

Attorney-General's Department – Submission on draft v 1.4 Part 6 (Conditional exemptions)

Paragraph	Attorney-General's Department's Comments
6.5	<ul style="list-style-type: none"> It may be useful to indicate in the flowchart that not all exemptions under division 3, part 4, must meet the harm threshold prior to undertaking the public interest test (eg: section 47C does not involve a harm threshold consideration). It may be useful if paragraph 6.7, which notes the exemptions which involve a harm threshold consideration, immediately follows the flowchart at paragraph 6.5.
6.8	<ul style="list-style-type: none"> The new statement (included in the second last sentence) in this paragraph, on the decision maker considering the public interest, is difficult to understand and may be confusing for practitioners. It would benefit from being broken into smaller sentences and clarifying the meaning.
6.39-6.40	<ul style="list-style-type: none"> It could be convenient for FOI practitioners if further information about contacting the delegated FOI contact officer of State agencies were included here or in Part 3 of the Guidelines.
6.228	<ul style="list-style-type: none"> We understand the guidance in paragraph 6.151 may be a relevant consideration under paragraph 2.228 in determining public interest factors in relation to the exemption in section 47F. It may be worth referring to paragraph 6.151 and/or the Public Service Commissioner Guidelines "Circular 2016/2: Use and disclosure of employee information in the factors against the disclosure of personal information", in this paragraph.
Throughout the FOI Guidelines	<ul style="list-style-type: none"> The guidelines continue to mention section 26AA which has been repealed. In the combined FOI Guidelines pdf, Part 14: Disclosure log is v 1.6 (Jan 2019). The separate online version of Part 14 is v 1.7 (March 2022). The updated March 2022 part 14 does not mention section 26AA. Section 26AA is also referenced in the fact sheet directed to agencies: Apply for an extension of time to process a freedom of information request.