



Attachment A

DECISION RECORD

Request Details

FOI Request FA 15/11/00333
File Number ADF2015/60736

Scope of request

1. Original request lodged 29 October 2015:

The full name and position of each person working within the Communication and Media Branch of the department.

2. On 4 February 2016 you agreed to change the scope of the request to:

Name and position of all staff within the DIBP Media Operations section/team.

Documents in scope

3. A printout from the Department's staff directory for Media Operations Section, dated 12 November 2015 (Attachment D).

Note: this staff list for Media Operations Section does not reflect actual staffing numbers at the time. It includes five staff who were on long-term recreational, long service or maternity leave and therefore absent from the workplace. There is only one Director Media Operations – that person's name was listed twice (the staff directory lists a head of the organisational unit and, separately, all staff in the organisational unit).

Authority to make decision

4. I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to gain access to documents or to amend or annotate Departmental records.

Information considered

5. In reaching my decision, I have considered the following:
 - The *Freedom of Information Act 1982*;
 - Departmental files and/or documents (identified above); and
 - The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision

6. Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.
7. This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reasons(s) for each of the deletions in the document (s.22(3) of the FOI Act).
8. Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

Deletion of exempt material under s.22(1)(a)(i) of the FOI Act

9. The Schedule of Documents (Attachment B) and the document released (Attachment D) detail the exemptions that have been applied. Exemptions were applied on the following ground:

Section 47E(d) – have a substantial adverse effect on the proper and efficient conduct of the operations of an agency

10. Section 47E(d) provides that a document is conditionally exempt if its disclosure under the Act would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
11. If the material over which a section 47E(d) claim is maintained in Document 1 were to be released (being the names of staff), I consider the Department's operations in respect of managing media enquiries would be substantially adversely affected.
12. The Department's Media Operations Section receives a large volume of media enquiries and has established and advertised channels for receiving them (refer to the Media Enquiries information at <http://newsroom.border.gov.au/>, which provides a 24-hour media enquiry phone number and email address).
13. By receiving media enquiries through these established channels, the Media Operations Section is able to effectively triage and allocate media enquiries, including those received outside of standard business hours.
14. If the names of all Media Operations Section staff were to be made publicly available it would facilitate the direction of enquiries to specific officers within the section (via email or through the Department's switchboard) in lieu of, or in addition to, enquiries made through the established communication channels (i.e. the advertised media enquiry phone number and email address).
15. This would result in additional work for Media Operations Section staff by requiring them to redirect enquiries and/or ensure enquiries were not being 'double-handled'. It would also cause delays in responding to enquiries because individual staff may not be available at the time the enquiry is sent to them.
16. On this basis, I am satisfied that the information contained in the documents could reasonably be expected to adversely affect the Department's operations in respect of handling media enquiries. Given the sensitive nature and urgency of interactions with the media, I find this adverse effect to be serious and not insubstantial. Therefore, I am satisfied that the material in issue is conditionally exempt under s.47E(d) of the Act.

Application of the 'public interest' test

17. While I have found that the conditional exemption in section 47E(d) of the FOI Act applies to the information outlined above, section 11A(5) of the FOI Act requires me to disclose the information unless access at this time would, on balance, be contrary to the public interest. I will now consider whether disclosure would be contrary to the public interest.
18. In determining whether disclosure would be contrary to the public interest, section 11B(3) sets out a number of relevant factors which point in favour of release. These factors are:
 - a) whether release would promote the objects of the FOI Act;
 - b) whether release would inform debate on a matter of public importance;
 - c) whether release would promote effective oversight of public expenditure; and
 - d) whether release would allow a person to access his or her own personal information.
19. I acknowledge that release of the document without the exemptions made under s.47E(d) would promote the objects of the FOI Act, through facilitating and promoting public access to information. However, I consider that the release of the information would make a negligible further contribution to public debate, would not promote effective oversight of public expenditure or allow a person to gain access to his or her own personal information.
20. In contrast, I consider that the ability of the Department to establish and maintain specific communication channels for media enquiries to be essential for its effective and efficient management of such enquiries, especially noting the busy and sensitive nature of the work.
21. Taking into account the above matters, on balance, I consider that disclosure of the information in the document exempted under s.47E(d) to be contrary to the public interest. Accordingly, I have decided that the document is exempt in part under s.47E(d) of the FOI Act. The exemption has therefore been applied to the document released.

Deletion of irrelevant material under s.22(1)(a)(ii) of the FOI Act

22. I find that the document relevant to your request contains some material which is irrelevant to your FOI request. I have withheld or deleted that material accordingly. These deletions are detailed in the document released.
23. The material deleted under section 22(1)(a)(ii) comprises information relevant to retrieval of the information from systems for the purpose of managing this FOI request and staff phone numbers and email addresses (which did not form part of the scope of the request).
24. It should be noted when providing responses to members of the media out of the media inbox, staff in the Media Operations Section do provide their names.


 Authorised FOI decision maker
 Department of Immigration and Border Protection
 Email: foi@border.gov.au

13 April 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD
FOI Request FA 15/11/00333

No.	Date of document	Pages	Description	Decision on release	Exemption
1.	12/11/2015	1	List of staff in Media Operations Section	Exempted in part	s.47E(d)



Attachment C – Extract of relevant legislation (FOI Act)

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;
 - (aa) access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;
 - (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.

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.

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).