



Australian Government

Department of Health and Aged Care
Therapeutic Goods Administration

CR

Email: foi+request-12108-b0b820d4@righttoknow.org.au

Dear CR

FREEDOM OF INFORMATION REQUEST FOI 25-0037
Notice of Decision

1. I refer to your request dated 1 October 2024 under the *Freedom of Information Act 1982* (the FOI Act) and subsequent correspondence between you and the TGA in which the scope of your request was clarified as being for access to the following documents:

I request access to the following documents under the Freedom of Information Act 1982:

1. The most recent 30 notices of charges issued to FOI applicants.

For each of these 30 requests, if applicable, please also provide:

2. Any subsequent decisions regarding charges following applicant contention.

3. Any subsequent decisions regarding charges following internal or external review.

Please exclude the following information:

i) Personal information of FOI applicants, including supporting evidence or details of personal circumstances in a financial hardship contention.

ii) Emails that attached the charges notices/decision letters.

The time period for my request is from 1 July 2022 to 1 October 2024.

On 9 October you clarified:

I can confirm the exclusion of personal information of third parties.

On 15 October 2024, you clarified:

Please exclude details of third-party organisations.'

Decision Maker

2. I am the Therapeutic Goods Administration (TGA) officer authorised to make this decision under section 23 of the FOI Act. What follows is my decision under the FOI Act.

Scope of the FOI request

3. The TGA has identified 36 documents falling within the scope of your request.

Background

4. On 1 October 2024, the TGA received a request from you under the FOI Act. As part of your application, you advised that personal information of third parties is excluded from the scope of your request. The original scope of your request was for the following documents:

I request access to the following documents under the Freedom of Information Act 1982:

1. The most recent 30 notices of charges issued to FOI applicants.

For each of these 30 requests, if applicable, please also provide:

2. Any subsequent decisions regarding charges following applicant contention.

3. Any subsequent decisions regarding charges following internal or external review.

Please exclude the following information:

i) Personal information of FOI applicants.

ii) Personal information of third parties...'

5. On 8 October 2024, you wrote to the TGA to advise of a revision to the scope of your request. Specifically, you revised your scope to the following:

'I am writing to amend the scope of my FOI request to assist with its processing.

As I wish to access only recent charge decisions, I have introduced a time frame and clarified the exclusions. I confirm the revised scope of my request as follows:

1. The most recent 30 notices of charges issued to FOI applicants.

For each of these 30 requests, if applicable, please also provide:

2. Any subsequent decisions regarding charges following applicant contention.

3. Any subsequent decisions regarding charges following internal or external review.

The time period for my request is from 1 July 2022 to 1 October 2024.

Please exclude the following information:

i) Personal information of FOI applicants, including supporting evidence or details of personal circumstances in a financial hardship contention.

ii) Emails that attached the charges notices/decision letters...'

6. On 9 October 2024, the TGA acknowledged your revised scope and asked that you clarify whether you seek access to the personal information of third parties. On the same day, you agreed to exclude the personal information of third parties from the scope of your request.
7. On 15 October 2024, the TGA wrote to you to further clarify whether you were amenable to omitting the details of third-party organisations from the scope of your request. On the same day, you agreed to remove the details of third-party organisations from the scope of your request.
8. On 22 October 2024, you were advised that I had decided not to impose the charges associated with processing your request.
9. On 24 October 2024, the TGA wrote to you to ask for your consideration in excluding documents relating to current requests that are yet to be finalised from the scope of your request. You were also asked to consider excluding documents relating to background information that do not relate to the charges being imposed, along with other information of a sensitive nature, including the scope of requests, that may require consultation with third parties.
10. On 24 October 2024, you advised that you agree to exclude sensitive information contained in the documents, including the scope of requests, from the scope of your request.

Material Considered in Decision-Making

11. In coming to my decision, I had regard to the following:

- the correspondence between the TGA and yourself;
- the documents falling within the scope of the FOI request;
- the provisions of the FOI Act, in particular subsection 22(1); and
- the guidelines issued by the Office of the Australian Information Commissioner (OAIC) under section 93A of the FOI Act.

Decision

12. My decision in relation to the documents falling within the scope of your FOI request is to release 36 documents in part.
13. As my decision is to not impose the charges associated with your processing your request, the documents can now be released to you.

Reasons for Decision

Relevant Documents

14. The TGA has identified 36 documents relevant to your request. A schedule listing the documents is at **Attachment A** and a copy of the documents has been provided with this correspondence.
15. The schedule indicates for each document my decision to release in part. Under subsection 22 of the FOI Act, irrelevant information has been redacted from the documents as it is outside the scope of your request.
16. The reason for the application of section 22 (irrelevant information) to the documents in issue are set out in detail below. A copy of the relevant provision of the FOI Act is at **Attachment B**.

Subsection 22(1): Documents containing information that is irrelevant to the FOI request

17. The effect of subsection 22(1) of the FOI Act is that where the granting of access to a document would disclose information that is not within the scope of the request and it is possible to provide a copy with information deleted, the agency can do so unless it is evident that the applicant does not wish to be provided access to such a copy. A copy of subsection 22(1) is at **Attachment B**.
18. The relevant documents contain information that does not fall within the scope of your FOI request. Specifically, the documents contain:
 - a. personal information such as individual's names, phone numbers and email addresses, which you confirmed are not part of your request.
 - b. personal information such as TGA staff names, numbers, internal email addresses and Senior Executive Service (SES) staff mobile numbers which you were advised would be removed unless you advised otherwise.
 - c. details of third-party organisations which you confirmed are not part of the scope of your request.
 - d. irrelevant information not relating to the imposition of charges for requests.
 - e. sensitive information contained in the documents that may require consultation with third parties which is yet to occur, for requests whereby the applicant is seeking access to their own information, or for certain requests whereby review rights have not yet expired for third parties.
19. I consider that to provide you with full access to the documents would disclose the above information that does not fall within the scope of your FOI request. Accordingly, I have decided that the irrelevant information will be deleted under subsection 22(1) of the FOI Act and a copy of the documents, with the irrelevant information deleted, will be provided to you.

Release of Documents

20. As I have decided not to impose the charges associated with processing your request, the documents are now being released to you.

Review and Complaint Rights

21. If you are not satisfied with this decision, you have 30 calendar days to either seek internal review or apply to the OAIC for review of the decision. Further information can be found on the OAIC

website at the following link: [Apply for an Information Commissioner Review | Office of the Australian Information Commissioner](#).

If you have any queries regarding this matter, please contact the FOI Team on (02) 6289 4630.

Yours sincerely

Authorised and electronically signed by

David Gobbitt
A/g Director – FOI, Decision Review and Business Support Section
Regulatory Legal Services Branch
Therapeutic Goods Administration
29 October 2024

Schedule of Relevant Documents

Doc. No.	Author	Addressee	Date	Description	Pages	Decision	Relevant Sections of the FOI Act
1	TGA	FOI Applicant	27/9/24	Charges notice for 0029	4	Release in part	s22
2	TGA	FOI Applicant	30/9/24	Charges notice for 0031	3	Release in part	s22
3	TGA	FOI Applicant	27/9/24	Charges notice for 0025	4	Release in part	s22
4	TGA	FOI Applicant	24/9/24	Charges notice for 0018	3	Release in part	s22
5	TGA	FOI Applicant	24/9/24	Charges notice for 0019	3	Release in part	s22
6	TGA	FOI Applicant	19/9/24	Charges notice for 0012	3	Release in part	s22
7	TGA	FOI Applicant	11/9/24	Charges notice for 0002	4	Release in part	s22
8	TGA	FOI Applicant	30/9/24	Charges notice for 5361	3	Release in part	s22
9	TGA	FOI Applicant	11/9/24	Charges notice for 5351	4	Release in part	s22
10	TGA	FOI Applicant	28/8/24	Charges notice for 5348	3	Release in part	s22
11	TGA	FOI Applicant	24/9/24	Charges notice for 5350	4	Release in part	s22
12	TGA	FOI Applicant	20/9/24	Charges notice for 5343	3	Release in part	s22
13	TGA	FOI Applicant	24/9/24	Charges notice for 5298	15	Release in part	s22
14	TGA	FOI Applicant	29/7/24	Charges notice for 5280	4	Release in part	s22
15	TGA	FOI Applicant	17/9/24	Charges notice for 0003	4	Release in part	s22
16	TGA	FOI Applicant	10/9/24	Charges notice for 5353	3	Release in part	s22
17	TGA	FOI Applicant	9/9/24	Charges notice for 5360	4	Release in part	s22

Doc. No.	Author	Addressee	Date	Description	Pages	Decision	Relevant Sections of the FOI Act
18	TGA	FOI Applicant	10/9/24	Charges notice for 5358	3	Release in part	s22
19	TGA	FOI Applicant	9/8/24	Charges notice for 5317	3	Release in part	s22
20	TGA	FOI Applicant	7/8/24	Charges notice for 5310	3	Release in part	s22
21	TGA	FOI Applicant	7/8/24	Charges notice for 5308	4	Release in part	s22
22	TGA	FOI Applicant	9/8/24	Charges notice for 5293	4	Release in part	s22
23	TGA	FOI Applicant	31/7/24	Charges notice for 5286	4	Release in part	s22
24	TGA	FOI Applicant	16/8/24	Charges notice for 5285	4	Release in part	s22
25	TGA	FOI Applicant	2/8/24	Charges notice for 5276	4	Release in part	s22
26	TGA	FOI Applicant	31/7/24	Charges notice for 5255	4	Release in part	s22
27	TGA	FOI Applicant	25/7/24	Charges notice for 5246	4	Release in part	s22
28	TGA	FOI Applicant	9/8/24	Charges notice for 5217	3	Release in part	s22
29	TGA	FOI Applicant	29/7/24	Charges notice for 5218	3	Release in part	s22
30	TGA	FOI Applicant	12/8/24	Charges notice for 5226	4	Release in part	s22
31	TGA	FOI Applicant	3/10/24	Waiver notice for 5350	3	Release in part	s22
32	TGA	FOI Applicant	1/8/24	Waiver notice for 5280	1	Release in part	s22
33	TGA	FOI Applicant	29/7/24	Waiver request for 5280	4	Release in part	s22
34	TGA	FOI Applicant	3/10/24	Waiver notice for 5351	3	Release in part	s22
35	TGA	FOI Applicant	24/9/24	Waiver notice for 5348	6	Release in part	s22

Doc. No.	Author	Addressee	Date	Description	Pages	Decision	Relevant Sections of the FOI Act
36	TGA	FOI Applicant	4/10/24	Waiver notice for 5343	7	Release in part	s22



Freedom of Information Act 1982

11A Access to documents on request

- (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.

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 Deletion of exempt matter or irrelevant material

- (1) Where:
- (a) an agency or Minister decides:
 - (i) not to grant a request for access to a document on the ground that it is an exempt document; or

- (ii) that to grant a request for access to a document would disclose information that would reasonably be regarded as irrelevant to that request; and
 - (b) it is possible for the agency or Minister to make a copy of the document with such deletions that the copy:
 - (i) would not be an exempt document; and
 - (ii) would not disclose such information; and
 - (c) it is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and the resources available for that work, to make such a copy; the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.
- (2) Where access is granted to a copy of a document in accordance with subsection (1):
- (a) the applicant must be informed:
 - (i) that it is such a copy; and
 - (ii) of the ground for the deletions; and
 - (iii) if any matter deleted is exempt matter because of a provision of this Act—that the matter deleted is exempt matter because of that provision; and
 - (b) section 26 does not apply to the decision that the applicant is not entitled to access to the whole of the document unless the applicant requests the agency or Minister to furnish to him or her a notice in writing in accordance with that section.

27 Consultation—business documents

Scope

- (1) This section applies if:
- (a) a request is made to an agency or Minister for access to a document containing information (***business information***) covered by subsection (2) in respect of a person, organisation or undertaking; and
 - (b) it appears to the agency or Minister that the person, organisation or proprietor of the undertaking (the ***person or organisation concerned***) might reasonably wish to make a contention (the ***exemption contention***) that:
 - (i) the document is exempt under section 47 (trade secrets etc.); or
 - (ii) the document is conditionally exempt under section 47G (business information) and access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).
- Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).
- (2) This subsection covers the following information:
- (a) in relation to a person—information about the person’s business or professional affairs;
 - (b) in relation to an organisation or undertaking—information about the business, commercial or financial affairs of the organisation or undertaking.
- (3) In determining, for the purposes of paragraph (1)(b), whether the person or organisation concerned might reasonably wish to make an exemption contention

because of business information in a document, the agency or Minister must have regard to the following matters:

- (a) the extent to which the information is well known;
- (b) whether the person, organisation or undertaking is known to be associated with the matters dealt with in the information;
- (c) the availability of the information from publicly accessible sources;
- (d) any other matters that the agency or Minister considers relevant.

Opportunity to make submissions

- (4) The agency or Minister must not decide to give access to the document unless:
 - (a) the person or organisation concerned is given a reasonable opportunity to make submissions in support of the exemption contention; and
 - (b) the agency or the Minister has regard to any submissions so made.
- (5) However, subsection (4) only applies if it is reasonably practicable for the agency or Minister to give the person or organisation concerned a reasonable opportunity to make submissions in support of the exemption contention, having regard to all the circumstances (including the application of subsections 15(5) and (6) (time limits for processing requests)).

Notice of decision to give access

- (6) If the agency or Minister decides to give access to the document, the agency or Minister must give written notice of the decision to both of the following:
 - (a) the person or organisation concerned;
 - (b) the applicant.

Access not to be given until review or appeal opportunities have run out

- (7) However, the agency or Minister must not give the applicant access to the document unless, after all the opportunities of the person or organisation concerned for review or appeal in relation to the decision to give access to the document have run out, the decision to give access still stands, or is confirmed.

Note 1: The decision to give access to the document is subject to internal review (see Part VI), review by the Information Commissioner (see Part VII) and review by the Tribunal (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the document have **run out**, see subsection 4(1).

Notice and stay of decision not to apply unless submission made in support of exemption contention

- (8) Subsections (6) and (7) do not apply unless the person or organisation concerned makes a submission in support of the exemption contention as allowed under paragraph (4)(a).

Edited copies and business information

- (9) This section applies:
 - (a) in relation to an edited copy of a document—in the same way as it applies to the document; and
 - (b) in relation to a document containing business information—to the extent to which the document contains such information.

27A Consultation—documents affecting personal privacy

Scope

- (1) This section applies if:
- (a) a request is made to an agency or Minister for access to a document containing personal information about a person (including a person who has died); and
 - (b) it appears to the agency or Minister that the person or the person's legal personal representative (the **person concerned**) might reasonably wish to make a contention (the **exemption contention**) that:
 - (i) the document is conditionally exempt under section 47F; and
 - (ii) access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).

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

- (2) In determining, for the purposes of paragraph (1)(b), whether the person concerned might reasonably wish to make an exemption contention because of personal information in a document, the 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 information;
 - (c) the availability of the information from publicly accessible sources;
 - (d) any other matters that the agency or Minister considers relevant.

Opportunity to make submissions

- (3) The agency or Minister must not decide to give the applicant access to the document unless:
- (a) the person concerned is given a reasonable opportunity to make submissions in support of the exemption contention; and
 - (b) the agency or the Minister has regard to any submissions so made.
- (4) However, subsection (3) only applies if it is reasonably practicable for the agency or Minister to give the person concerned a reasonable opportunity to make submissions in support of the exemption contention, having regard to all the circumstances (including the application of subsections 15(5) and (6) (time limits for processing requests)).

Decision to give access

- (5) If the agency or Minister decides to give access to the document, the agency or Minister must give written notice of the decision to both of the following:
- (a) the person concerned;
 - (b) the applicant.

Access not to be given until review or appeal opportunities have run out

- (6) However, the agency or Minister must not give the applicant access to the document unless, after all the opportunities of the person concerned for review or appeal in relation to the decision to give access to the document have run out, the decision to give access still stands, or is confirmed.

Note 1: The decision to give access to the document is subject to internal review (see Part VI), review by the Information Commissioner (see Part VII) and review by the Tribunal (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the document have *run out*, see subsection 4(1).

Notice and stay of decision not to apply unless submission made in support of exemption contention

- (7) Subsections (5) and (6) do not apply unless the person concerned makes a submission in support of the exemption contention as allowed under paragraph (3)(a).

Edited copies and personal information

- (8) This section applies:
- (a) in relation to an edited copy of a document—in the same way as it applies to the document; and
 - (b) in relation to a document containing personal information—to the extent to which the document contains such information.

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.

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.

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.

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.

47B 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 (including a Territory)

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).