

Thank you for providing Part 5 of the FOI Guidelines for our review and for the extension of time.

We consider some useful information has been added through these revisions such as those explaining a decision-maker's ability to disclose documents despite an exemption applying.

We have provided some suggestions in the table below on specific paragraphs which we consider would help to provide further clarity. As a general comment, we note further examples from IC reviews, AAT decisions and judicial judgments explained in the body of the guidelines, that demonstrate the outcome of applying tests or evaluating the existence of facts would be helpful to practitioners.

Paragraph	Suggestion
5.2	In the context of administrative release, it could be useful to identify the protections afforded by sections 90-92 of the FOI Act (protections against civil and criminal liability). Practitioners may gain more confidence in pushing for administrative release with the protections in mind.
5.21	The paragraph states, "[a] decision maker should clearly describe the expected effect and its impact on the usual operations or activity of the agency in the statement of reasons in order to show their deliberations in determining the extent of the expected effect". Examples demonstrating how a decision maker has successfully or unsuccessfully shown this would be beneficial to practitioners who are undertaking a similar assessment.
5.62-5.91	It would be useful to clarify the status of departmental coordination comments on Cabinet submissions under the Cabinet exemption. We defer to PM&C on matters relating to the cabinet exemption.
5.166	It would be useful to clarify circumstances which would result in waiving LPP, such as disclosing privileged information.
5.181	This section on 'specifically identified' information for the purposes of the s 45 exemption would be clearer with further explanation and examples.
5.184	Practitioners may benefit from a practical example where a 'mutual understanding of confidence' was found to exist.
5.191	The paragraph indicates types of detriment that are only applicable to private persons and entities, but not to government. This implies some of the types of detriment (specifically threat to health or safety and financial loss) are applicable to government. However, we understand that the exemption does not relate at all to government. Further clarification would be useful.