

Hi Tania - I am just checking in re the outcome for the Future FIT cohort. Are we actively working on these or not?

s22

[REDACTED] Tania 3/11/2025 11:10 am

s47F

Hi Meka, I think we may need to add those to a casework meeting to seek FOIC views on progressing them as a cohort given the inter-relationship/complexities involved- would you be happy to add this as an item for next week?

i think our recommendation would be that we 54W(b) them-

s22



2025 FOI Commissioner Casework Meetings: 13 November 2025 at 11:30-12:15

Agenda

s22

- 2. Casework for FOI Commissioner direction
 - a. IC Reviews

s22

- 1. Outcomes from previous meeting
- 2. Casework for FOI Commissioner Direction
 - a. IC Reviews

s22

s22

OAIC Refs:	<p>s22 [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>(38 IC reviews)</p>
Parties:	<p>Applicants (7): s22 [REDACTED]</p> <p>Respondents (3): s22 [REDACTED]</p>
Director:	Tania [REDACTED]
Case Officer:	Will s47F [REDACTED], Meka Larsen
Issue for Direction:	Whether to issue s 54W(b) ITDs in these matters

Background:	<p>The 38 IC reviews in this cohort involve FOI requests that bear some relationship to the 'Future Fit Program', which was administered by the Department of Health, Disability and Ageing. This program has been / is the subject of Australian National Audit Office (ANAO) audits (see Administration of the Future Fit Program and Effectiveness of the Commonwealth Home Support Programme).</p> <p>The respondents in these matters tend to provide partial access to documents at issue, which results in certain FOI requests being subject to two IC reviews (one access refusal matter, one access grant matter) that must be progressed together. Out of the 38 IC reviews in this cohort, 9 are access grant matters and 29 are access refusal matters. Many of the matters involve affected a number of third parties, some of whom are the IC review applicant in other IC reviews in the cohort.</p> <p>The IC reviews are at various stages of the case management process, with the bulk of them currently in the Early Resolution, Declines or Priority Cohorts queues. A small number (4) have been allocated to a case officer but all have outstanding case management steps. Some of the access grant matters had already been identified as suitable for declining under s 54W(b), but given they relate to access refusal decisions in this cohort we propose that they be dealt with together to avoid the potential for inconsistency or delay with potential ART proceedings.</p> <p>s22</p> <p>We propose issuing bulk notices of intention to decline to seek the parties' views about whether this cohort should be declined under s 54W(b) on the basis that:</p> <ol style="list-style-type: none"> 1. these matters are all interrelated, with overlapping documents at issue 2. the similar / overlapping FOI requests to multiple respondents means that certain documents at issue have been dealt with differently between respondents 3. given its size, case managing this cohort will be complex as we try to ensure the matters are handled consistently. Between them, the matters include practical refusal matters (s 24), searches matters (s 24A), and matters involving a variety of exemptions (ss 42, 47, 47C, 47E, 47F, 47G). Processing this cohort would require a substantial allocation of the OAIC's resources 4. the parties are generally entrenched in their positions. The ART's more flexible powers (including its dispute resolution provisions and remittal powers) mean it may be better suited to managing the complexities in these cases. In particular, the ART's dispute resolution powers may enable to the parties to engage directly and narrow the volume of these reviews/ issues/ documents in dispute. <p>s22</p> <p>The OAIC has previous utilised this approach in relation to a cohort of 20 IC reviews with similar complexities. This approach was put to the Regulatory Board first, who approved of finalising the matters in that way.</p>
Whether related to any matters or previous considerations:	N/A
Options:	<ol style="list-style-type: none"> 1. Issue s 54W(b) ITDs in each of these matters, to the IC review applicants and respondents (as well as any third parties that have been notified under s 54P and have contacted us to express interest in participating in the IC review process). Depending on the views of the parties, these matters may proceed to finalisation under s 54W(b). Draft versions of the ITDs that would be issued can be seen here: D2025/029576 (ITD to A and R) and D2025/029577 (ITD to third party). 2. Continue to progress these matters according to our ordinary case management processes.
Recommendation:	We recommend option 1 due to the resource intensive nature of processing a cohort of this size, the complexity added by current/potential VAD applications, and the fact that even if s 54W(b) ITDs are issued we there is no obligation to finalise under s 54W(b) if it becomes apparent that these are best progressed by us.
Outcome:	Proceed with option 1.

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s47F

William

Chat

Shared



s22

s47F

William 19/11/2025 10:53 am

s47F

Outcomes just says that the FOIC agreed to option 1, which is:

'Issue s 54W(b) ITDs in each of these matters, to the IC review applicants and respondents (as well as any third parties that have been notified under s 54P and have contacted us to express interest in participating in the IC review process). Depending on the views of the parties, these matters may proceed to finalisation under s 54W(b). Draft versions of the ITDs that would be issued can be seen here: [D2025/029576](#) (ITD to A and R) and [D2025/029577](#) (ITD to third party).'

s22

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2025 FOI Commissioner Casework Meetings: 4 December 2025 at 11:30 -12:15

Agenda

1. Outcomes of meeting of 28 November 2025 for FOI Commissioner approval: [D2025/030231](#)
2. Casework for FOI Commissioner direction
 - a. IC Reviews

s22

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1. Outcomes from previous meeting
2. Casework for FOI Commissioner Direction

s22

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OAIC Ref:	s22 [Redacted] [Redacted] (38 IC reviews)
Parties:	Applicants (7): s22 [Redacted] Respondents (3): s22 [Redacted]
Director:	Tania [Redacted]

Case Officer:	Will s47F Meka Larsen
Issue for Direction:	Whether to finalise these matters under s 54W(b) of the FOI Act
Background:	<p>The 38 IC reviews in this cohort involve FOI requests that bear some relationship to the 'Future Fit Program', which was administered by the Department of Health, Disability and Ageing. This program has been / is the subject of Australian National Audit Office (ANAO) audits (see Administration of the Future Fit Program and Effectiveness of the Commonwealth Home Support Programme).</p> <p>The respondents in these matters tend to provide partial access to documents at issue, which results in certain FOI requests being subject to two IC reviews (one access refusal matter, one access grant matter) that must be progressed together. Out of the 38 IC reviews in this cohort, 9 are access grant matters and 29 are access refusal matters. Many of the matters involve affected a number of third parties, some of whom are the IC review applicant in other IC reviews in the cohort. s22</p> <p>On 19 November 2025, we issued 54W(b)s to the applicant and respondent in each matter following input at the case management meeting on 13 November 2025. A response was due by 3 December 2025.</p> <p>s22</p> <p>Responses to s 54W(b) ITDs by the applicants</p> <p>Five of the 7 applicants have responded. All who have responded oppose the finalisation of their matters under s 54W(b). In summary the reasons include:</p> <ul style="list-style-type: none"> • the cost and delay of ART proceedings on them s22 • the ART process is more formal legal process, which is what the IC review process is designed to avoid • finalisation under s 54W(b) of the FOI Act is contrary to the objects in s 3(4) of the FOI Act • there are no current related matters before the ART • there is not likely to be an appeal of the OAIC's decision to the ART as that process is expensive • the documents and matters are not sufficiently complex to be transferred to the ART • the OAIC has no conflict of interest • the OAIC should instead rely on its information gathering powers and progress these matters itself, and • this course of action would benefit the respondents, enable further reprisal against the applicants, and erodes trust in the OAIC.
Whether related to any matters or previous considerations:	Previously considered at the case work meeting on 13 November 2025, where it was decided that 54W(b) ITDs would be issued.
Options:	<ol style="list-style-type: none"> 1. Finalise the matters under s 54W(b) of the FOI Act (benefit: reduced resources compared to progressing the cohort; risks: complaints/ judicial review) 2. Finalise a subset of these matters (only the access grants) under s 54W(b) of the FOI Act (benefit: reduced resources compared to progressing whole cohort; risks: same risks as above, as well as the risk of us progressing a related access refusal decision in a manner potentially inconsistent with the ART's management of the related access grant) <p>Retain all matters and progress as a cohort (benefit: less risk of complaints and judicial review; risks: resource intensive. We estimate that processing this cohort would require the resources of 1 EL1 (full time) and 1 APS 6 (2 days a week) about 5 months, noting that 38 matters is almost double a full time case managers caseload. Given the limited EL capacity in the Cohorts team, other cohort matters would need to be put on hold while this cohort is progressed).</p>
Recommendation:	Option 1 given the complexity of these matters (arising from both the exemption claims and the interrelated nature of these matters).
Outcome:	<i>Proceed with option 1</i>