



Attachment A

DECISION RECORD

Request Details

FOI Request: FA 16/03/00091
File Number: ADF2016/9653

Scope of request

1. On 25 February 2016 you requested:

Any documents relating to reports that 28 life jackets washed up on Cocos Island, WA around 22 May 2013 including:

1. *whether an investigation was launched, email communications between Australian Federal Police, and Department of Border Protection;*
2. *documents relating to any known SIEV's or anticipated boat arrivals around that date, and*
3. *any distress at sea calls logged around that date and what responses there were to those calls.*

Documents in scope

2. Seventy four documents have been identified as being within scope of your request. These are detailed at [Attachment B](#) – Schedule of Documents.

Authority to make decision

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

Information considered

4. In reaching my decision, I have considered the following:
 - The *Freedom of Information Act 1982*;
 - The Departmental documents identified above;
 - The results of consultations with relevant business areas within the Department and other agencies; and
 - The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision

5. 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.
6. 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 reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).
7. 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.

Exemptions applied to the document under s.22(1)(a)(i)

8. The Schedule of Documents (Attachment B) and the Documents Released (Attachment D) detail the exemptions that have been applied. Exemptions were applied on the following grounds:

Section 33 - Documents affecting national security, defence or international relations

9. I have decided that parts of the documents are exempt under s.33(a)(i) of the FOI Act, as disclosure of this information would, or could reasonably be expected to, cause damage to the security of Australia's borders.
10. The information exempted comprises intelligence details regarding 'Suspected Illegal Entry Vessel' (SIEV) movements and the deployment of border protection vessels and staff to monitor SIEV movements and the Australian border.
11. This information is operationally sensitive and if released, could aid people smugglers in planning boat operations which would have a better chance of avoiding detection by Australian law enforcement agencies.
12. I am therefore satisfied that the information is exempt from release under s.33(a)(i) of the FOI Act.

Section 47C – Deliberative processes

13. A document is conditionally exempt under s.47C(1) of the FOI Act if it includes deliberative matter. Deliberative matter is:

...content that is in the nature of, or relating to either:

- *an opinion, advice or recommendation that has been obtained, prepared or recorded*
- *a consultation or deliberation that has taken place*
- *in the course of, or for the purposes of, a deliberative process of the agency or Minister.*

(Paragraph 6.56, Guidelines issued by the Australian Information Commissioner under s93A of the Freedom of Information Act 1982)

14. I am satisfied that Documents 55, 71 and 74 contain deliberative matter. The relevant material in the documents comprises consultations within and between agencies

regarding the preparation of briefing, including checking the probability and accuracy of material to be included in the briefing.

Application of the 'public interest' test

15. While I have found that the conditional exemption in s.47C(1) of the FOI Act applies to the information outlined in paragraph 14 above, s.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.
16. In determining whether disclosure would be contrary to the public interest, s.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.
17. I acknowledge that release of the information subject to conditional exemption under s.47C(1) would promote the objects of facilitating and promoting public access to information.
18. I do not consider that release of the information would inform debate on a matter of public importance.
19. I am not satisfied that the information would promote effective oversight of public expenditure or would allow a person to access his or her own personal information.
20. In contrast to the factors favouring release, I note that the material contains consultation, including fact checking, on the content of briefing regarding sensitive operational matters.
21. On balance, I have decided that the public interest lies in not disclosing the material assessed as deliberative matter in this instance. The documents are therefore exempted in part under s.47C(1) of the FOI Act.

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

22. 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.
23. The material exempted under s.47E(d) consists of operational email addresses that are not available in the public domain. Release of this information could have the potential to impede the operations of relevant agencies if the addresses were to be targeted with malicious emails or spam.
24. On this basis, I am satisfied that release of the information would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the Department's and other agency operations. I am therefore satisfied that the material in issue is conditionally exempt under s.47E(d) of the Act.

Application of the public interest test

25. I acknowledge that release of the documents without the exemptions made under s.47E(d) would promote the objects of the FOI Act, through facilitating and promoting public access to information.
26. I do not consider that release of the information would inform debate on a matter of public importance, promote effective oversight of public expenditure or allow a person to gain access to his or her own personal information.
27. In contrast, I consider that the ability of the Department and other agencies to utilise email channels which are confidential to the relevant agencies to be in the public interest.
28. Taking into account the above matters, on balance, I consider that disclosure of the information in the documents exempted under s.47E(d) to be contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under s.47E(d) of the FOI Act. The exemptions have therefore been applied to the documents released.

Section 47F – personal privacy

29. Section 47F(1) of the Act provides:

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).

The relevant documents contain ‘personal information’

30. I am satisfied that documents to which you have sought access contain ‘personal information’, being identifying information of third parties (non-Departmental employees, including employees of the Australian Defence Force and the Australian Federal Police).

Disclosure would involve the ‘unreasonable disclosure of personal information’

31. In assessing whether a particular disclosure would be ‘unreasonable’, s.47F(2) sets out a number of factors which the Department *must* consider.

32. These factors are:

- 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 matters that the agency or Minister considers relevant.

33. The personal information in the documents is not well known or available in publicly accessible sources. As such, I consider that disclosure of the personal information in the documents would be unreasonable. The personal information is therefore conditionally exempt from release, subject to a public interest test.


Application of the public interest test

34. While I acknowledge that release of the documents would promote the objects of facilitating and promoting public access to information, I consider that the release of individual identifying and personal information would not inform public debate, promote effective oversight of public expenditure or allow a person to access their own information.
35. In contrast, I consider that the protection of the individuals' right to privacy should be given the upmost importance.
36. Taking into account the above matters, on balance, I consider that disclosure of the personal information in the documents is contrary to the public interest. Accordingly, I have decided that the documents are exempt in part under s.47F of the FOI Act. The exemptions have therefore been applied to the documents released.

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

37. The material deleted under section 22(1)(a)(ii) includes:

- the names and direct contact details of Departmental staff (although the names of Departmental senior executive service staff have been retained). The Department's intended deletion of this information was notified to you in the acknowledgment letter of 2 March 2016 and you did not raise any objections; and
- any information relating to the forwarding or printing of documents, where such action was taken by the Department for the purpose of processing this FOI request.



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

12 July 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 16/03/00091

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
1.	07/05/2013	1-3	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d) s.47F(1)
2.	22/05/2013	4	Email	Irrelevant to scope	s.22(1)(a)(ii)
3.	24/05/2013	5	Email	Irrelevant to scope	s.22(1)(a)(ii)
4.	24/05/2013	6	Email	Irrelevant to scope	s.22(1)(a)(ii)
5.	24/05/2013	7	Email	Irrelevant to scope	s.22(1)(a)(ii)
6.	24/05/2013	8	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
7.	24/05/2013	9	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d) s.47F(1)
8.	24/05/2013	10	RAAF image #1	Released in full	n/a
9.	24/05/2013	11	RAAF image #2	Released in full	n/a
10.	24/05/2013	12	RAAF image #3	Released in full	n/a
11.	24/05/2013	13	RAAF image #4	Released in full	n/a
12.	24/05/2013	14	RAAF image #5	Released in full	n/a
13.	24/05/2013	15	RAAF image #6	Released in full	n/a
14.	24/05/2013	16	RAAF image #7	Released in full	n/a
15.	24/05/2013	17	RAAF image #8	Released in full	n/a
16.	24/05/2013	18	RAAF image #9	Released in full	n/a

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
17.	24/05/2013	19	RAAF image #10	Released in full	n/a
18.	24/05/2013	20	RAAF image #11	Released in full	n/a
19.	24/05/2013	21	RAAF image #12	Released in full	n/a
20.	24/05/2013	22	RAAF image #13	Released in full	n/a
21.	24/05/2013	23	RAAF image #14	Released in full	n/a
22.	24/05/2013	24	RAAF image #15	Released in full	n/a
23.	24/05/2013	25	RAAF image #16	Released in full	n/a
24.	24/05/2013	26	RAAF image #17	Released in full	n/a
25.	24/05/2013	27	RAAF image #18	Released in full	n/a
26.	24/05/2013	28	RAAF image #19	Released in full	n/a
27.	24/05/2013	29	RAAF image #20	Released in full	n/a
28.	24/05/2013	30	RAAF image #21	Released in full	n/a
29.	24/05/2013	31	RAAF image #22	Released in full	n/a
30.	24/05/2013	32	RAAF image #23	Released in full	n/a
31.	24/05/2013	33	RAAF image #24	Released in full	n/a
32.	24/05/2013	34-35	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d) s.47F(1)
33.	24/05/2013	36	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d)
34.	24/05/2013	37-39	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
35.	24/05/2013	40	RAAF image	Released in part	s.47F(1)
36.	25/05/2013	41-43	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d) s.47F(1)
37.	25/05/2013	44-45	Email	Irrelevant to scope	s.22(1)(a)(ii)
38.	25/05/2013	46	Email	Irrelevant to scope	s.22(1)(a)(ii)

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
39.	25/05/2013	47	ACBPS image	Release in full	n/a
40.	25/05/2013	48	ACBPS image	Release in full	n/a
41.	25/05/2013	49	ACBPS image	Release in full	n/a
42.	25/05/2013	50-51	Email	Irrelevant to scope	s.22(1)(a)(ii)
43.	25/05/2013	52-54	Operational Update	Irrelevant to scope	s.22(1)(a)(ii)
44.	27/05/2013	55-57	Operational Update	Irrelevant to scope	s.22(1)(a)(ii)
45.	27/05/2013	58-59	Email	Irrelevant to scope	s.22(1)(a)(ii)
46.	28/05/2013	60	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
47.	27/05/2013	61-64	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
48.	27/05/2013	65	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i) s.47E(d) s.47F(1)
49.	27/05/2013	66-67	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i) s.47E(d) s.47F(1)
50.	28/05/2013	68-69	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
51.	28/05/2013	70-71	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
52.	28/05/2013	72-74	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
53.	28/05/2013	75-77	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
54.	28/05/2013	78-80	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
55.	28/05/2013	81	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47C(1)
56.	28/05/2013	82-83	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
57.	28/05/2013	84-85	Draft brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i) s.47F(1)
58.	28/05/2013	86-87	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i) s.47F(1)
59.	28/05/2013	88-90	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
60.	28/05/2013	91-92	Draft brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
61.	28/05/2013	93-96	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
62.	28/05/2013	97-100	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47E(d) s.47F(1)
63.	28/05/2013	101-102	Draft brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
64.	5/2013	103-107	Senate Estimates brief	Released in part	s.47F(1)
65.	28/05/2013	108-110	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
66.	28/05/2013	111-113	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
67.	28/05/2013	114-117	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)

No.	Date of document	Folio	Description	Relevant legislation (FOI Act)	
68.	28/05/2016	118-119	Brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
69.	28/05/2016	120-122	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47F(1)
70.	28/05/2016	123-124	Brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
71.	28/05/2013	125	Email	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.47C(1)
72.	28/05/2013	126-127	Brief	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
73.	28/05/2013	128-129	Brief with revisions	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i)
74.	28/05/2013	130-133	SBBC Operations Log – Life jackets at Cocos	Irrelevant to scope Released in part	s.22(1)(a)(ii) s.33(a)(i) s.47C(1) s.47F(1)



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.

Section 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.

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).

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).