



Attachment A

DECISION RECORD

Request Details

FOI Request FA 16/02/00219
File Number ADF2016/4859

Scope of request

1. On 26 April 2016 you requested:

- a) *Reports and/or investigations and/or research and/or proposals and/or policy and/or review and/or proposed policy and/or analysis and/or briefings and/or strategy and/or plan and/or memos and/or correspondence about:*
 - i. *The interception of pre-exposure prophylaxis (PrEP) drugs, including Truvada and generic brands;*
 - ii. *The number of times pre-exposure prophylaxis (PrEP) drugs, including Truvada and generic brands, have been intercepted or halted and the reasons for that action;*

Between 1 January 2015 - current.
- b) *Communication with the minister's office about pre-exposure prophylaxis (PrEP) drugs, including Truvada and generic brands, between 1 January 2015 - current.*

Authority to make decision

2. 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

3. In reaching my decision, I have considered the following:

- the terms of your request
- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's guidelines relating to access to documents held by government
- Departmental documents, identified in the Schedule of Documents
- consultations with the relevant business area.

Decision

4. I have decided the document you requested is partially exempt from release on the following basis.

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 reasons(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.

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

8. 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 grounds.

Section 47F(1) – Personal privacy

9. 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 document contains 'personal information'

10. I am satisfied that the document to which you have sought access contains 'personal information', being the names and identifying information of third parties, and business identifiers that could be used to identify individuals.

Disclosure would involve the 'unreasonable disclosure of personal information'

11. In assessing whether a particular disclosure would be 'unreasonable', section 47F(2) sets out a number of factors which the Department *must* consider.
12. 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.
13. The personal information in the document is not well known. As such, I consider that disclosure of the personal information in the document would be unreasonable.

Application of the 'public interest' test

14. Although I have found that the information contained in the document you requested is conditionally exempt from release under s.47F(1), 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.
15. The factors favouring access to information are provided at s.11B of the FOI Act:

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.*

16. I am satisfied that the release of the information would promote the objects of the FOI Act as it would provide access to information held by Government.
17. I do not consider release of the exempted information would be of interest to the broader public, promote effective oversight of public expenditure, or allow a person to access his or her own personal information.

Factors weighing against

18. I consider that it is in the broader public interest for individuals to be able to entrust the Department with their personal details, and that releasing the personal details of individuals may limit the future willingness of those individuals to engage with the Department.
19. On balance, I consider that the public interest factors against release of the exempted information outweigh the public interest factors for release of the information. I therefore partially exempt the document from release under s.47F(1) of the FOI Act.

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

20. 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 Schedule of Documents and the document released.
21. The material deleted under section 22(1)(a)(ii) comprises the details of non-Senior Executive Service Departmental employees.



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

1 July 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 16/02/00219
File Number ADF2016/4859

No.	Pages	Description	Decision on release	
1.	1-2	Email trail 1	Irrelevant to request Exempt in part	22(1)(a)(ii) 47F(1)
2.	3-9	Email trail 2	Irrelevant to request Exempt in part	22(1)(a)(ii) 47F(1)
3.	10-15	Email trail 3	Irrelevant to request Exempt in part	22(1)(a)(ii) 47F(1)
4.	16-18	Email trail 4	Irrelevant to request Exempt in part	22(1)(a)(ii) 47F(1)
5.	19-23	Email trail 5	Irrelevant to request Exempt in part	22(1)(a)(ii) 47F(1)

Attachment C – Extract of relevant legislation

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.

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.