



FOI Tour of Duty

May 2024

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What documents are disclosable?

- There is a presumption under the FOI Act that a government agency will be open and disclose documents completely.
- Any documents that are requested under the FOI Act would have to be disclosed, except if they are:
 - exempt under the FOI Act,
 - conditionally exempt under the FOI Act,
 - publicly accessible at a cost,
 - held by a government agency that is exempt from the FOI Act,
 - in the open access period and held by the National Archives of Australia.

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Exemptions

- Documents affecting national security, defence or international relations (s 33)
- Cabinet documents (s 34)
- Document affecting law enforcement and public safety (s 37)
- **Documents to which secrecy provisions apply (s 38)**
- **Documents subject to legal professional privilege (s 42)**
- Documents containing material obtained in confidence (s 45)
- Parliamentary Budget Office documents (s 45A)
- Documents whose disclosure would be in contempt of the Parliament or in the contempt of court (s 46)
- Documents disclosing trade secrets or commercially valuable information (s 47)
- Electoral rolls and related documents (s 47A)

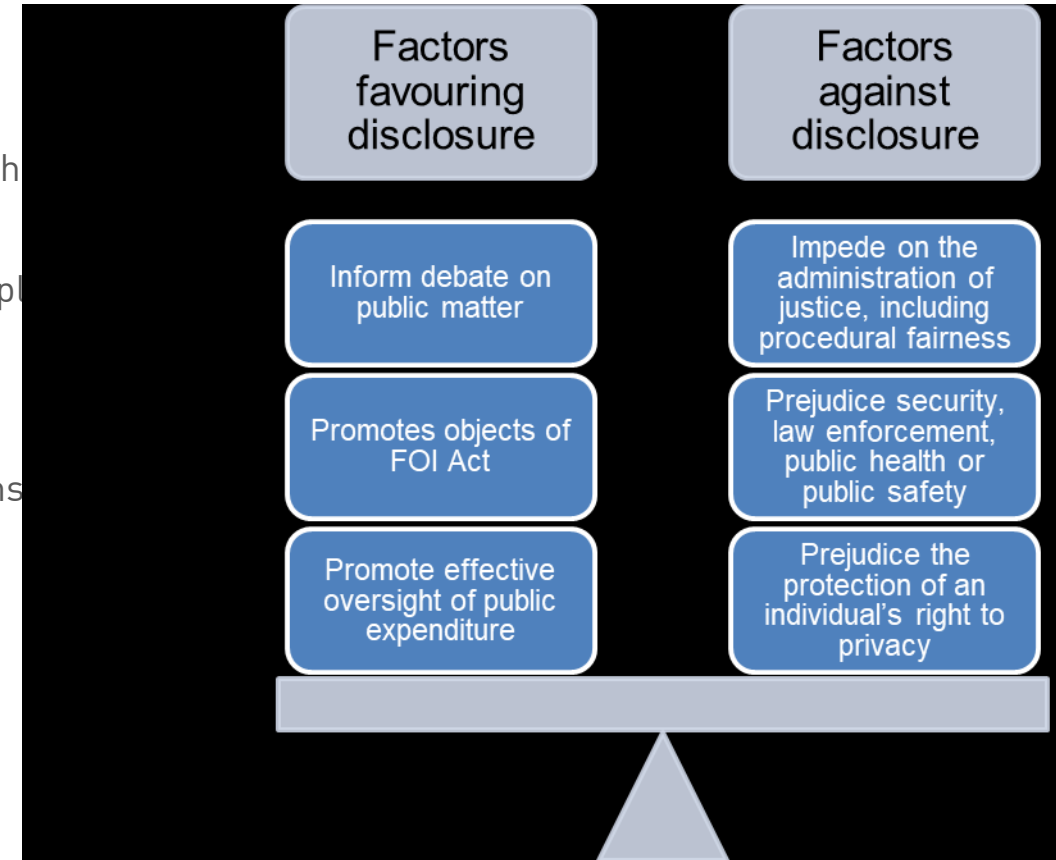
- Also, it is not strictly an exemption but irrelevant material can be deleted (s 22)

Conditional exemptions

- Documents affecting Commonwealth-State relations (s 47B)
- **Documents subject to deliberative processes (s 47C)**
- Documents affecting the financial or property interests of the Commonwealth (s 47D)
- **Documents affecting certain operations of agencies (s 47E)**
- Documents affecting personal privacy (s 47F)
- Documents disclosing business information (s 47G)
- Research documents (s 47H)
- Documents affecting the Australian economy (s 47J)

Applying the Public Interest Test

- Are the relevant documents conditionally exempt?
- What is the harm threshold?
- What are the factors for disclosure? (e.g. promoting the objects of the Act, providing the context for decision-making, etc.)
- What are the factors against disclosure? (e.g. it would prevent compliance with the Act, advice and information sharing)
- Were any irrelevant factors considered?
- Would the factors for disclosure be outweighed by the factors against disclosure?



Complying with a document request

- Anyone at APRA could be asked to provide documents in connection with a FOI request under the FOI Act.
- There is an obligation to 'take all reasonable steps' to provide the relevant documents to the decision-maker.
- The documents could be in an online database, records management system, email accounts, hard copy filing, etc.
- It is important that you co-operate completely with any request for documents and are efficient in doing so.
- It is the role of the decision maker to consider whether any exemptions and conditional exemptions apply and ultimately determine whether a document can be released so please provide all documents even if you think they will be exempt.

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Disclosure Log

- APRA is obliged to publish information on any documents that are disclosed under the FOI Act (except for personal information, etc.) even if that information is already publicly available.
- The information must be published on the APRA website within 10 working days of disclosing the documents to the applicant: <https://www.apra.gov.au/freedom-of-information-disclosure-log>
- In order to minimise a journalist applicant having exclusive information, we now publish links to the documents released on the FOI Disclosure Log on the same day we release the decision and documents to the applicant.
- To update the disclosure log, open a SHOP request with Corporate Affairs for an APRA website update at least 3 days before it needs to be published. The disclosed document/s can be provided later but the SHOP request needs to be lodged 3 days in advance or earlier.

2021/13	26 May 2022	Request for a Trust Deed dated 6 May 1958 varying regulations of Elder Smith & Co. Limited, The Provident Fund.	1958 Consolidation Deed PDF 7.83 MB
2021/14	9 June 2022	Request for documents regarding the current and historical foreign ownership of: <ul style="list-style-type: none"> • Australia's insurance industry overall • Australia's life insurance industry • Australia's home and contents insurance industry • Australia's general insurance industry 	Two documents: Email containing foreign ownership data for Life Insurers as at 31 December 2020 PDF 921.48 KB Released 9 June 2022 Document containing foreign ownership data for Life Insurers as at 30 June 2021 PDF 550.73 KB Published 9 June 2022
2021/15	24 June 2022	Request for correspondence between APRA and ISH and trustees regarding the review of payments from APRA-regulated superannuation trustees to trade union organisations and political parties.	Four documents: <ul style="list-style-type: none"> • Summary of detailed receipts paid by superannuation entities • 3 x Detailed receipts downloaded from the AEC transparency register website on 4 April Documents related to FOI request to APRA ZIP 13.96 MB Published 24 June 2022
2022/1	27 July 2022	Request for the APRA red book presented to the Albanese Labor Government.	One partially released document: Incoming Government Brief PDF 4.38 MB Released 27 July 2022
2022/2	8 August 2022	PowerPoint slides, notes and any materials relating to the APRA graduate program's orientation sessions given to new staff from the beginning of this year's graduate program to date.	Twenty one documents (two fully released documents and nineteen partially released documents): PowerPoint slides, notes and materials for FOI request PDF 37.92 MB Released 8 August 2022

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