.

Internal review

75. 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.
76. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

77. 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
Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Phone: 1300 363 992
Email: FOIDR@oaic.gov.au

78. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

79. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001
Phone: 1800 838 372
Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	DD/MM/YY	Electronic records	1 – 50	Part Access	s 22, s 47F
2	Various	MRCA Client File - NZSMXXXX-01	51 – 100	Full Access	s 22

Commented [6:47E: s 4] This is an example
Proper legal citation is lower case s 47F



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).

11B Public interest exemptions — factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) Inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

Commented ^{s 47E; s 4} The exemption codes in black are the legislation that do not need to be deleted. The officer should only delete the legislation in blue text that are not applicable to their case.

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

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).

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).



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reasons for decision of OFFICERNAME (Position Number *****),
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]
Decision date: 24 June 2022
FOI reference number: LEX #####
Sent by (email, post, SIGBOX etc): XXXXXX

Commented [5:47E:64] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Purpose of this notice

1. I have made a decision to refuse access to your revised request on the basis that the following practical refusal reasons exist:
 - a. Your request does not provide such information as is reasonably necessary to enable the Department to identify the documents you are requesting (section 24AA(1)(b) of the FOI Act); and
 - b. To the extent that I can identify the documents falling within scope of your request, processing your request, as best the Department can understand the terms, is likely to result in a substantial and unreasonable diversion of the Department's resources from its other operations (section 24AA(1)(a) of the FOI Act).

Authority to make decision

2. I, OFFICERNAME (Position Number *****), Information Access Officer, Information Access Unit, Client Rehabilitation Access Branch, am an officer authorised by the Secretary of

the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Scope of your request

3. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

'...[scope]...'

4. On [date], the Department acknowledged your request via email.
5. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
6. On [date] you agreed to the removal of surnames, signatures, position titles and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.

Commented [6.47E; 6.47] Update if an old acknowledgment letter was used and active agreement was not sought

7. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.
8. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
9. On [date] I formally consulted with you under section 24AB of the FOI Act. I advised you, as is required under section 24AB of the FOI Act, that I intend to refuse your request on the basis that a practical refusal reason exists, as defined by section 24AA of the FOI Act.
10. [Detail the response and any revisions of scope received in response to the 24AB consultation notice].
11. As [an extension of time was] [extensions of time were] applied to process your request in accordance with the practical refusal process and/or [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
12. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the

prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.

Material taken into account

13. 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 [refuse access to your request](#) follow[s].

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

- the terms of your request [on \[date\]](#) [\[and as revised\]](#);
- the types of information and documents that are in the Department's possession;
- 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 provision[s] of the FOI Act relevant to my decision:
 - [Section 11B Public interest exemption – factors](#)
 - [Section 15 - Request for Access](#)
 - [Section 24AB – Request Consultation Process](#)
 - [Section 24AA – Practical Refusal Reasons](#)
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**); and
- [\[insert further items as appropriate\]](#).

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

Reasons for my decision

16. Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied

that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.

When does a practical refusal reason exist (section 24AA of the FOI Act)

17. The practical refusal reason/s applicable to your request is/are that:

- a. your request does not satisfy the requirement in section 15(2)(b) of the FOI Act, in that it does not provide sufficient information to enable the department to identify the documents you are seeking (section 24AA(1)(b) of the FOI Act); and
- b. processing your request, as best the Department can understand the terms, is likely to result in a substantial and unreasonable diversion of the Department's resources from its other operations (section 24AA(1)(a) of the FOI Act).

Commented [6:47E:6:47] Only include the relevant practical refusal reasons, it may just be one or both

Identification of documents

18. Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy section 15(2)(b) of the FOI Act. That section provides a request must provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency to identify it.
19. I am unable to identify the specific documents you are requesting. This is because the language of your request is/remains unclear and it does not contain sufficient information to enable me to undertake reasonable and effective searches to identify relevant documents for the following reasons:

[give specific reasons and examples as to why the request is unclear and does not meet the requirements of section 15(2)(b) of the FOI Act even after consultation and/or a revision of scope]

Request is substantial

20. Under section 24AA(2) of the FOI Act, the Department must have regard to the resources that would have to be used for:
- identifying, locating or collating the documents within the filing system of the agency;
 - deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);

- making a copy or an edited copy, of the document; and
- notifying any interim or final decision on the request.

21. Further, the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (**FOI Guidelines**) identify matters that may be relevant when deciding whether processing the request will unreasonably divert an agency's resources from its other functions. These include:

- the staffing resources available to the agency for FOI processing;
- the impact that processing a request may have on other work in the agency, including FOI processing;
- whether an applicant has cooperated in framing a request to reduce the processing workload;
- whether there is a significant public interest in the documents requested; and
- other steps taken by an agency or minister to publish information of the kind requested by an applicant.

22. [Give specific reasons and examples as to why the request is voluminous for the purposes of section 24AA(1)(a). Identify the specific parts of the request that would cause a diversion and explain why. e.g. your request is made in 7 parts, your request contains broad and undefined terms, the date period of your request is xx to xx, you have requested documents that relate to multiple third parties and their personal information, number of third party consultations that will be required]

23. [Give specific reasons as to why the request remains subject to a practical refusal reason after the consultation]

24. I estimate that xx hours of processing time would be required to deal with this request. The reasons for this are as follows:

- I estimate that there are approximately xxx pages of material relevant to your request. These xx pages are contained over xx documents identified as being relevant to your request.

- As there are approximately xx documents in scope, assuming this material can be converted, collated, analysed and a decision made at an average of x minutes per page, this equates to approximately xx hours of processing time.
- From my initial review, it does or does not appear that they contain irrelevant or exempt material. A brief review of the documents indicates that some material will require some redactions to withhold material considered to be exempt from release under the FOI Act (e.g. for example, (Documents affecting certain operations of agencies (s 47E) and documents affecting personal privacy (s 47F)).
- Further to the previous point, a statement of reasons will need to be provided to you. I anticipate that it would take approximately 2 hours to draft the statement of reason for this decision.

25. Taking these factors into account, I have concluded the request is substantial.

Request is unreasonable

26. [Give specific reasons as to why the request remains subject to a practical refusal reason after the consultation]

27. I have considered whether the substantial resource burden would be unreasonable having regard to the following:

- XX hours of processing time is, at face value, an unreasonable burden for a single FOI request, taking into account the need to process multiple requests at any given time, and the impact such a burden would have on responding to other FOI applicants and for the relevant business area to undertake their designated duties.
- Due to the broad nature of your request the relevant business areas would be required to spend a significant amount of time and resources in document retrieval and scoping activities.

28. Taking the above factors into account, I am of the view that the request as it currently stands is unreasonable, as well as substantial.

Summary of Decision

29. In summary, I am satisfied that:

- a. your request does not satisfy the requirement in section 15(2)(b) of the FOI Act, in that it does not provide sufficient information to enable the department to identify the documents you are seeking (section 24AA(1)(b) of the FOI Act); and
- b. processing your request, as best the Department can understand the terms, is likely to result in a substantial and unreasonable diversion of the Department's resources from its other operations (section 24AA(1)(a) of the FOI Act).

Commented [6 47E: 6 47] Again, only include the relevant practical refusal reasons

30. Accordingly, I have decided to refuse your request under section 24(1) of the FOI Act.

Your rights of review

31. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (OAIC) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Deemed refusal

32. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (OAIC). In accordance with section 54E(b) of the FOI Act, internal review is not available as the Department did not finalise your FOI request within the prescribed statutory timeframe.

Internal review

33. 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.

34. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

35. 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
Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Phone: 1300 363 992
Email: FOIDR@oaic.gov.au

36. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

37. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001
Phone: 1800 838 372
Email: Information.Access@dva.gov.au

Yours sincerely,

OFFICERNAME (Position Number ***)**

Information Access Officer
Information Access Unit
Client Rehabilitation and Access Branch
Department of Veterans' Affairs

24 June 2022



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).

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.

23 Decisions to be made by authorised persons

Commented s 47E, s 4 The exemption codes in black are the legislations that do not need to be deleted. The officer should only delete the legislations in blue text that are not applicable to their case.

- (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).

24 Power to refuse request--diversion of resources etc.

- (1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:
 - (a) must undertake a request consultation process (see section 24AB); and
 - (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists--the agency or Minister may refuse to give access to the document in accordance with the request.
- (2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:
 - (a) the requests relate to the same document or documents; or
 - (b) the requests relate to documents, the subject matter of which is substantially the same.

24AA When does a practical refusal reason exist?

- (1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:
 - (a) the work involved in processing the request:
 - (i) in the case of an agency--would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister--would substantially and unreasonably interfere with the performance of the Minister's functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
 - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
 - (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or
 - (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a request consultation process?

Scope

- (1) This section sets out what is a request consultation process for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the contact person) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the consultation period) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), reasonable steps includes the following:

- (a) giving the applicant a reasonable opportunity to consult with the contact person;
- (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.



Document created in accordance with section 17 of the *Freedom of Information Act 1982 (Cth)*

FOI reference number: [XXXXXX]

Request details: [Scope of request]

Date of decision: [insert date]

[If relevant - For the period Day Month Year to Day Month Year]:

[Insert table of data]



[Address]

24 June 2022

Sent by (email, post, SIGBOX etc):

Dear Registrar,

I refer to the subpoena dated ###, requesting Open Arms' records in the following matter:

Matter Reference:

Parties:

This subpoena was originally served on Open Arms – Veterans & Families Counselling (formerly VVCS) by ... of ... on behalf of the ... on The subpoena seeks access to the following records:

- ..

The subpoena is returnable on [insert return date] [On ..., the issuing party consented to an extension of the production date until ...]

We confirm that the department does not hold the requested information.

I can be contacted on information.access@dva.gov.au if you wish to discuss this matter.

Yours sincerely,

Officer name (Position Number *****)

Information Access Officer

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

Enc.

Copy of Subpoena and Requested Documents



Request consultation notice due to existence of a practical refusal reason under section 24AB of the *Freedom of Information Act 1982*

S 24AB consultation notice OFFICERNAME (Position Number *****),
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]
Decision date: 24 June 2022
FOI reference number: LEX #####
Sent by (email, post, SIGBOX etc): XXXXXX

Commented [6 47E: 6 4] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Purpose of this notice

1. The purpose of this notice is to advise you (as required under section 24AB of the *Freedom of Information Act 1982 (FOI Act)*) that I intend to refuse your request on the basis that a practical refusal reason exist, as defined by section 24AA of the FOI Act.
2. Based on the terms of your request, and from initial searches undertaken to respond to your request, I am of the view that a practical refusal reason exists because:
 - a. Processing your request, as best the Department can understand the terms, 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).
 - b. To the extent that I can identify the documents falling within scope of your request, processing your requests, as best the Department can understand the terms, 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).

Authority to make decision

- I, OFFICERNAME (Position Number *****), Information Access Officer, Information Access Unit, Client Rehabilitation Access Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Scope of your request

- On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

'...[scope]...'

- On [date], the Department acknowledged your request via email.
- I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
- On [date] you agreed to the removal of surnames, signatures, position titles and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.

- The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.

- On XX Month 202X I consulted with you under section 24AB of the FOI Act on the basis that a practical refusal reason/s exist.

- On XX Month 202X you agree to revise the scope of your request as follows:

'...[revised scope]...'

- [Detail here any consultations that took place regarding the scope of the request and the result of that consultation.]

Commented [6 47E; 6 47] Update if an old acknowledgment letter was used and active agreement was not sought

Power to refuse a request

12. Section 24 of the FOI Act provides that if the Department is satisfied that a practical refusal reason exists in relation to a request, the Department must undertake a consultation process with you, and if, after that consultation process, the Department remains satisfied that the practical refusal reason still exists, the Department may refuse to give you access to the documents subject to the request.
13. However, before I make a decision to refuse your request you have an opportunity to revise your request to remove the practical refusal reason. This is called a 'request consultation process'. You have 14 days to respond to this notice in one of the ways set out below at page 6. As mentioned below, you can request more time to consider and respond to this notice. Please let me know if you would like additional time to respond.

When does a practical refusal reason exist (section 24AA of the FOI Act)

14. The practical refusal reason/s applicable to your request is/are that:
 - a. your request does not satisfy the requirement in section 15(2)(b) of the FOI Act, in that it does not provide sufficient information to enable the department to identify the documents you are seeking; and
 - b. processing your request, as best the Department can understand the terms, 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).

Commented [6 47E: 6 47] Only include the relevant practical refusal reasons, it may just be one or both

Identification of documents

15. Section 24AA(1)(b) of the FOI Act provides that a practical refusal reason exists in relation to a request for a document if the request does not satisfy section 15(2)(b) of the FOI Act. That section provides that a request must provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency to identify it.
16. I am unable to identify the specific documents you are requesting. This is because the language of your request is/remains unclear and it does not contain sufficient information to enable me to undertake reasonable and effective searches to identify relevant documents for the following reasons:

Commented [6 47E: 6 47] They may have already attempted to revise during informal consultation

[give specific reasons and examples as to why the request is unclear and does not meet the requirements of section 15(2)(b) of the FOI Act even after consultation and/or a revision of scope]

Request is substantial

17. Under section 24AA(2) of the FOI Act, the Department must have regard to the resources that would have to be used for:

- identifying, locating or collating the documents within the filing system of the agency;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
- making a copy or an edited copy, of the document; and
- notifying any interim or final decision on the request.

18. Further, the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (**FOI Guidelines**) identify matters that may be relevant when deciding whether processing the request will unreasonably divert an agency's resources from its other functions. These include:

- the staffing resources available to the agency for FOI processing;
- the impact that processing a request may have on other work in the agency, including FOI processing;
- whether an applicant has cooperated in framing a request to reduce the processing workload;
- whether there is a significant public interest in the documents requested; and
- other steps taken by an agency or minister to publish information of the kind requested by an applicant.

19. [Give specific reasons and examples as to why the request is voluminous for the purposes of section 24AA(1)(a). Identify the specific parts of the request that would cause a diversion and explain why. e.g. your request is made in 7 parts, your request contains broad and

undefined terms, the date period of your request is xx to xx, you have requested documents that relate to multiple third parties and their personal information, number of third party consultations that will be required]

20. I estimate that xx hours of processing time would be required to deal with this request. The reasons for this are as follows:

- I estimate that there are approximately xxx pages of material relevant to your request. These xx pages are contained over xx documents identified as being relevant to your request.
- As there are approximately xx documents in scope, assuming this material can be converted, collated, analysed and a decision made at an average of x minutes per page, this equates to approximately xx hours of processing time.
- From my initial review, it does or does not appear that they contain irrelevant or exempt material. A brief review of the documents indicates that some material will require some redactions to withhold material considered to be exempt from release under the FOI Act [e.g. for example, (Documents affecting certain operations of agencies (s 47E) and documents affecting personal privacy (s 47F)).
- Further to the previous point, a statement of reasons will need to be provided to you. I anticipate that it would take approximately 2 hours to draft the statement of reason for this decision.

21. Taking these factors into account, I have concluded the request is substantial.

Request is unreasonable

22. I have considered whether the substantial resource burden would be unreasonable having regard to the following:

- xx hours of processing time is, at face value, an unreasonable burden for a single FOI request, taking into account the need to process multiple requests at any given time, and the impact such a burden would have on responding to other FOI applicants and for the relevant business area to undertake their designated duties.

- Due to the broad nature of your request the relevant business areas would be required to spend a significant amount of time and resources in document retrieval and scoping activities.

23. Taking the above factors into account, I am of the view that the request as it currently stands is unreasonable, as well as substantial.

Ways you can revise the scope of your request

24. You now have an opportunity to revise your request so that the grounds for a practical refusal are removed.

25. Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, we will be able to pinpoint the documents more quickly and avoid using excessive resources to process documents you are not interested in.

26. For example, you may want to consider:

- providing further clarification about the information/specific documents you are seeking access to;
- a narrower scope of documents to a more specific act

27. [Recommended that you include an example scope that would remove the practical refusal reason].

28. Please note that even if you do modify your request, it is possible that a practical refusal reason under section 24AA may still exist and the Department may need further time to process your revised request. This will depend on the revision you agree to make. As far as is reasonably practicable, we are happy to provide you with further information to assist you in revising your request so that it removes the practical refusal grounds.

Next steps

29. Before the end of the consultation period, which is **COB DATE** (being 14 days from receiving this notice), you must do one of the following, in writing:

- withdraw the request;

- make a revised request; or
- indicate that you do not wish to revise the request.

30. During this period, you can ask me for help to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it.

31. If you indicate you do not wish to revise your request, the Department will proceed to make a decision on whether to refuse the request on the grounds that processing your request will result in a diversion of the Department's resources under section 24(1) of the FOI Act.

32. If you do not respond in one of these ways within 14 days (**by COB DATE**), the request will be taken to have been withdrawn pursuant to section 24AB(7) of the FOI Act.

33. If you need more time to respond, please contact the Information Access Unit via the below contacts, within the 14 day period to discuss your need for an extension of time.

Suspension of processing time

34. Please note under section 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed above.

35. An extract of the provisions of the FOI Act that are relevant to this notice are set out at **Schedule 1**.

Contact us

36. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Post: [Information Access Unit,](#)
[Department of Veterans' Affairs](#)
[GPO Box 9998, Brisbane QLD 4001](#)

Email: Information.Access@dva.gov.au

Yours sincerely,

OFFICERNAME (Position Number ***)**

Designation

Information Access Unit

Client Rehabilitation and Access Branch

Department of Veterans' Affairs

24 June 2022



Schedule of relevant provisions in the FOI Act

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.

24 Power to refuse request--diversion of resources etc.

- (1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:
- (a) must undertake a request consultation process (see section 24AB); and
 - (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists--the agency or Minister may refuse to give access to the document in accordance with the request.
- (2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:
- (a) the requests relate to the same document or documents; or
 - (b) the requests relate to documents, the subject matter of which is substantially the same.

24AA When does a practical refusal reason exist?

- (1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:

- (a) the work involved in processing the request:
 - (i) in the case of an agency--would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister--would substantially and unreasonably interfere with the performance of the Minister's functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
- (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
- (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or
 - (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a request consultation process?

Scope

- (1) This section sets out what is a request consultation process for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the contact person) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the consultation period) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), reasonable steps includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;

- (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.



Decision under Administration Access

Decision and reason for decision of **Officer name (Position Number *****),**
Information Access Officer, Information Access Unit,
Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

LEX reference number: LEX ##### – (Previous LEX #####)

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

Administration Access: LEX ##### – (Previous LEX #####)

I refer to your request for information under Administration Access/*Freedom of Information (FOI)* received on **day month year.**

[Third party requests only] Your request was made on behalf of **Mr/Ms/Mrs CLIENT FIRSTNAME, CLIENT SURNAME.** Mr/Ms/Mrs SURNAME has provided written consent for you to act on his/her behalf in this matter.

Your request was acknowledged on **day month year.**

OR

On **day month year,** the Department acknowledged your request under reference number LEX **#####.** We also advised, that with your consent this request could be processed under Administration Access arrangements.

On **day month year,** you agreed to withdraw your FOI request and agreed to proceed under Administrative Access. This request has been registered under reference number – LEX **#####.**
Thank you for your cooperation in this matter.

Your request sought access to:

'...Enter scope of request...'

[Only if additional consent request made] On **day month year**, the Department consulted with **Mr/Mrs Surname** who confirmed **he/she** consent to the release of **his/her** documents to **Mr/Mrs Surname**.

Decision

The Department has undertaken a reasonable search of its records and identified **x (x) documents/ (x) document bundles, totalling xx pages**, relevant to your request. The document/s I have chosen to release **are/is** set out in **Schedule 1**.

Redactions

I have redacted the following information:

- The surnames, signatures and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling;
- The surnames, signatures and direct contact details of serving members of the Australian Defence Force; and
- The signatures of third party individuals.
- **[insert any other material that was redacted]**

How to make a complaint to the Department

If you are dissatisfied with my decision, I encourage you to contact the Information Access unit to resolve any concerns you may have or to make a complaint about the decision.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Amendments applied?
1	DD/MM/Y Y	Electronic records	1 – 50	Part Access	Yes
2	Various	MRCA Client File - NZSMXXXXX-01	51 – 100	Full Access	No



Refusal notice under Administration Access

Decision and reason for decision of **Officer name (Position Number *****),**
Information Access Officer, Information Access Unit,
Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant], on behalf of [client]

Decision date: 24 June 2022

LEX reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

Administration Access: LEX #####

I refer to your request for information under Administration Access received on **day month year.**
Your request was made on behalf of **Mr/Ms/Mrs CLIENT FIRSTNAME, CLIENT SURNAME.**

Your request was acknowledged on **day month year.**

Your request sought access to:

'...Enter scope of request...'

The Department must be satisfied that a request for personal information is made by the individual concerned or by another person who is authorised to make a request on their behalf. The authority must be specific about what information is authorised to be released and from where (i.e. DVA).

On **day month year,** the Department consulted with **Mr/Ms Surname** who confirmed **he/she did not** consent to the release of **his/her** personal information to you. I am therefore refusing to release or give you access to any documents related to **Mr/Ms Surname** on this basis.

Mr/Ms Surname may alternatively request the information directly from the Department and provide that information to you.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reason for decision of OFFICERNAME (Position Number *****),
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Commented [s 47E; 6 4] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has not been able to identify any documents relevant to your request.
2. For this reason, I have made a decision to refuse your request under section 24A(1)(b)(i) **OR** 24A(1)(b)(ii) of the *Freedom of Information Act 1982 (FOI Act)*, as the documents cannot be found **OR** do not exist.

Authority to make decision

1. I, OFFICERNAME (Position Number *****), Information Access Officer, Information Access Unit, Client Rehabilitation Access Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

2. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

3. On [date], the Department acknowledged your request via email.
4. I confirm that you provided [document descriptions] evidencing your authority to receive the personal information of [name of client].
5. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
6. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
7. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
8. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.

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 [refuse] access to your request follow:
3. I have taken the following material into account in making my decision:
 - the terms of your request on [date] [and as revised];

- the types of documents that are in the possession of the Department;
- my correspondence with different business areas within the Department;
- the availability of information relevant to your request, including the practicality and time required in which the Department may create a document under section 17 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. I also considered the following provisions of the FOI Act relevant to my decision:
 - Section 15 Request for Access;
 - Section 17 Requests involving use of computers etc. (e.g. requests for the Department to create a document)
 - Section 24A Request may be refused if documents cannot be found or do not exist
- Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

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

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

Reasons for decision

Requests may be refused if documents cannot be found, do not exist or have not been received (section 24A)

5. Section 24A(1) of the FOI Act provides that an agency or Minister may refuse a request for access to a document if:
- (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

6. I am satisfied that all reasonable steps have been taken to find information relevant to your request, having regard to:
- the terms of your request;
 - the subject matter of the documents;
 - the current and past file management systems and the practice of orderly destruction or removal of documents;
 - the Department's record management systems and practices; and
 - the individuals and areas within the Department who may be able to assist with the location of the information you seek access to.
7. Despite the reasonable searches undertaken, the Department has been unable to identify documents relevant to your request. A description of the searches undertaken to locate the documents which you are seeking to access is at **Schedule 1**.
8. For these reasons, I am refusing your request for access to documents as described in your request in accordance with section 24A(1)(b)(i)/(ii) of the FOI Act, on the basis that the document cannot be found/do not exist.

Requests involving use of computers etc. (section 17)

9. In making my decision to refuse your request I also considered the application of section 17 of the FOI Act and whether a document could be created to meet the terms of this part of your request.
11. Subject to section 17(1)(c)(i), I decided that the department was not in a position to create a written document, via the use of a computer or other equipment that is ordinarily available to the department for the purposes of retrieving or collating stored information.
12. Subject to section 17(2) I decided that the department was not in a position to create a written document, because to do so would substantially and unreasonably diver the resources of the Department from its other operations.

Your rights of review

13. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (**OAIC**) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Internal review

14. 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.
15. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

16. 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

Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Phone: 1300 363 992

Email: FOIDR@oaic.gov.au

17. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

18. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001
Phone: 1800 838 372
Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Summary of document searches

The Department undertook the following to identify any records that fall within the scope of your request (**relevant documents**).

1. Searches undertaken

[describe searches undertaken]



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:
 - a document of the agency; or
 - 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).

Commented [5:47E; 6:4] Do we also need to include S17 – Requests involving use of computers etc in this area?

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.
(see section 11A).

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

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).



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reason for decision of **Officername (Position Number *****)**,
Information Access Officer, Information Access Unit,
Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has identified **XX (x)** document[s] relevant to your request.
2. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and, in accordance with section 17 of the Freedom of Information Act 1982 (Cth) (**FOI Act**), I have made a decision to create and grant access in full to **xx (x)** document that meets the scope of your request.
3. I have made a decision to grant full access to **XX** documents, and grant access in part to **XX** document(s).
4. I have made a decision to grant full access to **XX** documents, grant access in part to **XX** document(s) and refused access to **XX** document(s).
5. I have made a decision to grant access in part to **XX** document(s).

Commented [5 47E; 6 4] Mr/Mrs FirstName Surname (organisation name), representing **Mr/Mrs FirstName Surname** for requests that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for requests that are third party requests eg Insurance companies, family

Commented [5 47E; 6 4] The wording has to be alphabet (digit) Ie three (3) documents

6. I have made a decision to grant access in part to XX document(s) and refused access to XX document(s).
7. I have made a decision to refuse access to the document(s).
8. The document[s] that I have chosen to [grant access/ in part] [or] [refuse access to] [are] [is] set out in **Schedule 1**, together with applicable exemption provision[s]. Where I have decided to grant access in part, I have provided access to an edited copy of the document[s], modified by deletions in accordance with section 22(2) of the *Freedom of Information Act 1982 (Cth) (FOI Act)*.

Authority to make decision

9. I, Officername (Position Number *****), Information Access Officer, Information Access Unit, Client Access Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

10. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

11. On [date], the Department acknowledged your request via email.
12. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
13. On [date] you agreed to the removal of surnames, signatures and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling as irrelevant material, in accordance with section 22 of the FOI Act.
14. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.

15. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
16. On [date] you were advised that the Department was required to undertake a third party consultation in accordance with section [26A] [27] [27A] of the FOI Act. [detail here whether the third party responded and how the response was taken into consideration]
17. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
18. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
19. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.
20. As you are seeking access to document[s] that contain your own personal information/ the personal information of the person you represent, Regulation 7(1) of the *Freedom of Information (Charges) Regulations 2019* provides that no charge is payable.
21. I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.
22. As a decision on your request was not made within the timeframe as prescribed in section 15(5)(b) of the FOI Act, Regulation 7(2) of the *Freedom of Information (Charges) Regulations 2019* prescribed that no charge is payable.

Material taken into account

23. 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 [refuse] [grant partial] access to the document[s] follow[s].
24. I have taken the following material into account in making my decision:

- the terms of your request on [date] [and as revised];
- the types of information and documents that are in the Department's possession;
- the content of the document that fall within the scope of your request;
- the availability of information relevant to your request, including the practicality and time required in which the Department may create a document under section 17 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. I also considered the following provision[s] of the FOI Act relevant to my decision:
 - Section 11B Public interest exemption – factors
 - Section 15 Request for Access
 - Section 17 Requests involving use of computers etc (e.g. request for the Department to create a document)
 - Section 22 Access to edited copies with exempt or irrelevant material deleted
 - Section 33 Documents affecting national security, defence or international relations
 - Section 34 Cabinet documents
 - Section 37 Documents affecting law enforcement and protection of public safety
 - Section 38 Documents to which secrecy provision of enactments apply
 - Section 42 Documents subject to legal professional privilege
 - Section 45 Documents communicated in confidence
 - Section 45A Parliamentary Budget Office documents
 - Section 46 Documents disclosure of which would be in contempt of Parliament or court
 - Section 47 Documents disclosing trade secrets or commercially valuable information
 - Section 47B Public interest conditional exemptions--Commonwealth-State relations
 - Section 47C Public interest conditional exemptions--deliberative processes
 - Section 47D Public interest conditional exemptions--financial or property interests of the Commonwealth
 - Section 47E Public interest conditional exemptions--certain operations of agencies
 - Section 47F Public interest conditional exemptions--personal privacy
 - Section 47G Public interest conditional exemptions--business

- Section 47H Public interest conditional exemptions--research
- Section 47J Public interest conditional exemptions--the economy

- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**);
- [insert further items as appropriate]; and
- the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A] of the FOI Act.

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

Reasons for decision

26. I have decided to **grant access** to [the] document[s] within the scope of your request, subject to the following exemption[s] in accordance with the FOI Act:

27. I have decided to **refuse access** to [the] document[s] within the scope of your request in accordance with the following exemption[s] in the FOI Act:

Creation of a document in response to your FOI request (section 17)

28. After consultation with the [insert relevant decision] it was determined that information relevant to your request was not entirely held by the Department in a discrete document form.

29. In order to provide you access to all relevant information regarding your request, it was requested the [insert relevant division] extract the data listed in the Department's wider database to create a document.

30. This document is comprised of [insert description of data included in the document].

31. This document is listed in **Schedule 1**. This document was created in accordance with section 17 of the FOI Act.

32. After consultation with the [insert relevant division] it was advised that all other statistics/information not listed in the created document is publicly available information found within the [insert location of publicly available information]. Therefore this data has not been included in this document and it is unnecessary to be released under the FOI Act.

33. Please follow the below link for further publicly available material relevant to your request:

xxxxxx

Commented [6:47E:6:47] May be relevant to some statistic requests

Documents affecting national security, defence or international relations (section 33)

34. Section 33 of the FOI Act provides that a document is an exempt document if its disclosure:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

35. [\[explain how exemption applies\]](#)

36. As section 33 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Cabinet documents (section 34)

37. Section 34 of the FOI Act provides that a document is an exempt document if:

- (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or

- (b) it is an official record of the Cabinet; or
- (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
- (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.

38. [\[explain how exemption applies\]](#)

39. As section 34 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Documents affecting law enforcement and protection of public safety (section 37)

40. Section 37 of the FOI Act provides that a document is an exempt document if its disclosure would or could reasonably be expected to:

- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
- (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
- (c) endanger the life or physical safety of any person.

41. [\[explain how exemption applies\]](#)

42. As section 37 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Documents subject to legal professional privilege (section 42)

43. Section 42 of the FOI Act provides that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of

legal professional privilege (LPP). The FOI Guidelines provide that, at common law, determining whether a communication is privileged requires a consideration of:

- (a) whether there is a legal adviser-client relationship;
- (b) whether the communication was for the purpose of giving or receiving legal advice or for use or in connection with actual or anticipated litigation;
- (c) whether the advice given is independent; and
- (d) whether the advice given is confidential.

44. [\[explain how exemption applies\]](#)

45. As section 42 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Documents containing material obtained in confidence (section 45)

46. Section 45 of the FOI Act provides that a document is an exempt document if its disclosure under the Act would found an action by a person for a breach of confidence. The FOI Guidelines provide that, To found an action for breach of confidence (which means s 45 would apply), the following five criteria must be satisfied in relation to the information:

- (a) it must be specifically identified;
- (b) it must have the necessary quality of confidentiality;
- (c) it must have been communicated and received on the basis of a mutual understanding of confidence;
- (d) it must have been disclosed or threatened to be disclosed, without authority; and
- (e) unauthorised disclosure of the information has or will cause detriment.

47. [\[explain how exemption applies\]](#)

48. As section 45 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Documents disclosing trade secrets or commercially valuable information (section 47)

49. Section 47 of the FOI Act provides that a document is an exempt document if its disclosure would disclose:

- (a) trade secrets; or
- (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.

50. [\[explain how exemption applies\]](#)

51. As section 47 of the FOI Act is not a conditional exemption, I am not required to consider a public interest test.

Public interest conditional exemptions--Commonwealth-State relations (section 47B)

52. Section 47B of the FOI Act provides that a document is conditionally exempt if disclosure of the document:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth.

53. [\[explain how conditional exemption applies\]](#)

54. Accordingly, I have decided that the [\[documents\]](#) [\[and\]](#) [\[parts of documents\]](#) 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.

Public interest conditional exemptions--deliberative processes (section 47C)

55. Section 47C of the FOI Act provides that a document is conditionally exempt if its disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth.

56. [\[explain how conditional exemption applies\]](#)

57. Accordingly, I have decided that the [\[documents\]](#) [\[and\]](#) [\[parts of documents\]](#) 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).

Public interest conditional exemptions--certain operations of agencies (sections 47E(c) and 47E(d))

58. The documents within the scope of your application contain the [\[names\]](#) [\[contact information\]](#) of staff of the Department. I have decided that s 47E(c) and 47E(d) applies to this material, as identified in **Schedule 1**.

59. Section 47E(c) conditionally exempts documents where disclosure would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or an agency. Management of personnel by the Department includes, among other things, human resources policies and activities, recruitment, and work health and safety.

Section 47E(d) conditionally exempts documents where 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.

60. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. For example, staff are generally required to identify themselves in correspondence with clients by a given name and position number.

61. This is consistent with the approach taken by other Commonwealth agencies with similar functions, including provision of support services and administration of statutory benefits schemes.

62. Implementation of these policies provides staff at more junior levels with confidence that they will not be inappropriately named or contacted in relation to actions taken in the course of their routine work for the Department.
63. Disclosure of identifying information about staff members contained within the documents would be inconsistent with these Departmental policies. Knowledge that identifying information about them may be disclosed in documents accessed under the FOI Act would be likely to undermine the confidence of staff in Departmental policies intended to support their work health and safety. Staff concern about inappropriate contact and the potential for harassment by clients is based on known instances of such things occurring. For example, public identification of individual staff members in an online client forum.
64. An adverse effect on the Department's ability to manage staff could reasonably be expected to result from widespread staff concern about disclosure of identifying information about staff members. Staff members may experience concern even when not based on personal experience of harassment.
65. I also note that the Department provides a wide range of services to its clients. To facilitate efficient conduct of its operations, the Department has established channels for communication on specific topics and in relation to specific services. These channels, such as email inboxes and telephone support lines, enable services to be delivered efficiently by directing clients to the most appropriate point of contact. In addition, the Department is able to manage staffing efficiently by providing staff with access to communication points attached to a role rather than to an individual.
66. Disclosure of identifying information about staff members in these documents would disclose contact details for individual staff members, which is not generally available. Once contact details for individual staff members are disclosed they are likely to become publically known through private correspondence. Making it possible for clients to address correspondence to individual staff members or to seek to contact individuals directly is likely to undermine Departmental arrangements to channel communications based on role rather than individual. Reduced efficiency in communication and delivery of services could reasonably be expected to result.
67. Accordingly, for the reasons outlined above I consider that certain material, as identified in Schedule 1, meets the criteria for conditional exemption under section 47E(c) and 47E(d) of the FOI Act.

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

68. 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).

69. 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.

70. 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.

71. 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.

72. The documents outlined in **Schedule 1** contain the [names] [contact information] of staff of the Department. Contact details of an individual staff member, such as their [email address] [phone number] [signature] is personal information about that person.
73. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. As outlined above, staff are generally required to identify themselves in correspondence with clients by a given name and position number. This reduces the likelihood that individuals are reasonably identifiable in a different context. For example, it reduces the likelihood that a private social media profile can be linked with an individual who is a staff member of the Department.
74. I consider that disclosure of personal information of individual staff members in the document would be unreasonable because it would be inconsistent with Departmental policies and procedures designed to support a safe and efficient working environment. Additionally, it would be unreasonable because it would be contrary to the expectations of those individual staff members, who may rely on those Departmental policies and procedures for assurance of their personal privacy.
75. **(Department of Defence staff names and contact details)** Documents on your file also contain the names of Department of Defence staff. Contact details of an individual member of staff of the Department of Defence, including the name, signature and email address, meets the definition of personal information.
76. I consider that disclosure of personal information of individual staff members of the Department of Defence would be unreasonable because it would be inconsistent with policies and practices across the Commonwealth which are designed to support a safe and efficient working environment for members of the Australian Public Service. Further, I consider that it would be unreasonable to disclose this information in circumstances where staff members have an expectation that their personal privacy will be assured.
77. **(Third party medical practitioners)** Documents on your file also contain personal information of third party medical practitioners. This includes names, contact details and signatures. I consider that it is likely that this personal information was included in these documents on the understanding that the documents were intended for a limited audience. I also note that personal signatures are sensitive personal information which can be used for proof of identity purposes. I therefore consider that the release of this material under the FOI Act, being outside of its originally intended audience, would be unreasonable.

78. I consider it appropriate to release the names and contact information of medical practitioners within the documents, where that information is available in publicly accessible sources or otherwise clearly known to you.
79. [Only to be used if releasing medical reports to a qualified person as per section 47F(4)&(5)]. In accordance with section 47F(5) of the FOI Act, I have released certain material documents containing your sensitive personal information to you via your nominated medical practitioner.
80. 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).

Public interest conditional exemptions—business (section 47G)

81. Section 47G(1)(a) 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.
82. The document bundle contains an invoice issued by a third-party to the Department. This document relates to commercial and business arrangements between the Department and a third party external service providers and includes the amount invoiced to the Department for particular medical services. I consider that this material meets the definition of business information for the purposes of section 47G of the FOI Act and that disclosure of this material could reasonably be expected to adversely impact that third party's business as it would disclose to competitors their specific invoicing amounts. As such, I consider this invoice discloses the commercial and business affairs of both the third parties and the Department and is appropriate for exemption under section 47G of the FOI Act.
83. Accordingly, I have decided that 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).

Application of the public interest test – sections xxxxx

Application of the public interest test:

84. 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.
85. 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) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;
 - (iii) reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;
 - (iv) reveal the reason for a government decision and any background or contextual information that informed the decision; and
 - (v) enhance the scrutiny of government decision making.
 - (b) disclosure would inform debate on a matter of public importance;
 - (c) disclosure would promote effective oversight of public expenditure;
 - (d) disclosure would allow a person to access his or her personal information, or:

- (i) the personal information of a child, where the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests.
 - (ii) the personal information of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household).
- (e) disclosure could contribute to the maintenance of peace and order;
 - (f) disclosure could contribute to the administration of justice generally, including procedural fairness;
 - (g) disclosure could contribute to the enforcement of the criminal law;
 - (h) disclosure could contribute to the administration of justice for a person;
 - (i) disclosure could advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;
 - (j) disclosure could reveal environmental or health risks of measures relating to public health and safety and contribute to the protection of the environment; and
 - (k) disclosure could contribute to innovation and the facilitation of research.

86. 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; or
- (b) disclosure 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.

- (a) disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, including where:
 - (i) the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests.
 - (ii) the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.
- (b) disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct;
- (c) disclosure could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- (d) disclosure could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- (e) disclosure could reasonably be expected to impede the administration of justice for an individual;
- (f) disclosure could reasonably be expected to impede the protection of the environment;
- (g) disclosure could reasonably be expected to impede the flow of information to the police or another law enforcement or regulatory agency;
- (h) disclosure could reasonably be expected to prejudice an agency's ability to obtain confidential information;
- (i) disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;

- (j) disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency;
- (k) disclosure could reasonably be expected to harm the interests of an individual or group of individuals;
- (l) disclosure could reasonably be expected to prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General;
- (m) disclosure could reasonably be expected to prejudice the management function of an agency; and
- (n) disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.

87. I have placed greater weight on these factors. I consider that disruption of established channels for communication and delivery of services would be likely to follow disclosure of contact information about individual staff members. I consider that impairment of the Department's ability to efficiently deliver services to veterans and their families could reasonably be expected as a result. Further, I consider that there is little public interest in the disclosure of information identifying individuals who are, or have been, staff members in roles more junior than the Senior Executive Service. Disclosure of that information could reasonably be expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.
88. I consider that the disclosure of the [insert any other material considered ie deliberative information] contained in the documents would [insert description of why release is not in the public interest].
89. (Defence staff and Third party medical practitioners) Further, I consider that there is little public interest in the disclosure of the personal information of Department of Defence staff and third-party medical practitioners. Disclosure of that information could reasonably be expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.
90. I consider that there is little public interest in the disclosure of the signatures of these [insert description of business information ie invoices paid by the Department]. Disclosure of that

information could reasonably be expected to adversely affect the business operations of those persons by revealing [commercial costings or insert other information here].

91. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.
92. On balance, I consider the public interest factors favouring disclosure to be more persuasive than the public interest factors against disclosure. I am satisfied that the public interest is to disclose the exempt material.
93. 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.

Delete exempt or irrelevant material from documents and provide access to edited copies (section 22)

94. The Department may refuse access to a document on the grounds that it is exempt. If so, the Department must consider whether it would be reasonably practicable to prepare an edited copy of the document for release, that is, a copy with relevant deletions made under section 22 of the FOI Act. The Department is under the same obligation to consider preparing an edited copy of a document by removing information that would reasonably be regarded as irrelevant to the request.
95. As explained above, some of the documents subject to your request contain exempt/irrelevant information.
96. On [date] you agreed to the removal of [description of material in acknowledgment letter] as out of scope or irrelevant to the scope of your request.
97. Further, I have also removed the name of the staff member who compiled the document, where it is printed in the top left corner or bottom of the PDF document on the basis that it is out of scope or irrelevant because it does not form part of the original document.
98. Detail here any here if the document(s) contain any other irrelevant material.
99. On this basis, I have prepared the documents for release by removing the exempt and irrelevant material in accordance with section 22 of the FOI Act. The material that has been edited for release is marked within the documents as well as at **Schedule 1**.

Access to documents

100. The document[s] released to you in accordance with the FOI Act [is][are] enclosed.
101. Following payment of the outstanding charge as set out above, the Department will provide the document[s] released to you in accordance with the FOI Act.
102. [Only to be used if releasing medical reports to a qualified person as per section 47F(4)&(5)]. In accordance with section 47F(5) of the FOI Act, I have released certain material documents containing your sensitive personal information to you via your nominated medical practitioner.
103. [Only to be used if third party raised objections and the FOI decision maker makes a decision against those objections to release material]. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.

Information Publication Scheme

104. 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.
105. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.
106. In accordance with section 11C(1)(a) of the FOI Act, details of your request and the document[s] issued to you will not be made available in the Department's FOI Disclosure Log as it relates to your [personal information] [business, commercial, financial or professional affairs] and it would be unreasonable to publish this information. [detail any other reason that would deem it unreasonable to publish]

Your rights of review

107. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (**OAIC**) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Deemed refusal

108. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (**OAIC**). In accordance with section 54E(b) of the FOI Act, internal review is not available as the Department did not finalise your FOI request within the prescribed statutory timeframe.

Internal review

109. 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.
110. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

111. 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

Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Phone: 1300 363 992

Email: FOIDR@oaic.gov.au

112. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

113. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001
Phone: 1800 838 372
Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	DD/MM/YY	Electronic records	1 – 50	Part Access	s 22, s 47F
2	Various	MRCA Client File - NZSMXXXX-01	51 – 100	Full Access	s 22

Commented [6:47E: s 4] This is an example
Proper legal citation is lower case s 47F



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)

11B Public interest exemptions — factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) Inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

Commented [s 47E, 64] The exemption codes in black are the legislations that do not need to be deleted. The officer should only delete the legislations in blue text that are not applicable to their case.

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

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.

17 Requests involving use of computers etc

- (1) Where:
- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
 - (b) It appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
 - (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
 - (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

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.

24 Power to refuse request--diversion of resources etc.

- (1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:
 - (a) must undertake a request consultation process (see section 24AB); and
 - (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists--the agency or Minister may refuse to give access to the document in accordance with the request.

- (2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:
- (a) the requests relate to the same document or documents; or
 - (b) the requests relate to documents, the subject matter of which is substantially the same.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
- (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
- (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

24AA When does a practical refusal reason exist?

- (1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:
- (a) the work involved in processing the request:
 - (i) in the case of an agency--would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister--would substantially and unreasonably interfere with the performance of the Minister's functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
- (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
- (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or

- (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a request consultation process?

Scope

- (1) This section sets out what is a request consultation process for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the contact person) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the consultation period) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), reasonable steps includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.

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).

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the Commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

34 Cabinet documents

General rules

- (1) A document is an exempt document if:
- (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
 - (b) it is an official record of the Cabinet; or
 - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
 - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.

- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

Exceptions

- (4) A document is not an exempt document only because it is attached to a document to which subsection (1), (2) or (3) applies.

Note: However, the attachment itself may be an exempt document.

- (5) A document by which a decision of the Cabinet is officially published is not an exempt document.
- (6) Information in a document to which subsection (1), (2) or (3) applies is not exempt matter because of this section if the information consists of purely factual material, unless:
 - (a) the disclosure of the information would reveal a Cabinet deliberation or decision; and
 - (b) the existence of the deliberation or decision has not been officially disclosed.

37 Documents affecting enforcement of law and protection of public safety

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
 - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
 - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:
 - (a) witnesses; or
 - (b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or
 - (c) any other people who, for any other reason, need or may need, such protection.
- (3) In this section, law means law of the Commonwealth or of a State or Territory.

38 Documents to which secrecy provisions of enactments apply

- (1) Subject to subsection (1A), a document is an exempt document if:
 - (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and

- (b) either:
 - (i) that provision is specified in Schedule 3; or
 - (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.
- (3) This section applies in relation to a document so far as it contains personal information about a person if:
 - (a) the person requests access to the document; and
 - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the Migration Act 1958 as affected by section 503D of that Act.
- (4) In this section: enactment includes a Norfolk Island enactment.

42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
- (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.

45 Documents containing material obtained in confidence

- (1) A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.
- (2) Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:
 - (a) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
 - (b) an agency, the Commonwealth or Norfolk Island.

46 Documents disclosure of which would be contempt of Parliament or contempt of court

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;
- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or

- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
 - (a) trade secrets; or
 - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) 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.
- (3) 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.

Public interest conditional exemptions

47B Public interest conditional exemptions—Commonwealth-State relations etc.

A document is conditionally exempt if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth; or
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth; or
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation

obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency; or
- (b) a Minister; or
- (c) the Government of the Commonwealth; or
- (d) the Government of Norfolk Island.

Exceptions

(2) Deliberative matter does not include either of the following:

- (a) operational information (see section 8A);
- (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

(3) This section does not apply to any of the following:

- (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
- (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
- (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

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

47D Public interest conditional exemptions—financial or property interests of the Commonwealth or Norfolk Island

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth, of Norfolk Island or 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).

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).

47H Public interest conditional exemptions—research

A document is conditionally exempt if:

- (a) it contains information relating to research that is being, or is to be, undertaken by an officer of an agency specified in Schedule 4; and
- (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the agency or officer to disadvantage.

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

47J Public interest conditional exemptions—the economy

- (1) A document is conditionally exempt if its disclosure under this Act would, or could be reasonably expected to, have a substantial adverse effect on Australia's economy by:
 - (a) influencing a decision or action of a person or entity; or
 - (b) giving a person (or class of persons) an undue benefit or detriment, in relation to business carried on by the person (or class), by providing premature knowledge of proposed or possible action or inaction of a person or entity.

Note: A person includes a body corporate and a body politic (see subsection 2C(1) of the Acts Interpretation Act 1901). Examples of a body politic include the government of the Commonwealth, a State, a Territory or a foreign country.

- (2) For the purposes of subsection (1), a substantial adverse effect on Australia's economy includes a substantial adverse effect on:
 - (a) a particular sector of the economy; or
 - (b) the economy of a particular region of Australia.
- (2A) For the purposes of paragraph (2)(b), Norfolk Island is taken to be a region of Australia.
- (3) The documents to which subsection (1) applies include, but are not limited to, documents containing matter relating to any of the following:
 - (a) currency or exchange rates;
 - (b) interest rates;
 - (c) taxes, including duties of customs or of excise;

- (d) the regulation or supervision of banking, insurance and other financial institutions;
- (e) proposals for expenditure;
- (f) foreign investment in Australia;
- (g) borrowings by the Commonwealth, Norfolk Island, a State or an authority of the Commonwealth, of Norfolk Island or of a State.

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



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reasons for decision of **Officername (Position Number *****)**,
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Commented [s 47E; s 4] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has identified **XX(x)** document[s] relevant to your request.
2. I have made a decision to grant full access to XX documents.
3. The document[s] that I have chosen to grant access to are set out in **Schedule 1**. [Where I have decided to remove material irrelevant to your request, I have provided access to an edited copy of the document[s], modified by deletions in accordance with section 22(2) of the *Freedom of Information Act 1982 (Cth)* (**FOI Act**).

Commented [s 47E; s 4] The wording has to be alphabet (digit) ie three (3) documents

Commented [s 47E; s 47F] It is acceptable to use numerals for numbers larger ie, ١٥٢

Commented [s 47E; s 47] Only relevant if irrelevant material has been removed

Authority to make decision

4. I, **Officername (Position Number *****)**, Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

5. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

6. On [date], the Department acknowledged your request via email.
7. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
8. On [date] you agreed to the removal of surnames, signatures and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.
9. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.
10. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
11. On [date] you were advised that the Department was required to undertake a third party consultation in accordance with section [26A] [27] [27A] of the FOI Act. [detail here whether the third party responded and how the response was taken into consideration]
12. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
13. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
14. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.

Commented [6 47E: 6 47] Update if an old acknowledgment letter was used and active agreement was not sought

15. As you are seeking access to document[s] that contain your own personal information/ the personal information of the person you represent, Regulation 7(1) of the *Freedom of Information (Charges) Regulations 2019* provides that no charge is payable.
16. I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.
17. As a decision on your request was not made within the timeframe as prescribed in section 15(5)(b) of the FOI Act, Regulation 7(2) of the *Freedom of Information (Charges) Regulations 2019* prescribed that no charge is payable.
18. Detail here if charges were applied and information about any payment.

Material taken into account

19. 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 [refuse] [grant partial] access to the document[s] follow[s].
20. I have taken the following material into account in making my decision:
 - the terms of your request on [date] [and as revised];
 - the types of information and documents that are in the Department's possession;
 - the content of the document that fall within the scope of your request;
 - the availability of information relevant to your request, including the practicality and time required in which the Department may create a document under section 17 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. I also considered the following provision[s] 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

- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**);
- [insert further items as appropriate]; and
- the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A] of the FOI Act.

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

Reasons for decision

22. I have decided to **grant access** full access to the documents within the scope of your request.

Delete exempt or irrelevant material from documents and provide access to edited copies (section 22)

23. The Department may refuse access to a document on the grounds that it is exempt. If so, the Department must consider whether it would be reasonably practicable to prepare an edited copy of the document for release, that is, a copy with relevant deletions made under section 22 of the FOI Act. The Department is under the same obligation to consider preparing an edited copy of a document by removing information that would reasonably be regarded as irrelevant to the request.

24. Some of the documents subject to your request contain irrelevant information.

25. On [date] you agreed to the removal of [description of material in acknowledgment letter] as out of scope or irrelevant to the scope of your request.

26. Further, I have also removed the name of the staff member who compiled the document, where it is printed in the top left corner or bottom of the PDF document on the basis that it is out of scope or irrelevant because it does not form part of the original document.

27. Detail here any here if the document(s) contain any other irrelevant material.

28. On this basis, I have prepared the documents for release by removing the irrelevant material in accordance with section 22 of the FOI Act. The material that has been edited for release is marked within the documents as well as at **Schedule 1**.

Access to documents

29. The document[s] released to you in accordance with the FOI Act [is][are] enclosed.
30. Following payment of the outstanding charge as set out above, the Department will provide the document[s] released to you in accordance with the FOI Act.
31. [Only to be used if third party raised objections and the FOI decision maker makes a decision against those objections to release material]. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.

Information Publication Scheme

32. 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.
33. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.
34. In accordance with section 11C(1)(a) of the FOI Act, details of your request and the document[s] issued to you will not be made available in the Department's FOI Disclosure Log as it relates to your [personal information] [business, commercial, financial or professional affairs] and it would be unreasonable to publish this information. [detail any other reason that would deem it unreasonable to publish]

Your rights of review

35. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (OAIC) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Deemed refusal

36. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (**OAIC**). In accordance with section 54E(b) of the FOI Act, internal review is not available as the Department did not finalise your FOI request within the prescribed statutory timeframe.

Internal review

37. 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.
38. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

39. 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

Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Phone: 1300 363 992

Email: FOIDR@oaic.gov.au

40. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

41. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Phone: 1800 838 372

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	FOI Act provision
1	DD/MM/YY	Electronic records	1 – 50	Full Access	s 22
2	Various	MRCA Client File - NZSMXXXXX-01	51 – 100	Full Access	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).

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:

Commented [s 47E; s 4] The exemption codes in black are the legislation that do not need to be deleted. The officer should only delete the legislation in blue text that are not applicable to their case.

- (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).



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reasons for decision of **Officername (Position Number *****)**,
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [Mr/Mrs Surname],

Freedom of Information Request: LEX

Decision

1. The Department of Veterans' Affairs (**Department**) has undertaken a reasonable search of its records and has identified **XX(x)** document[s] relevant to your request.
2. I have made a decision to grant full access to XX documents, and grant access in part to XX document(s).
3. I have made a decision to grant full access to XX documents, grant access in part to XX document(s) and refused access to XX document(s).
4. I have made a decision to grant access in part to XX document(s).
5. I have made a decision to grant access in part to XX document(s) and refused access to XX document(s).
6. I have made a decision to refuse access to the document(s).

**Commented [s 47E; s 4] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family**

Commented [s 47E; s 4] The wording has to be alphabet (digit) ie three (3) documents

Commented [s 47E; s 47F] It is acceptable to use numerals for numbers larger ie, ١٥٢

7. The document[s] that I have chosen to [grant access/ in part] [or] [refuse access to] [are] [is] set out in **Schedule 1**, together with applicable exemption provision[s]. Where I have decided to grant access in part, I have provided access to an edited copy of the document[s], modified by deletions in accordance with section 22(2) of the *Freedom of Information Act 1982 (Cth)* (**FOI Act**).

Authority to make decision

8. I, Officename (Position Number *****), Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

9. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

10. On [date], the Department acknowledged your request via email.
11. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
12. On [date] you agreed to the removal of surnames, signatures and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.
13. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.
14. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
15. On [date] you were advised that the Department was required to undertake a third party consultation in accordance with section [26A] [27] [27A] of the FOI Act. [detail here whether the third party responded and how the response was taken into consideration]

Commented [6 47E; 6 47] Update if an old acknowledgment letter was used and active agreement was not sought

16. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
17. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
18. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.
19. As you are seeking access to document[s] that contain your own personal information/ the personal information of the person you represent, Regulation 7(1) of the *Freedom of Information (Charges) Regulations 2019* provides that no charge is payable.
20. I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.
21. As a decision on your request was not made within the timeframe as prescribed in section 15(5)(b) of the FOI Act, Regulation 7(2) of the *Freedom of Information (Charges) Regulations 2019* prescribed that no charge is payable.
22. Detail here if charges were applied and information about any payment.

Material taken into account

23. 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 [refuse] [grant partial] access to the document[s] follow[s].
24. I have taken the following material into account in making my decision:
 - the terms of your request on [date] [and as revised];
 - the types of information and documents that are in the Department's possession;
 - the content of the document that fall within the scope of your request;

▪ the availability of information relevant to your request, including the practicality and time required in which the Department may create a document under section 17 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. I also considered the following provision[s] 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 agencies
- Section 47F Public interest conditional exemptions--personal privacy

▪ the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**);

▪ [insert further items as appropriate]; and

▪ the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A] of the FOI Act.

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

Reasons for decision

26. I have decided to **grant access** to [the] document[s] within the scope of your request, subject to the following exemption[s] in accordance with the FOI Act:

27. I have decided to **refuse access** to [the] document[s] within the scope of your request in accordance with the following exemption[s] in the FOI Act:

Public interest conditional exemptions--certain operations of agencies (sections 47E(c) and 47E(d))

28. The documents within the scope of your application contain the [names] [contact information] of staff of the Department. I have decided that s 47E(c) and 47E(d) applies to this material, as identified in **Schedule 1**.
29. Section 47E(c) conditionally exempts documents where disclosure would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or an agency. Management of personnel by the Department includes, among other things, human resources policies and activities, recruitment, and work health and safety.

Section 47E(d) conditionally exempts documents where 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.
30. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. For example, staff are generally required to identify themselves in correspondence with clients by a given name and position number.
31. This is consistent with the approach taken by other Commonwealth agencies with similar functions, including provision of support services and administration of statutory benefits schemes.
32. Implementation of these policies provides staff at more junior levels with confidence that they will not be inappropriately named or contacted in relation to actions taken in the course of their routine work for the Department.
33. Disclosure of identifying information about staff members contained within the documents would be inconsistent with these Departmental policies. Knowledge that identifying information about them may be disclosed in documents accessed under the FOI Act would be likely to undermine the confidence of staff in Departmental policies intended to support their work health and safety. Staff concern about inappropriate contact and the potential for harassment by clients is based on known instances of such things occurring. For example, public identification of individual staff members in an online client forum.

34. An adverse effect on the Department's ability to manage staff could reasonably be expected to result from widespread staff concern about disclosure of identifying information about staff members. Staff members may experience concern even when not based on personal experience of harassment.
35. I also note that the Department provides a wide range of services to its clients. To facilitate efficient conduct of its operations, the Department has established channels for communication on specific topics and in relation to specific services. These channels, such as email inboxes and telephone support lines, enable services to be delivered efficiently by directing clients to the most appropriate point of contact. In addition, the Department is able to manage staffing efficiently by providing staff with access to communication points attached to a role rather than to an individual.
36. Disclosure of identifying information about staff members in these documents would disclose contact details for individual staff members, which is not generally available. Once contact details for individual staff members are disclosed they are likely to become publically known through private correspondence. Making it possible for clients to address correspondence to individual staff members or to seek to contact individuals directly is likely to undermine Departmental arrangements to channel communications based on role rather than individual. Reduced efficiency in communication and delivery of services could reasonably be expected to result.
37. Accordingly, for the reasons outlined above I consider that certain material, as identified in Schedule 1, meets the criteria for conditional exemption under section 47E(c) and 47E(d) of the FOI Act.

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

38. 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).
39. 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.

40. 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.

41. 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.

42. The documents outlined in **Schedule 1** contain the [names] [contact information] of staff of the Department. Contact details of an individual staff member, such as their [email address] [phone number] [signature] is personal information about that person.

43. The Department has policies and procedures to support staff within its operating environment and to meet its obligations as an employer to provide a safe working environment. Some policies restrict the amount of identifying information generally provided by individual staff members to clients. As outlined above, staff are generally required to identify themselves in correspondence with clients by a given name and position number. This reduces the likelihood that individuals are reasonably identifiable in a different

context. For example, it reduces the likelihood that a private social media profile can be linked with an individual who is a staff member of the Department.

44. I consider that disclosure of personal information of individual staff members in the document would be unreasonable because it would be inconsistent with Departmental policies and procedures designed to support a safe and efficient working environment. Additionally, it would be unreasonable because it would be contrary to the expectations of those individual staff members, who may rely on those Departmental policies and procedures for assurance of their personal privacy.
45. (Department of Defence staff names and contact details) Documents on your file also contain the names of Department of Defence staff and serving Australian Defence Force members. Contact details of an individual member of staff of the Department of Defence, including the name, signature and email address, meets the definition of personal information.
46. I consider that disclosure of personal information of individual staff members of the Department of Defence would be unreasonable because it would be inconsistent with policies and practices across the Commonwealth which are designed to support a safe and efficient working environment for members of the Australian Public Service. Further, I consider that it would be unreasonable to disclose this information in circumstances where staff members have an expectation that their personal privacy will be assured.
47. (Third party medical practitioners) Documents on your file also contain personal information of third party medical practitioners. This includes names, contact details and signatures. I consider that it is likely that this personal information was included in these documents on the understanding that the documents were intended for a limited audience. I also note that personal signatures are sensitive personal information which can be used for proof of identity purposes. I therefore consider that the release of this material under the FOI Act, being outside of its originally intended audience, would be unreasonable.
48. I consider it appropriate to release the names and contact information of medical practitioners within the documents, where that information is available in publicly accessible sources or otherwise clearly known to you.
49. 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).

Application of the public interest test – sections 47E(c), (d) and 47F

50. 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.
51. In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factor which favours disclosure:
- (a) disclosure would promote the objects of the FOI Act by providing access to government held information.
52. I also considered the following factors which do not favour disclosure:
- (a) disclosure could be expected to adversely affect the management of staff of the Department, resulting in a likely reduction in the capability of the Department to efficiently carry out its functions;
 - (b) disclosure could be expected to adversely affect the delivery of services by the Department in accordance with its functions; and
 - (c) Disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy, both in relation to the third-party individuals and staff of the Department and other commonwealth agencies.
53. I have placed greater weight on these factors. I consider that disruption of established channels for communication and delivery of services would be likely to follow disclosure of contact information about individual staff members. I consider that impairment of the Department's ability to efficiently deliver services to veterans and their families could reasonably be expected as a result. Further, I consider that there is little public interest in the disclosure of information identifying individuals who are, or have been, staff members in roles more junior than the Senior Executive Service. Disclosure of that information could reasonably be expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.
54. **(Defence staff and Third party medical practitioners)** Further, I consider that there is little public interest in the disclosure of the personal information of Department of Defence staff and third-party medical practitioners. Disclosure of that information could reasonably be

expected to result in interference with the privacy of those individuals by enabling them to be identified in their private lives and associated with actions for which the Department is responsible.

55. 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.
56. I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

Delete exempt or irrelevant material from documents and provide access to edited copies (section 22)

57. The Department may refuse access to a document on the grounds that it is exempt. If so, the Department must consider whether it would be reasonably practicable to prepare an edited copy of the document for release, that is, a copy with relevant deletions made under section 22 of the FOI Act. The Department is under the same obligation to consider preparing an edited copy of a document by removing information that would reasonably be regarded as irrelevant to the request.
58. As explained above, some of the documents subject to your request contain exempt/irrelevant information.
59. On [date] you agreed to the removal of [description of material in acknowledgment letter] as out of scope or irrelevant to the scope of your request.
60. Further, I have also removed the name of the staff member who compiled the document, where it is printed in the top left corner or bottom of the PDF document on the basis that it is out of scope or irrelevant because it does not form part of the original document.
61. Detail here any here if the document(s) contain any other irrelevant material.
62. On this basis, I have prepared the documents for release by removing the exempt and irrelevant material in accordance with section 22 of the FOI Act. The material that has been edited for release is marked within the documents as well as at **Schedule 1**.

Access to documents

63. The document[s] released to you in accordance with the FOI Act [is][are] enclosed.

64. Following payment of the outstanding charge as set out above, the Department will provide the document[s] released to you in accordance with the FOI Act.
65. [Only to be used if third party raised objections and the FOI decision maker makes a decision against those objections to release material]. During the processing of your request we consulted [a third party] [third parties] potentially affected by the release of the document[s]. [That third party has] [Those third parties have] until [date] to seek a review of my decision after which time (subject to the outcome of any such review) we will provide you with the document[s] released to you in accordance with the FOI Act.

Information Publication Scheme

66. 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.
67. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.
68. In accordance with section 11C(1)(a) of the FOI Act, details of your request and the document(s) issued to you will not be made available in the Department's FOI Disclosure Log as it relates to your [personal information] [business, commercial, financial or professional affairs] and it would be unreasonable to publish this information. [detail any other reason that would deem it unreasonable to publish]

Your rights of review

69. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (OAIC) review my decision. We encourage you to seek internal review as a first step to resolve any concerns you may have.

Deemed refusal

70. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (OAIC). In accordance with section 54E(b) of the FOI Act, internal review is not available as the Department did not finalise your FOI request within the prescribed statutory timeframe.

Internal review

71. 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.
72. You can make your application for Internal Review in one of the following ways:

Post: Information Access Unit,
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Email: Information.Access@dva.gov.au

OAIC review

73. 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

Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Phone: 1300 363 992

Email: FOIDR@oaic.gov.au

74. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

75. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

Phone: 1800 838 372

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Schedule of documents

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	DD/MM/YY	Electronic records	1 – 50	Part Access	s 22, s 47F
2	Various	MRCA Client File - NZSMXXXXX-01	51 – 100	Full Access	s 22

Commented [6:47E: s 4] This is an example
Proper legal citation is lower case s 47F



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).

11B Public interest exemptions — factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) Inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

Commented ^{s 47E; s 4} The exemption codes in black are the legislation that do not need to be deleted. The officer should only delete the legislation in blue text that are not applicable to their case.

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

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).

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).



Decision under *Freedom of Information Act 1982*.

Decision of **Officer name (Position Number *****)**,
Information Access Officer, Information Access Unit, Client Access and Rehabilitation Branch,
Department of Veterans' Affairs

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Commented [s 47E; s 4] Mr/Mrs FirstName Surname (organisation name), representing Mr/Mrs FirstName Surname for ones that are being represented
Mr/Mrs FirstName Surname (organisation name), relating to Mr/Mrs FirstName Surname for ones that are third party requests eg Insurance companies, family

Dear Dr Surname

The [name of veteran] has made a request to this department under the *Freedom of Information Act 1982* (the Act) for access to psychology and psychiatrist reports.

Pursuant to section 47F(5) of the *Freedom of Information Act 1982 (Cth)*, the Department has decided that disclosure of these documents to Mr **Veteran Surname** may be prejudicial to **his/her** physical or mental health and well-being and that access to these reports should be given instead to a specialist nominated by him.

Mr **Veteran Surname** has nominated you as the specialist to whom access should be given, and a copy of the document in question is enclosed. It is a matter for you to decide whether or not to release the report to Mr **Veteran Surname**.

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

Post: National Information Access Processing Team
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Decision under S59 of the Safety Rehabilitation and Compensation (Defence-Related Claims Act) 1988 (DRCA)

Decision of NAME, [Position Number XXX], Information Access Unit, Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant],

Decision date: 24 June 2022

LEX reference number: LEX #####

Sent by (email, SIGBOX, post etc): XXXXXX

Dear [name],

S59 DRCA - LEX #####

I refer to your request for information *under Section 59 of the Safety, Rehabilitation and Compensation (Defence-Related Claims) Act 1988* received on **day month year**.

Your request was acknowledged on **day month year**.

Your request sought access to:

'...Enter scope of request...'

I am authorised to make access decisions.

Following examination of the documents, I have decided to grant access in full to the documents covered by your request. Copies of relevant documents are enclosed/attached. Due to the age and condition of the original documents the quality of the copy may vary.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number #####)

Information Access Officer
Information Access Unit
Client Access and Rehabilitation Branch
Department of Veterans' Affairs

24 June 2022



Decision under S59 of the Safety Rehabilitation and Compensation (Defence-Related Claims Act) 1988 (DRCA)

Decision of NAME, [Position Number XXX], Information Access Unit, Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant], authorised representative of Mr/Ms/Mrs Client First Name, Client Surname

Decision date: 24 June 2022

LEX reference number: LEX #####

Sent by (email, SIGBOX, post etc): XXXXXX

Dear [name],

S59 DRCA - LEX

I refer to your request for information *under Section 59 of the Safety, Rehabilitation and Compensation (Defence-Related Claims) Act 1988* received on day month year.

Your request was made on behalf of CLIENT First NAME, CLIENT SURNAME. Mr/Ms/Mrs SURNAME has provided written consent for you to act on his/her behalf in this matter.

Your request was acknowledged on day month year.

Your request sought access to:

'...Enter scope of request...'

On day month year, the Department consulted with Mr/Ms/Mrs SURNAME and confirmed his/her consent to the release of his/her information.

I am authorised to make access decisions.

Following examination of the documents, I have decided to grant access in full to the documents covered by your request. Copies of relevant documents are enclosed/attached. Due to the age and condition of the original documents the quality of the copy may vary.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number #####)

Information Access Officer
Information Access Unit
Client Access and Rehabilitation Branch
Department of Veterans' Affairs

24 June 2022



Decision under S331 of the Military Rehabilitation Compensation Act 2004 (MRCA).

Decision of NAME, [Position Number XXX], Information Access Unit, Client Access and
Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant],

Decision date: 24 June 2022

LEX reference number: LEX #####

Sent by (email, SIGBOX, post etc): XXXXXX

Dear [name],

S331 MRCA - LEX

I refer to your request for information *under Section 331 of the Military Rehabilitation Compensation Act 2004* received on [day month year].

Your request was acknowledged on [day month year].

Your request sought access to:

'...Enter scope of request...'

I am authorised to make access decisions.

Following examination of the documents, I have decided to grant access in full to the documents covered by your request. Copies of relevant documents are enclosed/attached. Due to the age and condition of the original documents the quality of the copy may vary.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number #####)

Information Access Officer
Information Access Unit
Client Access and Rehabilitation Branch
Department of Veterans' Affairs

24 June 2022



[Address]
Sent by (email, post, SIGBOX etc):

24 June 2022

Dear Registrar,

I refer to the subpoena dated ###, requesting Open Arms' records in the following matter:

Matter Reference:
Parties:

This subpoena was originally served on Open Arms – Veterans & Families Counselling (formerly VVCS) by ... of ... on behalf of the ... on The subpoena seeks access to the following records:

- ..

The subpoena was originally returnable on 1.... However, the issuing party has consented to an extension of the production date until ...

Please find **enclosed** the documents produced by Open Arms in response to this subpoena.

[Please note that Open Arms has identified mixed personal information of third parties as stated and described by the client. Open Arms is of the view that this information falls within the scope of the subpoena, noting that it is contained on the client's individual counselling records. However, we request that the Court takes the sensitivity and handling of this third-party information into special consideration prior to considering any further release or disclosure.]

[Please note that Open Arms has redacted certain third-party personal information that does not fall within the scope of this production subpoena, or whereby Open Arms considers that release of that personal information could inadvertently increase the risk of harm to those persons.]

IMPORTANT - The documents that are the subject of the subpoena include confidential counselling records held by Open Arms. Open Arms has always operated on a basis of confidentiality between the clients and counsellors and any breach of this confidentiality would severely inhibit the effectiveness of the Service, in that clients would be less likely to be candid in their dealings with counsellors. Indeed, any such breach could quickly become widely known in the veteran community and would be likely to result in a decline in the use of this essential service.

The Commonwealth has consistently taken the position that the confidential counselling services provided by Open Arms are essential to assist veterans and their families to come to terms with their experiences both during and after their Defence service. As such, the Commonwealth has formed the view that there is an important public interest in the assistance provided to veterans and their families. The Commonwealth is committed to preserving the confidentiality of Open Arms counselling records within this context to the extent permissible by the law.

The respectfully note that the Court may wish to consult with the parties as to whether they are concerned that the release of the information may put them at risk.

Commented ^{s 47E; s 4} Included where redactions have not been applied to third party information on a client's individual counselling record.

Commented ^{s 47E; s 4} Include when redactions have been applied to information about persons not listed in the scope of the subpoena. Most relevant where third party information is captured in a couple's counselling or family counselling file.



Australian Government
Department of Veterans' Affairs

LEX #####

As noted above, the material provided in response to this subpoena is considered **highly confidential**. It is requested that the confidential and sensitive nature of these records is considered and respected when reviewing, handling and using these records.

I can be contacted on information.access@dva.gov.au if you wish to discuss this matter.

Yours sincerely,

Officename (Position Number *****)

Information Access Officer

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

Enc.

Copy of Subpoena and Requested Documents



Australian Government
Department of Veterans' Affairs

[Address]

24 June 2022

Sent by (email, post, SIGBOX etc):

ADDRESS

Sent via email only: ...

Dear Registrar,

I refer to the subpoena dated ###, requesting Department of Veterans' Affairs (**the department**) records in the following matter:

Matter Reference:

Parties:

This subpoena was originally served on the department by [representative name] of [firm] on behalf of the [Applicant/Respondent] on [date]. The subpoena seeks access to the following records:

- ['...Scope...](#)

The subpoena is returnable on [insert return date] [On ..., the issuing party consented to an extension of the production date until ...]

We confirm that the department does not hold the requested information.

I can be contacted on information.access@dva.gov.au if you wish to discuss this matter.

Yours sincerely,

Officer name (Position Number *****)

Information Access Officer

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

Enc.

Copy of Subpoena and Requested Documents

I can be contacted on [insert details] if you wish to discuss this matter.

Yours sincerely,

[insert signature]

Enc.

Copy of Subpoena



Australian Government
Department of Veterans' Affairs



Australian Government
Department of Veterans' Affairs

LEX #####

Formatted: Font: 16 pt, Font color: Background 1

[Address]

24 June 2022

Sent by (email, post, SIGBOX etc): ADDRESS

Formatted: Highlight

Field Code Changed

Sent via email only: ...

Formatted: Highlight

Commented [AN1]: Should we also include Sigbox or online portal

Dear Registrar,

Formatted: Font: 11 pt

I refer to the subpoena dated ###, requesting records in the following matter:

Formatted: Indent: Left: 0 cm, Space After: 8 pt, Line spacing: Multiple 1.08 li

Matter Reference:

Parties:

This subpoena was originally served on the Department of Veterans' Affairs (the department) by ... of ... on behalf of the ... on The subpoena seeks access to the following records:

- '...Scope...'

The subpoena is returnable on However, the issuing party has consented to an extension of the production date until ...

Please find enclosed the documents produced by the department in response to this subpoena.

[Please note that the department has identified mixed personal information of third parties as stated and described by the client. The department is of the view that this information falls within the scope of the subpoena, noting that it is contained on the client's individual counselling records. However, we request that the Court takes the sensitivity and handling of this third-party information into special consideration prior to considering any further release or disclosure.]

Commented ^{s 47E; s 4} Include where third-party information (i.e. husband information, children information, parents information) is included in the document – but there is no valid reason for the information to be redacted

Formatted: Font: 11 pt

[Please note that the department has redacted certain third-party personal information that does not fall within the scope of this production subpoena, or whereby the department considers that release of that personal information could inadvertently increase the risk of harm to those persons.]

Commented ^{s 47E; s 4} Include when redactions have been applied to information about persons not listed in the scope of the subpoena

Formatted: Font: 11 pt

The respectfully note that the Court may wish to consult with the parties as to whether they are concerned that the release of the information may put them at risk.

As noted above, the material provided in response to this subpoena is considered **highly confidential**. It is requested that the confidential and sensitive nature of these records is considered and respected when reviewing, handling and using these records.

I can be contacted on information.access@dva.gov.au / information.law@dva.gov.au if you wish to discuss this matter.

Yours sincerely

Officer name (Position Number *****)

Information Access Officer

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

Yours sincerely,

[NAME]

DESIGNATION

TEAM

Enc.

Copy of Subpoena and Requested Documents

Field Code Changed

Field Code Changed

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Joshua

From: INFORMATION.ACCESS
Subject: RESPONSE REQUIRED LEX XXXX- Information Access Request – CLIENT FULL NAME

Dear [applicant full name]

On the [date of application] you made a request for:

...[scope]...

During our searches for documents within the scope of your request, we have found approximately [number of pages] pages relevant to your request. We consider this a voluminous request and are unable to process this volume of material under a single administrative access request. The processing of the request would cause a substantial and unreasonable diversion of the Department's resources, specifically the Department's Information Access Unit. We estimate that the current scope of your request would require one staff member to be solely dedicated to your request for **xx weeks**.

I also considered whether your request may be processed under the FOI Act and concluded your request would also likely be refused under section 24 of the FOI Act, as the processing of such a large request would give rise to a practical refusal reason under section 24AA(1)(a)(i).

However, before I make a decision to refuse your request, your request may be able to be processed if you are agreeable to select one of the two options below:

1. Revise your request, to narrow or reduce the scope of the request to make it more manageable; or
2. Provide more detail about the documents you want to access;
 - a. For example, if you provide more specific information about exactly what documents you want, we may be able to locate the documents more quickly without using excessive resources; or
3. Staggering the release of documents through smaller bundles over an agreed time period.

Please respond within 14 days, **COB DATE**, with your preferred option on how you would like us to proceed. If at the end of the 14 days no response has been received, we will proceed with our refusal notification. If you require longer than 14 days to consider the best option, please let me know.

Dear colleagues,

The department has received a new information access request from [name of applicant] under the *Freedom of Information Act 1982 (FOI Act)/APP12/ MRCA/DRCA*. The request was received on [date] and was made in the following terms:

[insert scope of request]

The Information Access Unit has already undertaken the following search and retrieval process:

[insert scope of documents already searched for]

Your area has been identified as the area that is most likely to hold additional documents relevant to the request. Please confirm by **COB [date]** the following information:

- The nominated contact officer for this request (the person who will be the contact person for our team to liaise with).
- Whether or not this request is sensitive (this includes, but is not limited to, requests likely to attract SES, ministerial or media interest).
- Whether there are any other line areas that may hold documents relevant to the request.

I have attached a search minute for the nominated contact officer to complete. A signed copy of the search minute and the documents relevant to the scope of the request must be sent to Information.Access@dva.gov.au no later than **COB [date]**

[FOI Only] The FOI Act has strict statutory timeframes and a decision on access must generally be made 30 days after the day the FOI request is received. This is why the above timeframes have been specified. More information on the FOI process can be found [here](#).

If you have any queries or concerns then please do not hesitate to contact either myself or [name of supervisor].

Kind regards,

[sign off]

Joshua

From: INFORMATION.ACCESS
To: max_z@hotmail.com
Subject: LEX 49205 -ZIMMERMANN - SIGBOX instructions
Attachments: SIGBOX instructions.pdf

Dear Mr Zimmermann

Please find **attached** the decision letter for LEX 49205

As the documents we are releasing to you are too large to send via email, we will be releasing them to you using SIGBOX.

Please follow the instructions provided in the email to access your information.

Any documents produced by the Department in response to this FOI request will be available through SIGBOX for a period of **7 days** before being removed. It is important that you download the information from SIGBOX onto your own electronic device within **7 days** of receipt.

You will shortly receive an email from Information Law via 'Macquarie Government' advising you that Information Access has shared a document with you. The email will read a little like this:

Hey there,

Just letting you know that Information Access shared various documents with you.

Activate your guest account at Macquarie Government by [setting a password](#).

Then [view it!](#)

You can login using the email address max_z@hotmail.com

Cheers!

--

Macquarie Government – Intellicentres are intelligent

<https://macquariegovernment.com/>

problems accessing the documents please let me know.

If you have any

Kind regards,

Natalie (Position number 62214719)
Team Leader – Registrations
Information Access Unit
Department of Veterans' Affairs
t 1800 838 372 | e Information.Axxxxx@xxx.xxx.au | www.dva.gov.au
p GPO Box 9998, Canberra ACT 2601



 Please consider the environment before printing this email

IMPORTANT: This document contains legal advice and may be subject to legal professional privilege. Unless it is waived or lost, legal professional privilege is a rule of law that, in part, provides that the client need not disclose confidential communications between a legal practitioner and client. To keep this privilege, the purpose and content of this advice must only be disclosed to persons who have a need to know and on the basis that those persons also keep it confidential.

You should consider this advice and take it into account when forming a decision on how best to proceed. If you decide to adopt a position that does not align with this advice, you should not state that DVA Legal Services & Audit Branch has cleared or endorsed a particular position.

Joshua

From: INFORMATION.ACCESS
Subject: RESPONSE REQUIRED: Extension of time request - LEX XXXXX

Good morning/afternoon [applicant],

I refer to your request, received by the Department of Veterans' Affairs (the Department) on [day month year], for access under the *Freedom of Information Act 1982* (FOI Act) to the following:

'...[insert scope]...'

I am the processing officer with carriage of your request and am seeking your agreement to an extension of time. In accordance with section 15(5)(b) of the FOI Act, the due date for a decision on your request is [day month year].

[INSERT REASONING FOR REQUEST, for example ->] I am liaising with the relevant business area to search for and locate documents within the scope of your request. Further time is required to search for and review documents. As such, I am seeking your agreement to grant the department an additional xx days to issue you with a decision on this FOI matter. If agreed, the extended decision date would be [day month year] in accordance with section 15AA of the FOI Act. This will provide the Department with sufficient time to search for, identify and make a decision on any documents falling within the scope of your request.

Please let us know by [day month year] whether you agree to an extension of time.

If we do not receive a response from you, we may apply to the Office of the Australian Information Commissioner (OAIC) for an extension of time under section 15AB of the FOI Act, on the basis that the request is complex and voluminous.

Kind regards,
[signature]

Joshua

From: INFORMATION.ACCESS
To: Spinks, Don
Subject: FOI Alert - LEX XXXX -FOI request for [insert description of information]

FOIALERT@dva.gov.au

Dear Colleagues

FOI Alert: LEX ^{s 47E; s 47F} **-s 47E; s 47F**

The Department has received a Freedom of Information request from [insert applicant] for access to the following:

[insert complete FOI request]

A copy of the original request has been attached for your reference.

A Statement of Reasons is due to be provided to the applicant on [insert].

This timeframe may be extended if consultation is required or if the matter is complex or voluminous.

Initially, Information Access will correspond with the applicant to acknowledged receipt of the request and clarify the scope if required. We will then work with the relevant business area to clear their search results with their relevant SES, and to also assist in putting together some TPs, if relevant.

If you have any questions about this matter, please contact [insert].

Suzanne

Position Number: 62210948

Information Access Officer

Information Access Unit

Department of Veterans' Affairs

e XXXXXXXXXX.XXXXXX@XXX.XXX.XX

t 1800 838 372

Joshua

Subject: ** TEMPLATE EMAIL - instructions to access emails sent Personal Privacy **

Dear [insert name of access applicant],

Please accept our apologies that you have not been able to access our email.

Because our correspondence includes copies of your personal information, the department is required to send you a copy of the documents using a “Sensitive: Personal Privacy” marker, which provides a greater level of security when the documents are sent.

The department has some instructions on its website about how to access emails that are sent with the “Sensitive: Personal Privacy” marker, see the attached link for those instructions - [Sensitive emails | Department of Veterans' Affairs \(dva.gov.au\)](#)

Please let us know if you continue to have difficulties accessing the email and we can work out another way to send you the information.

Regards

Please find **attached** statement of reasons and document bundle for your request

Dear [applicant name]

Freedom of Information Request: LEX XXXXXX – Client Full name

I refer to your request for access to documents held by the Department of Veterans' Affairs (**Department**) under the *Freedom of Information Act 1982 (FOI Act)*. Your request was received by the Department on [insert] and was made in the following terms:

[insert the terms of the FOI request exactly].

In accordance with section 15(5)(b) of the FOI Act, the due date for a decision on your request is [insert – 30 calendar days from the date the FOI request was received].

Request for extension of time

Due to [reason] during this period, I am seeking your agreement to a 30 day extension of time under [section 15AA](#) of the FOI Act.

If you are agreeable, this would make the new decision date for your request [additional 30 calendar days from the due date of the FOI decision].

Please advise no later than COB on [3 business days from the date of your email] if you agree to the extension of time.

If I do not receive a response from you, I may proceed to requesting an extension of time under section 15AB of the FOI Act from the Office of the Australian Information Commissioner on the basis that your request is complex and/or voluminous.

Commented ^{5:47E; 5:47} Only add if relevant.

Further information on FOI processing can be found at the website of the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/>.

Regards

[Email signature]

Contents

SUBPOENA CHECKLIST	2
TEMPLATE A - Search minute covering email	4
TEMPLATE B - Confirming scope of subpoena	5
TEMPLATE C - Request for Extension of Time.....	6
TEMPLATE D - Confirmation of Extension of Time	7
TEMPLATE E - Request for Conduct Money.....	8
TEMPLATE F - Subpoena served on last date of service	9
TEMPLATE G - Subpoena incorrectly addressed.....	10
TEMPLATE H - Subpoena not sealed.....	11
TEMPLATE I - Confirmation of withdrawal of subpoena	12
TEMPLATE J - Confirmation of consent to partial production	13

SUBPOENA CHECKLIST

1. Has the subpoena been served *before or on* the last date of service?

- Refer to the details of the subpoena where it notes “*The last date of this subpoena is*” and then it includes a date. If the subpoena has been served on the subpoena after the specified date, the subpoena is invalid.
- Refer to **Template A** below for the email to send to the issuing party in these circumstances. Note that the templates serve as a guide only and can be adapted to ensure they are fit for purpose provided the information is accurate from a legal and policy standpoint.

2. Is the subpoena correctly addressed to ‘The Proper Officer’?

- The subpoena must be addressed to
The Proper Officer
The Department of Veterans’ Affairs
- *NB* – this is relevant to the information *in the actual subpoena*, not a cover letter attached to the subpoena

3. Has a sealed copy of the subpoena been provided?

- A court’s seal on a subpoena is proof that the subpoena has been validly issued. If you receive a subpoena that has not been sealed you should inform the issuing party that you require a sealed copy of the subpoena, before the subpoena can be complied with.

4. Has *sufficient* conduct money been provided with the subpoena?

- The department requests that the payment of conduct money be made at the time of the service of a subpoena. This payment is intended to cover the “reasonable expenses” incurred by the department in the process of processing and collecting the documents as required by the subpoena
- The standard amount of conduct money requested by the department is \$25

5. Does the scope specify the information sought?

- A subpoena must clearly specify the scope of information and types of documents sought. If the scope of a subpoena is ambiguous or excessively wide then it may not be possible to comply with the subpoena.
- A subpoena should specify the documents it seeks with a reasonable amount of particularity. If a subpoena simply seeks undefined categories of documents or requires the department to make its own judgement calls as to which specific document are relevant and which documents are not, the subpoena may be too wide and be liable to be set aside.

- Similarly, if the scope of a subpoena is so wide that compliance with the subpoena would be unreasonably burdensome and oppressive for the department to comply with, this may also be grounds for setting aside the subpoena.
- In these circumstances you should contact the issuing party to explain your reasoning, and request that they clarify or narrow the scope of the documents they are seeking.

TEMPLATE A - Search minute covering email

SUBJECT: Matter of ### & #### - Search Minute - LEX XXXX

Dear Open Arms,

I refer to the attached subpoena the department received on [date] for the matter of [matter name]. The documents sought are in relation to [client / veteran name] [DOB].

I confirm that the subpoena is valid. As a result, the Department must comply with the subpoena.

Information Access has identified Open Arms as the business area most likely to hold the documents contained within the scope of the subpoena.

Requested information:

[insert scope]

If you require more time to process and produce the documents, please contact myself, so that I can speak with the issuing party about a possible Extension of Time.

The LEX reference is XXXX.

Please find **attached** the search minute for your action. By [date], please complete searches, search minute and return relevant documents in response to this subpoena to this email, copying in the Information Access Team at Information.Access@dva.gov.au. The documents are due to be released to the court by [due date] and Information Access will facilitate this step.

Please do not produce documents directly to the applicant.

If you have any further questions, please contact myself or the Information Access Team via the below details.

Kind regards,

[signature]

TEMPLATE B - Confirming scope of subpoena

SUBJECT: Matter of ### & #### - Confirmation of Limited Scope for Subpoena – LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

Thank you for your time over the phone to discuss the subpoena for this matter.

As agreed, the department will comply with the subpoena by limiting the scope to:

[list the agreed limited scope]

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE C - Request for Extension of Time

SUBJECT: Matter of ### & #### - Request for Extension of Time – LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

We note that the current date of production for this subpoena is listed as XXXX. Unfortunately the department will not be able to meet the production for this matter as [insert reason].

As such, we respectfully request an extension of time to XXXX to comply with the subpoena. Could you please confirm not later than XXXX whether you agree to the department's request for an extension of time?

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE D - Confirmation of Extension of Time

SUBJECT: Matter of ### & #### - Confirmation of Extension of Time – LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

Thank you for your time over the phone to discuss the subpoena for this matter.

As agreed, the department will comply with the subpoena by the extended production date of XXX. We will note this agreement in our Cover Letter to the Court, when complying with the subpoena.

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE E - Request for Conduct Money

SUBJECT: Matter of ### & #### – Conduct Money required – LEX ###

Dear [issuing party]

Request for Conduct Money - LEX XXXX

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

The department requests that payment of conduct money of \$25 be made with the service of a subpoena, as a contribution towards the costs for the department in accessing, processing, and producing the requested documents to the [Court]. We reserve the right to apply to seek further costs if additional expenses that are incurred in compliance with the subpoena.

Please confirm that you will make a payment of \$25 as conduct money for the department's reasonable costs incurred in compliance with the above subpoena. Please mail a cheque for \$25 with a copy of the subpoena stapled to it to:

The Proper Officer
The Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

The cheque must be made payable to the Department of Veterans' Affairs and should be marked as 'non-negotiable.' Please also print the details of the subpoena (matter name and number) on the back of the cheque.

Alternatively, payment may be made via bank transfer:

Account name: Department of Veterans' Affairs
Account number: 112084
BSB: 092009
Reference: Matter name and court file number
Amount: \$25

Once payment is made, please provide a receipt of such to this email.

Kind regards,

[Signature]

TEMPLATE F - Subpoena served on last date of service

SUBJECT: Matter of ### & #### - Subpoena served after the last date of service - LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

The subpoena for this matter has been served on the department outside the last date of service. The Subpoena was received by the department on XXX which is XX days after the last of service listed as XXX.

Accordingly, the subpoena is invalid, and the department is not required to comply.

Should you require the documents/information requested, please file a new subpoena with the Court and ensure that it is served on the department validly, and before the last date of service.

If the conduct money has been processed by the department already, please advise so that a refund can be arranged.

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE G - Subpoena incorrectly addressed

SUBJECT: Matter of ### & #### - Subpoena Addressed Incorrectly - LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter. [Thank you for your time over the phone to discuss this matter].

The subpoena is addressed to [insert listed addressee] and not the Department of Veterans' Affairs. As such, the department considers that the subpoena has not be validly served and confirms no further action will be taken by the department in relation to the subpoena.

If the information requested under the subpoena are required, a new subpoena will need to be filed with the Court. Please ensure that the new subpoena is validly served on the department and correctly addressed to:

The Proper Officer
The Department of Veterans' Affairs
GPO Box 9998, Brisbane QLD 4001

In the interests of efficiency, please also email a copy of the subpoena to [insert email].

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE H - Subpoena not sealed

SUBJECT: Matter of ### & #### - Subpoena not Sealed by Court- LEX XXXX

Dear [issuing party]

Subpoena in the Matter of ### & #### [matter number]

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

The version of the subpoena provided to the department is not been sealed by the [relevant court]. The department is only able to comply with subpoenas that have been sealed by the relevant Court.

If you could please provide us with a copy of the sealed version of the subpoena that would be greatly appreciated. Once the department receives a sealed copy of the subpoena, we will be able to process it accordingly.

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE I - Confirmation of withdrawal of subpoena

SUBJECT: Matter of ### & #### – Confirmation of withdrawal – LEX ###

Dear [issuing party]

Confirmation of withdrawal of subpoena - LEX XXXX

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

As per our conversation of [insert date], please respond to this email confirming your intention to formally withdraw the subpoena at your earliest convenience. If you do not respond with this confirmation, the department will continue to comply with the subpoena.

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]

TEMPLATE J - Confirmation of consent to partial production

SUBJECT: Matter of ### & #### – Confirmation of consent to partial production – LEX ###

Dear [issuing party]

Confirmation of consent to partial production - LEX XXXX

Our Reference: LEX XXXX

Your Reference:

We refer to the subpoena served on the Department of Veterans' Affairs (the department) in the above matter.

As per our conversation, please respond to this email confirming your consent for the department to partially producing documents in response to the subpoena by [insert return date].

The department hopes to produce the remainder of the documents by [insert date].

Should you have further queries, please contact: XXXXX

Kind regards,

[Signature]



Decision and Statement of reasons issued under the *Freedom of Information Act 1982*

Decision and reason for decision of **Officename (Position Number *****)**,
Information Access Officer, Information Access Unit,
Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant]

Date of primary decision: [date]

FOI reference number (Primary): LEX XXXX

Internal review decision date: 24 June 2022

Internal review reference number: LEX #####

Sent by (email, post, SIGBOX etc): XXXXXX

Dear [name],

Freedom of Information Internal Review Request: LEX

Decision

1. The purpose of this letter is to give you a decision about your request for internal review for the decision made in [LEX XXXX] under the *Freedom of Information Act 1982* (Cth) (**FOI Act**)
2. I have made the decision to affirm/vary the original decision made by [name] (Position Number xxxxxxx), Information Access Officer, Information Access Unit, Client Access Rehabilitation Branch. That decision was to grant part access/full access/refuse access to the document/s within the scope of your request.
3. [Only if varying decision] My decision on internal review is to grant full access to XX document(s), and grant access in part to XX document(s).
4. [Only if varying decision] My decision on internal review is to grant full access to XX document(s), grant access in part to XX document(s) and refused access to XX document(s).

Commented [6 47E: 6 47] This is the original LEX number subject to review

5. [Only if varying decision] My decision on internal review is to grant access in part to XX document(s).
6. [Only if varying decision] My decision on internal review is to grant access in part to XX document(s) and refuse access to XX document(s).
7. The document[s] that I have decided to [grant access/ in part] [or] [refuse access to] [are] [is] set out in **Schedule 1**, together with applicable exemption provision[s]. Where I have decided to grant access in part, I have provided access to an edited copy of the document[s], modified by deletions in accordance with section 22(2) of the *Freedom of Information Act 1982 (Cth) (FOI Act)*.

Authority to make decision

8. I, Officername (Position Number *****), Information Access Officer, Information Access Unit, Client Access Rehabilitation Branch, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

Original Decision

9. On [date] you made a request for access to [a] document[s] in the possession of the Department. Your request sought access to:

...[scope]...

10. On [date], the Department acknowledged your request via email.
11. I confirm that you provided [document descriptions] on [date] evidencing your authority to receive the personal information of [name of client].
12. On [date] you agreed to the removal of surnames, signatures and direct contact details of non-SES Commonwealth employees and contractors, including clinical staff working for Open Arms – Veterans & Families Counselling and serving Australian Defence Force members, as irrelevant material, in accordance with section 22 of the FOI Act.
13. The Department has contacted Mr/Mrs XXXXX on [date] and he/she has consented to the release of his/her documents to Mr/Mrs XXXXX.

Commented [6 47E; 6 47] Update if an old acknowledgment letter was used and active agreement was not sought

14. Detail here any consultations that took place regarding the scope of the request and the result of that consultation.
15. On [date] you were advised that the Department was required to undertake a third party consultation in accordance with section [26A] [27] [27A] of the FOI Act. [detail here whether the third party responded and how the response was taken into consideration]
16. As no extensions of time have been applied to process your request, a decision on your request is due by [date].
17. As [an extension of time was] [extensions of time were] applied to process your request in accordance with [section 15(6), 15AA, 15AB, 15AC, 54D] of the FOI Act, a decision on your request is due by [date].
18. In accordance with section 15AC of the FOI Act, the principal officer of the Department is taken to have made a decision personally refusing to give access to the documents on the last day of the initial decision period. Even where a decision has not been issued within the prescribed timeframe, the Department retains an obligation to process and finalise the FOI request. I would like to apologise for the delay in issuing this decision to you and any inconvenience it may have caused.
19. On [date] the Department made a decision to [insert description of decision i.e. provide part access to the xx number of documents] within the scope of your request, under the following provisions of the FOI Act:
 - a. Section 47E Public interest conditional exemptions--certain operations of agencies
 - b. Section 47F Public interest conditional exemptions--personal privacy
 - c. [insert relevant exemption provisions relied upon in original decision]

Internal Review

20. After receiving the Department's decision on [date], you contacted the Department on [date] requesting an internal review of the handling of this FOI request. Your internal review request was made in the following terms:

...[scope]

21. On [date], I emailed you [insert any communications about the scope of the internal review]

22. As your application was made within/outside the 30 day of the original decision being made, the internal review decision is valid/invalid.

23. As no extension of time has/ has not been applied to process this internal review, a decision on your internal review application is due [date].

Commented [6 47E: 6 47] Section 54D(4) does allow for an extension of time by grant or the IC But this shouldn't be used regularly

Material taken into account

24. 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 document follows

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

- the terms of your original request made on [date] and the original decision made on this request on [date];
- the records of the searches carried out in processing your original request;
- the terms of your internal review request made on [date];
- the types of information and documents that are in the Department's possession;
- the content of the document 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 have 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 agencies
 - Section 47F Public interest conditional exemptions--personal privacy;
 - Section 54C Internal review – decision on internal review; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**);

- [insert further items as appropriate]; and
- the views of [a third party] [third parties] consulted by the Department under section [26A] [26AA] [27] [27A] of the FOI Act.

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

Reasons for decision

27. I have decided to affirm the original decision made on [date] to grant part access to the document/s within the scope of your request, subject to the following provisions in the FOI Act.
28. I have decided to vary the original decision made on [date] and grant full/part access to the document/s within the scope of your request, subject to the following provisions in the FOI Act.

[insert relevant reasoning taken from the original decision template as required]

Delete exempt or irrelevant material from documents and provide access to edited copies (section 22)

[insert relevant reasoning taken from the original decision template as required]

Access to documents

29. [if affirmed] You were provided with the document previously, on [date], as part of the primary FOI decision LEX xxxx. I have therefore not enclosed the document again.
30. [if varied] The documents to which I have made a decision to vary access to are enclosed.

Information Publication Scheme

31. 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.
32. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of

FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.

33. In accordance with section 11C(1)(a) of the FOI Act, details of your request and the document(s) issued to you will not be made available in the Department's FOI Disclosure Log as it relates to your [personal information] [business, commercial, financial or professional affairs] and it would be unreasonable to publish this information. [detail any other reason that would deem it unreasonable to publish]

Your rights of review

34. If you are dissatisfied with my decision you may apply for Information Commissioner Review of the decision through the Office of the Australian Information Commissioner (**OAIC**).

OAIC review

35. 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
Post: Director of FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Phone: 1300 363 992
Email: FOIDR@oaic.gov.au

36. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the OAIC: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Contact us

37. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
Department of Veterans' Affairs

GPO Box 9998, Brisbane QLD 4001
Phone: 1800 838 372
Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number XXXXXXXX)

Designation

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

24 June 2022



Document schedule

Applicant: [applicant]

Decision date: 24 June 2022

FOI reference number: LEX #####

Document reference	Date of document	Document description	Page number	Decision	Exemption provision
1	DD/MM/YY	Electronic records	1 – 50	Part Access	s 22, s 47F
2	Various	MRCA Client File - NZSMXXXXX-01	51 – 100	Full Access	s 22

Commented [s 47E: s 4] This is an example
Proper legal citation is lower case s 47F



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).

11B Public interest exemptions — factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) Inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

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.

17 Requests involving use of computers etc

- (1) Where:
- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
 - (b) It appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
 - (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
 - (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

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.

24 Power to refuse request--diversion of resources etc.

- (1) If an agency or Minister is satisfied, when dealing with a request for a document, that a practical refusal reason exists in relation to the request (see section 24AA), the agency or Minister:
 - (a) must undertake a request consultation process (see section 24AB); and
 - (b) if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists--the agency or Minister may refuse to give access to the document in accordance with the request.

- (2) For the purposes of this section, the agency or Minister may treat 2 or more requests as a single request if the agency or Minister is satisfied that:
 - (a) the requests relate to the same document or documents; or
 - (b) the requests relate to documents, the subject matter of which is substantially the same.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

24AA When does a practical refusal reason exist?

- (1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:
 - (a) the work involved in processing the request:
 - (i) in the case of an agency--would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister--would substantially and unreasonably interfere with the performance of the Minister's functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
 - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
 - (a) any reasons that the applicant gives for requesting access; or
 - (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or

- (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a request consultation process?

Scope

- (1) This section sets out what is a request consultation process for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the contact person) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the consultation period) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), reasonable steps includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.

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).

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the Commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

34 Cabinet documents

General rules

- (1) A document is an exempt document if:
- (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
 - (b) it is an official record of the Cabinet; or
 - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or

- (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

Exceptions

- (4) A document is not an exempt document only because it is attached to a document to which subsection (1), (2) or (3) applies.

Note: However, the attachment itself may be an exempt document.

- (5) A document by which a decision of the Cabinet is officially published is not an exempt document.
- (6) Information in a document to which subsection (1), (2) or (3) applies is not exempt matter because of this section if the information consists of purely factual material, unless:
 - (a) the disclosure of the information would reveal a Cabinet deliberation or decision; and
 - (b) the existence of the deliberation or decision has not been officially disclosed.

37 Documents affecting enforcement of law and protection of public safety

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
 - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
 - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.
- (2A) For the purposes of paragraph (1)(b), a person is taken to be a confidential source of information in relation to the enforcement or administration of the law if the person is receiving, or has received, protection under a program conducted under the auspices of the Australian Federal Police, or the police force of a State or Territory, for the protection of:
 - (a) witnesses; or
 - (b) people who, because of their relationship to, or association with, a witness need, or may need, such protection; or
 - (c) any other people who, for any other reason, need or may need, such protection.
- (3) In this section, law means law of the Commonwealth or of a State or Territory.

38 Documents to which secrecy provisions of enactments apply

- (1) Subject to subsection (1A), a document is an exempt document if:

- (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and
- (b) either:
 - (i) that provision is specified in Schedule 3; or
 - (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.
- (3) This section applies in relation to a document so far as it contains personal information about a person if:
 - (a) the person requests access to the document; and
 - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the Migration Act 1958 as affected by section 503D of that Act.
- (4) In this section: enactment includes a Norfolk Island enactment.

42 Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
- (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.

45 Documents containing material obtained in confidence

- (1) A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.
- (2) Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:
 - (a) a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or
 - (b) an agency, the Commonwealth or Norfolk Island.

46 Documents disclosure of which would be contempt of Parliament or contempt of court

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;

- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or
- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
 - (a) trade secrets; or
 - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) 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.
- (3) 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.

Public interest conditional exemptions

47B Public interest conditional exemptions—Commonwealth-State relations etc.

A document is conditionally exempt if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth; or
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth; or
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:
- (a) an agency; or
 - (b) a Minister; or
 - (c) the Government of the Commonwealth; or
 - (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
- (a) operational information (see section 8A);
 - (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

- (3) This section does not apply to any of the following:
- (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
 - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

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

47D Public interest conditional exemptions—financial or property interests of the Commonwealth or Norfolk Island

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth, of Norfolk Island or 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).

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).

47H Public interest conditional exemptions—research

A document is conditionally exempt if:

- (a) it contains information relating to research that is being, or is to be, undertaken by an officer of an agency specified in Schedule 4; and
- (b) disclosure of the information before the completion of the research would be likely unreasonably to expose the agency or officer to disadvantage.

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

47J Public interest conditional exemptions—the economy

- (1) A document is conditionally exempt if its disclosure under this Act would, or could be reasonably expected to, have a substantial adverse effect on Australia's economy by:
 - (a) influencing a decision or action of a person or entity; or
 - (b) giving a person (or class of persons) an undue benefit or detriment, in relation to business carried on by the person (or class), by providing premature knowledge of proposed or possible action or inaction of a person or entity.

Note: A person includes a body corporate and a body politic (see subsection 2C(1) of the Acts Interpretation Act 1901). Examples of a body politic include the government of the Commonwealth, a State, a Territory or a foreign country.

- (2) For the purposes of subsection (1), a substantial adverse effect on Australia's economy includes a substantial adverse effect on:
 - (a) a particular sector of the economy; or
 - (b) the economy of a particular region of Australia.
- (2A) For the purposes of paragraph (2)(b), Norfolk Island is taken to be a region of Australia.
- (3) The documents to which subsection (1) applies include, but are not limited to, documents containing matter relating to any of the following:
 - (a) currency or exchange rates;

- (b) interest rates;
- (c) taxes, including duties of customs or of excise;
- (d) the regulation or supervision of banking, insurance and other financial institutions;
- (e) proposals for expenditure;
- (f) foreign investment in Australia;
- (g) borrowings by the Commonwealth, Norfolk Island, a State or an authority of the Commonwealth, of Norfolk Island or of a State.

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

54C Internal Review – decision on internal review

Scope

- (1) This section applies if an application for internal review of an access refusal decision or an access grant decision (the original decision) is made in accordance with this Part.

Decision

- (2) The agency must, as soon as practicable, arrange for a person (other than the person who made the original decision) to review the decision.
- (3) The person must make a fresh decision on behalf of the agency within 30 days after the day on which the application was received by, or on behalf of, the agency.

Notice of decision

- (4) Section 26 extends to a decision made under this section.



STATUTORY TIME LIMITS APPLY - ACTION REQUIRED BY [date]

FOI Document Retrieval Minute

Search request for documents sought under **Administrative Access / the Freedom of Information Act 1982 (Cth) (FOI Act) / the Privacy Act 1988 (Cth) (Privacy Act)**

To [Insert name of branch]

From [Information Access Officer]
Information Access Unit - Client Access and Rehabilitation
Information.Access@dva.gov.au

Return by COB Day/month/year

Client Details	Client Name	
	File Number	Eg NSM XXXXXXXX
	UIN	
	Date of Birth	

Purpose

The Information Access Unit is asking your business area to undertake searches in response to a request received by the Department for access to documents under **Administrative Access / the FOI Act / the Privacy Act**.

SES clearance is sought when responding to information access requests, including results of searches and the identification of any sensitivities in releasing the documents identified under the FOI and Privacy Acts.

The Request

The request is made in the following terms:

[insert scope of request]

The Information Access Unit has already undertaken the following search and retrieval process:

[insert detail of searches already undertaken and documents already obtained]

It is my understanding that your area is best placed to provide information and collate **additional relevant documents in relation to the part of the request for....**

Commented ^{§ 47E, § 47} Describe all search and retrieval steps already undertaken

Commented ^{§ 47E, § 47} Describe the action required

Action Required

1. Please allocate appropriate resources to the processing of this request.
2. Please also complete and return a signed copy of **this search minute** and all relevant documents (in original form) by **day/date/month** to Information.Access@dva.gov.au
3. **It is expected that business areas will escalate and raise concerns on sensitive requests with their relevant Executive.** Where appropriate, the Information Access Unit will also notify significant stakeholders, including the Secretary's Office, the Office for the Minister of Veterans' Affairs and other Commonwealth Departments and third parties should it be required.

[information access officer]

Information Access Unit - Client Access and Rehabilitation Branch

Ref No:-LEX XXXXX

Day/Date/Month

Attachment A
Document Search Minute - LEX XXXXX

Action Officer: Section to provide

Business Area: Section to provide

Contact Officer: Section to provide

Scope of searches required: Copy scope of the request here and detail the searches required by the business area. Note again any documents that have already been retrieved.

PART 1 - Search & Retrieval

Notes: A thorough search for all relevant documents in the possession of the Department must be undertaken.¹
A decision-maker must obtain proof that a reasonable search has been undertaken. These records may be used to respond to further enquiries on searches or internal or external review applications.
It is not necessary to search all locations listed below, only those that are reasonably likely to hold relevant documents.

¹ The definition of document in the FOI Act is very broad and covers a wide range of material as set out below:

- any of, or any part of, the following things:
 - any paper or other material on which there is writing;
 - a map, plan, drawing or photograph;
 - any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
 - any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;
 - any article on which information has been stored or recorded, either mechanically or electronically;
 - any other record of information; or
- any copy, reproduction or duplicate of such a thing; or
- any part of such a copy, reproduction or duplicate

The definition does not include material maintained for reference purposes that is otherwise publicly available or Cabinet notebooks.

Location to search	Yes/No/Not applicable
Filing cabinets, safes, desk drawers, bookshelves and cupboards	
Records Management and archives	
Personal folders and diaries	
CDs and DVDs	
Personal and shared email inboxes	
Microsoft Teams and Skype messages	
Text messages and voicemail messages	
Intranet or other website-based collaboration systems	
Shared computer drives	
PDMS	
Other databases	
Contracted service providers	

Please detail any other searches undertaken:

[to be provided by business area]

Outcome
<input type="checkbox"/> Documents potentially in scope – see document schedule at Attachment B
<input type="checkbox"/> Documents do not exist or cannot be found after reasonable searches

[if your searches produced no documents, please provide an explanation:]

PART 2 - Search Results and Document Details

Notes: For this part staff are only required to indicate/or estimate the extent of potentially sensitive information or material within the documents deemed to be relevant. These estimates may be used for determining whether to charge an applicant or whether a practical refusal reason exists. Please do your best to undertake a sampling of at least 10% of the overall material to form the estimates below. If you believe the indicated volume of documents would constitute a substantial and unreasonable diversion of resources tick the 'have not been' option below. The Information Access Section will be in contact with you (or your nominated contact) to discuss.

Potentially Relevant Search Results	Estimated Quantities
Number of documents ²	

²If there is a large volume of documents, please provide an estimate. You must include material you think may be exempt in this estimate. Do not include exact duplicates but note that any annotations on a document that is otherwise identical to another document will result in it being treated as a separate document.

Total number of pages within the scope of the request ³ (if unsure use a conservative estimate such as 2 per document)	
Percentage of pages which are sensitive in their entirety or which contain sensitive material	%
Total number of third parties to be consulted ⁴	

Are there sensitivities? YES NO

Page number	Document description	Description of sensitivity or concern

The following is an estimate of time spent retrieving and collating the documents indicated above.

Classification	Number of hours spent searching for documents
SES	
APS 6 to EL2	
APS 1 to APS 5	

PART 3 - Further Comments and Sign-off

Notes: This part provides a space for you to provide more detailed information including any concerns you have about the potential harm/adverse impact that may result if the documents are released and whether consultation with any third parties may be required.
The FOI decision will be made by an independent decision maker in the Information Access Section who is authorised under section 23(1) of the FOI Act. Business areas are requested to use this form to confirm that relevant stakeholders (including the decision maker and the Media team) are aware of any sensitivities relating to the decision or documents for release. A copy of the FOI decision can be provided to on request.

³ Note: 1 page that is double sided = 2 pages

⁴ A third party is any individual, business, organisation or State department, agency or body whose information is contained in the documents and whose views may need to be sought as to possible release of their information under the FOI request. Note that other Commonwealth agencies are specifically excluded from this definition. Where consultation with a third party is required the FOI Team will undertake such consultation.

Additional Comments:

[Responsible line area to complete]

Contact Officer Sign-Off

I, [Name], [state designation here] of the [state business area name here], certify the information provided in **parts 1, 2 and 3** of this document is appropriate and accurate to the best of my knowledge.

Signature

Date

SES Sign-Off

I, [Name], [state designation here] of the [state business area name here] certify the information provided in **parts 1, 2 and 3** of this document is appropriate and accurate to the best of my knowledge. I understand that I may be required to appear and give evidence before the Australian Information Commissioner or the Administrative Appeals Tribunal in relation to the searches for documents undertaken. I also confirm that I:

- have reviewed the terms of the FOI request;
- am satisfied with the searches undertaken by [state business area name here] to identify all relevant documents related to the business of the branch;
- have provided all sensitivities/comments regarding release under the FOI Act to the Information Access Section; and
- informed my [insert relevant SES here] of the decision (where appropriate).

Signature

Date

Instructions:

Once signed, scan and email to Information.Access@dva.gov.au along with the relevant documents (unless you have indicated otherwise in Part 2). Please also provide a soft copy of Attachment B. If you have any queries or concerns regarding this form please contact the Information Access Section.

Notes: This part provides a space for you to schedule the documents you have identified as part of your searches.
 All documents in their original format are to be provided to the Information Access Section, who will then make an assessment of their release under the FOI Act.
 They will also apply redactions to any material considered exempt from release under the FOI Act.

Schedule of potentially relevant documents – line area conducting searches to complete

Document reference #	Date of document	Document description e.g. Policy & Admin file, Email from DVA to Services Australia, etc.	Number of Pages	Sensitivities identified above Yes / No	Trim Container Number (If applicable)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
etc					



Document Retrieval Minute

Search request for documents sought under Subpoena/Summons

Matter of Party 1 & Party 2 COURT REFERENCE

Commented ^{6 47E; 6 47} Can we also add DVA file # & UIN For easy reference

Scope:

(insert scope of request)

Date of production: *(insert the final date the subpoena is due for filing)*

PART 1 - Search & Retrieval

System/Storage Location <i>(add more rows at end if required)</i>
<input type="checkbox"/> Group Mailboxes (incl. Enterprise Vault)
<input type="checkbox"/> Individual Mailboxes (incl. Enterprise Vault)
<input type="checkbox"/> VERA
<input type="checkbox"/> TRIM
<input type="checkbox"/> Y-Drive
<input type="checkbox"/> Archived files
<input type="checkbox"/> Other:

Outcome
<input type="checkbox"/> Documents potentially in scope – All documents in their original format are to be provided to the Information Access section in response to the Subpoena/Summons.
<input type="checkbox"/> Documents do not exist or cannot be found after reasonable searches

Potentially Relevant Search Results	Estimated Quantities
Number of documents	
Number of pages <i>(if unsure use a conservative estimate such as 2 per document)</i>	
Percentage of pages which are sensitive in their entirety or which contain sensitive material	%

Further Comments and Sign-off

Notes: This part provides a space for you to provide more detailed information including any concerns you have about the potential harm/adverse impact that may result if the documents are released and whether consultation with any third parties may be required. Whilst there is limited scope for redaction in response to subpoenas or summons, Information Law will consider your advice on sensitivities and undertake further consultation if required.

Additional Comments:

Potential sensitivities:

Potential third parties to consult:

Contact Officer Sign-Off

I, [Name], [state designation here] of Open Arms certify the information and documents in response to this document retrieval request is appropriate and accurate to the best of my knowledge.

Signature

Date



Document Retrieval Minute

Search request for documents sought under IGADF Request

IGADF Ref:

Scope:

(insert scope of request)

Date of production: *(insert the final date the IGADF is due)*

PART 1 - Search & Retrieval

System/Storage Location <i>(add more rows at end if required)</i>
<input type="checkbox"/> Group Mailboxes (incl. Enterprise Vault)
<input type="checkbox"/> Individual Mailboxes (incl. Enterprise Vault)
<input type="checkbox"/> VERA
<input type="checkbox"/> TRIM
<input type="checkbox"/> Y-Drive
<input type="checkbox"/> Archived files
<input type="checkbox"/> Other:

Outcome
<input type="checkbox"/> Documents potentially in scope – All documents in their original format are to be provided to the Information Access section in response to the Subpoena/Summons.
<input type="checkbox"/> Documents do not exist or cannot be found after reasonable searches

Potentially Relevant Search Results	Estimated Quantities
Number of documents	
Number of pages <i>(if unsure use a conservative estimate such as 2 per document)</i>	
Percentage of pages which are sensitive in their entirety or which contain sensitive material	%

Further Comments and Sign-off

Notes: This part provides a space for you to provide more detailed information including any concerns you have about the potential harm/adverse impact that may result if the documents are released and whether consultation with any third parties may be required. Whilst there is limited scope for redaction in response to subpoenas or summons, Information Law will consider your advice on sensitivities and undertake further consultation if required.

Additional Comments:

Potential sensitivities:

Potential third parties to consult:

Contact Officer Sign-Off

I, [Name], [state designation here] of Open Arms certify the information and documents in response to this document retrieval request is appropriate and accurate to the best of my knowledge.

Signature

Date



Decision under Inspector-General of the Australian Defence Force Regulation

Decision of **NAME**, Position Number *********,
Information Access Unit, Client Access and Rehabilitation Branch, Department of
Veterans' Affairs

Applicant: (Applicant), Officer of the Inspector- General ADF, relating to the late
Veteran's details.

Decision date: Date

FOI reference number: LEX #####

Sent by Email: igadf.dsir@defence.gov.au

Dear **Applicant name**,

Administration Access: LEX #####

I refer to your request for information under regulation 23 of the *Inspector-General of the
Australian Defence Force Regulation 2016* received on **XX Month 202X**.

You requested information held by the Department of Veterans' Affairs in relation to the late
Veteran's name.

Your request sought access to:

'...**SCOPE**...'

Please find enclosed with this letter copies of the relevant documents.

If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001
Email: Information.Access@dva.gov.au

Yours sincerely,

Name, Position Number *****

Information Access Officer

Information Access Unit
Client Access and Rehabilitation Branch
Department of Veterans' Affairs

Date XX Month 202X



Decision *under* S331 of the Military Rehabilitation Compensation Act 2004 (MRCA).

Decision of NAME, [Position Number XXX], Information Access Unit, Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: [applicant], authorised representative of Mr/Ms/Mrs Client First Name, Client Surname

Decision date: 24 June 2022

LEX reference number: LEX #####

Sent by (email, SIGBOX, post etc): XXXXXX

Dear [name],

S331 MRCA - LEX #####

I refer to your request for information *under Section 331 of the Military Rehabilitation Compensation Act 2004* received on day month year. Your request was made on behalf of CLIENT First NAME, CLIENT SURNAME. Mr/Ms/Mrs SURNAME has provided written consent for you to act on his/her behalf in this matter.

Your request was acknowledged on day month year.

Your request sought access to:

'...Enter scope of request...'

I am authorised to make access decisions.

Following examination of the documents, I have decided to grant access in full to the documents covered by your request. Copies of relevant documents are enclosed/attached. Due to the age and condition of the original documents the quality of the copy may vary.

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

Post: Information Access Unit
Department of Veterans' Affairs
GPO Box 9998, BRISBANE QLD 4001

Email: Information.Access@dva.gov.au

Yours sincerely,

Name (Position Number #####)

Information Access Officer
Information Access Unit
Client Access and Rehabilitation Branch
Department of Veterans' Affairs

24 June 2022