

PUBLIC INTEREST TEST

Conditional Exemptions

The public interest test must be applied to any document that falls within a conditional exemption (ie Research). The balance must be **against** public interest to prevent disclosure, however if the balance is equally in favour pro/against disclosure then the document(s) must be disclosed. Weight is also given to each item in the public interest test for and against disclosure.

Irrelevant Factors in determining Public Interest:

- Access to the document would cause embarrassment to, or cause a loss of confidence in, the Commonwealth Government
- Access to the document could result in any person misinterpreting or misunderstanding the document
- The author of the document was (or is) of high seniority in the agency
- Access to the document could result in confusion or unnecessary debate

Pro-Disclosure – Factors favouring access

1. Inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealing with members of the community
2. Allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official
3. Reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct
4. Reveal the reason for a government decision and any background or contextual information that informed the decision
5. Enhance accountability and the scrutiny of government decision making
6. Inform debate on a matter of public importance
 - a. *public importance being different to public CURIOSITY (ie gossip)*
7. Reveal environmental or health risks or measures relating to public health and safety
8. Promote effective oversight of public expenditure
9. Allow a person to access their personal information
 - a. Their personal information of a child, the agent acting for the applicant is the child's parent and disclosure of the information is reasonably considered to be in the child's best interests

- b. The personal information of an individual who is deceased and the applicant is an eligible family member of the deceased person

10. Advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies

11. Contribute to the:

- a. Protection of the environment
- b. Maintenance of peace and order
- c. Administration of justice generally, including procedural; fairness
- d. Administration of justice for a person
- e. The enforcement of the criminal law
- f. Innovation and the facilitation of research

.....and any other relevant public interest factors favouring disclosure

Prevent disclosure – Factors against access

Disclosure could reasonable be expected to:

1. Prejudice the protection of an individual's right to privacy, including that of the deceased
2. The personal information is that of a child and disclosure of the information is reasonably considered not to be in the child's best interests
3. Prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.
4. Prejudice security, law enforcement, public health or public safety
5. Impede the administration of justice generally, including procedural fairness
6. Impeded the administration of justice for a person
7. Impede the flow of information to the police or another law enforcement or regulatory agency
8. Prejudice an agency's ability to obtain confidential information
9. Prejudice an agency's ability to obtain similar information in the future
10. Impede the protection of the environment
11. Prejudice the competitive commercial activities of an agency
12. Harm the interests of an individual or a group of individuals
13. Prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General
14. Prejudice the management function of an agency or the conduct of industrial relations by an agency
15. Prejudice the effectiveness of testing or auditing procedures

.....and any other relevant public interest factors against disclosure