

'AU' and Australian Health Practitioner Regulation Agency (Freedom of Information)



Decision and reasons for decision of the National Health Practitioner Privacy Commissioner, Richelle McCausland

Applicant	'AU'
Respondent	Australian Health Practitioner Regulation Agency (Ahpra)
Reference number	NHPO/07062024
Decision date	11 June 2025
Catchwords	FREEDOM OF INFORMATION — Whether a document is subject to legal professional privilege – Whether disclosure could cause damage to relations between the Commonwealth and a State – Whether documents contain deliberative matter prepared for a deliberative purpose – Whether disclosure would have a substantial adverse effect on the management or assessment of personnel – Whether disclosure would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency – Whether disclosure of personal information is unreasonable – Whether it is contrary to the public interest to release a conditionally exempt document – Freedom of Information Act 1982 ss. 42, 47B, 47C, 47E(c), 47E(d) and 47F

All references to legislation in this document are to the *Freedom of Information Act 1982* (Cwlth) (FOI Act) unless otherwise stated.

Decision

1. Under s. 55K, I affirm Ahpra's decision of 20 May 2024.

Background

2. The Medical Board of Australia (the Medical Board) has responsibilities relating to the regulation of medical practitioners. Ahpra provides administrative assistance and support to the Medical Board in exercising its functions.
3. The Applicant is a medical practitioner who was the subject of a notification made to Ahpra and the Medical Board by the police.
4. The Medical Board decided to take regulatory action and caution the Applicant in relation to the notification.

5. Following the closure of the notification, a second notification was made about the Applicant to Ahpra and the Medical Board. The Medical Board decided to refer the matter to the responsible tribunal as it reasonably believed the Applicant had behaved in a way that constituted professional misconduct.
6. On 19 March 2024 the Applicant made a request to Ahpra for access to:

‘...all information related to myself, [A]hpra, [the police] and any other institution/individual related to a complaint [notification] made by [a police officer].’
7. On 25 March 2024 the Applicant expanded their request to include the following:

‘And every all [sic] correspondence that followed until present day. Make no mistake. It is all related.’
8. In its decision letter dated 20 May 2024, Ahpra identified 505 documents that fell within the scope of the Applicant’s request. Ahpra decided to:
 - release 432 documents in full
 - exempt 24 documents in part under a combination of ss. 47B, 47E(c), 47E(d) and 47F
 - exempt 49 documents in full under a combination of ss. 42, 47B, 47C, 47E(d) and 47F.
9. The schedule of documents in **Annexure 1** sets out Ahpra’s decision in relation to each document.
10. On 24 May 2024 the Applicant sought a review of Ahpra’s decision under s. 54L.

Scope of the review

11. The issues I have decided in this review are:
 - whether the information Ahpra found to be exempt under s. 42 is exempt under that provision
 - whether the information Ahpra found to be exempt under s. 47B is exempt under that provision, and if so, whether giving access would be contrary to the public interest
 - whether the information Ahpra found to be exempt under s. 47C is exempt under that provision, and if so, whether giving access would be contrary to the public interest
 - whether the information Ahpra found to be exempt under s. 47E(c) is exempt under that provision, and if so, whether giving access would be contrary to the public interest
 - whether the information Ahpra found to be exempt under s. 47E(d) is exempt under that provision, and if so, whether giving access would be contrary to the public interest
 - whether the information Ahpra found to be exempt under s. 47F is exempt under that provision, and if so, whether giving access would be contrary to the public interest.
12. Where I have found one exemption applies to the document, I have not considered whether any additional exemptions ought to also apply.
13. In a review of an access refusal decision, Ahpra bears the onus of establishing that its decision is justified or that I should give a decision adverse to the Applicant.¹ However, it is open to me to obtain

¹ s. 55D(1).

any information from any person, make any inquiries that I consider appropriate, and change the basis on which the decision is made.²

14. The Applicant and Ahpra were invited to make written submissions about this review. I have considered all relevant communications and submissions received from the Applicant and Ahpra.
15. I have had regard to the object of the FOI Act, which is to give the Australian community access to information held by the Government, by requiring agencies to publish that information and by providing for a right of access to documents.³

Review of the exemptions

Section 42: Document subject to legal professional privilege

16. Ahpra found document 118 to be exempt in full under s. 42. Document 118 is described by Ahpra as 'Ahpra internal legal advice'.
17. A document is exempt under s. 42 if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege,⁴ and that privilege has not been waived by the party claiming it.⁵
18. The FOI Act does not define 'legal professional privilege'. Common law concepts of legal professional privilege provide guidance on what should be considered by decision-makers. At common law, determining whether a document is privileged requires consideration of whether:
 - there is a legal adviser-client relationship
 - the communication was for the dominant purpose of giving or receiving legal advice, or use in connection with actual or anticipated litigation
 - the advice given is independent
 - the advice given is confidential.⁶
19. As explained in the Office of the Australian Information Commissioner's FOI Guidelines (FOI Guidelines), the underlying policy basis for legal professional privilege is to promote the full and frank disclosure of information between a lawyer and a client to benefit the effective administration of justice.
20. The FOI Act makes it clear, however, that a document will not be exempt under s. 42 if the information is operational information of the agency.⁷ 'Operational information' is information held by an agency to assist it in performing or exercising its functions or powers in making decisions or recommendations affecting members of the public, including for example, the agency's rules, guidelines, practices and precedents.⁸

² ss. 55 and 55K.

³ s. 3(1).

⁴ s. 42(1).

⁵ s. 42(2).

⁶ FOI Guidelines, [5.149].

⁷ s. 42(3).

Ahpra's submissions

21. In its decision of 20 May 2024, Ahpra said:

Ahpra has an in-house legal department which is staffed by lawyers admitted to practice and who hold practising certificates. The lawyers in this department provide independent legal advice. They do not work on policy or other issues...

The document to which the exemption has been applied contain[s] communications made in the context of the solicitor-client relationship. They were made on the understanding that the usual and well-established relationship of confidence between a solicitor and a client governed the communication. The communication was not provided outside of that context at the time of communication. The communications were confidential at the time they were made and remain confidential...

The communications were made for the dominant purpose of providing legal advice. The communication is legal advice provided by the in-house lawyers to advise on the relevant legal issues in relation to the matter...

Section 42(2) of the FOI Act provides that a document is not exempt if the person entitled to claim [legal professional privilege] waives that claim. A person entitled to the benefit of [legal professional privilege] may waive that privilege either expressly or by implication. [Legal professional privilege] is waived if the conduct of the person seeking to rely on the privilege is inconsistent with the maintenance of the privilege. This will depend on the circumstances of the case, including whether the disclosure was for any advantage.

There is no evidence to indicate that the substance of the communications has been disclosed more broadly, or used in any way that would be inconsistent with maintaining the confidentiality of the communications...

'Operational information' is defined in section 8A of the FOI Act and refers to information used to assist an agency to perform or exercise its functions in making decisions or recommendations that affect certain persons or classes of persons. I am satisfied that the privileged communication in the document does not comprise of operational information.

22. During the review, Ahpra further submitted:

... section 42 has been applied on the basis that:

- a. ...there existed a lawyer-client relationship as legal advice was sought by Ahpra/[the Medical Board] from Ahpra's in-house lawyers;
- b. the communications were confidential and contain communications made in the context of a solicitor-client relationship and were not provided outside that context;
- c. the document was created for the dominant purpose of providing legal advice for use in prospective litigation...
- d. there is no evidence to suggest that the substance of the communication has been disclosed more broadly and therefore no evidence that privilege has been waived.

⁸ s. 8A(1).

The Applicant's submissions

23. During the review, the Applicant stated:

As you would be aware I am facing a tribunal related to "professional misconduct" for correspondence related to crimes against me, in addition to a retaliatory, defamatory and vexatious complaint [notification] by a [police officer]...

The evidence to support [the police officer's] complaint [notification] is required as I have discovery hearing with [the relevant tribunal] on sept 10th [sic].

Application of the exemption

24. After inspecting the relevant document, I am of the view that a legal adviser-client relationship existed between the relevant lawyer in Ahpra's in-house legal team and Ahpra staff managing the notification about the Applicant, and that the document was created for the dominant purpose of giving independent and confidential legal advice in relation to the notification about the Applicant. I am therefore satisfied that the document attracts legal professional privilege and as there is no evidence that privilege has been waived, the document is exempt in full under s. 42.

Existence of an independent legal adviser-client relationship

25. Based on my assessment of the document, I am satisfied a legal adviser-client relationship existed between the relevant lawyer in Ahpra's in-house legal team and Ahpra staff managing the notification about the Applicant.

26. The FOI Guidelines explain that a legal adviser-client relationship exists where a client retains the services of a lawyer for the purposes of obtaining professional advice.⁹ This relationship may be obvious where the advice is obtained from an external law firm. However, where the advice is obtained from an in-house legal adviser, as was the case in relation to this document, the question of whether the required relationship exists will depend on the circumstances of the particular advice that was given.

27. Relevant considerations for determining whether a legal adviser-client relationship exists include whether:

- the legal adviser must be acting in their capacity as a professional legal adviser
- the dominant purpose test must be satisfied
- the giving of the advice must be attended by the necessary degree of independence
- the advice must be confidential
- the fact that the advice arose out of a statutory duty does not preclude the privilege from applying
- whether the lawyer is subject to professional standards can be relevant.¹⁰

28. In relation to the document in question, I am satisfied the legal advisor was acting in a professional capacity. The legal adviser was a qualified legal practitioner holding a practising certificate and was therefore subject to professional standards. Further, it is clear that Ahpra staff managing the

⁹ FOI Guidelines, [5.150].

¹⁰ FOI Guidelines, [5.154].

notification about the Applicant sought the services of Ahpra’s in-house legal team for the purposes of obtaining professional legal advice.

29. I am also satisfied the legal advice was provided with the requisite degree of independence. There is evidence that Ahpra’s in-house legal team operates independently from Ahpra’s other branches. Further, the relevant in-house legal adviser appears to have the requisite degree of independence from the Ahpra staff managing the notification, as there is nothing to suggest their personal loyalties, duties or interests have influenced their advice.¹¹
30. Additionally, I am satisfied the document was created for the dominant purpose of giving legal advice. Paragraphs [32] to [35] are relevant here.
31. I also accept that the legal advice was confidential. Paragraphs [36] to [38] discuss this further.

Dominant purpose of the communication

32. I am satisfied the document was created for the dominant purpose of providing legal advice.
33. Ahpra’s in-house legal team prepared the document following Ahpra’s request for professional legal advice in relation to the notification about the Applicant. My review of the document confirms that it comprises comments to Ahpra that are of a legal advisory nature.
34. As highlighted in a recent decision of the Acting Information Commissioner, Toni Pirani, “[i]t is clear that ‘the concept of legal advice in the context of advice privilege is fairly broad. It goes beyond formal advice as to the law, and extends to professional advice as to what a party should prudently or sensibly do in a relevant legal context...’”¹²
35. The s. 42 exemption can be claimed in regard of giving legal advice or in anticipation of litigation.¹³ Irrespective of whether litigation could be reasonably be anticipated in the circumstances of this matter, I am satisfied that the document was prepared for the dominant purpose of giving legal advice and therefore satisfies the dominant purpose test.

Confidentiality

36. I am satisfied that the document contains confidential communication created for the dominant purpose of giving legal advice.
37. My review of the document confirms that it is clearly labelled as confidential. There is no indication the document has been broadly distributed or that other circumstances exist that would impact its confidentiality.
38. I note that confidentiality is still maintained where the document has been distributed to a select class of people with a common interest in the matter.¹⁴ In the circumstances of this matter, the relevant class of people includes Ahpra staff outside of its in-house legal team who were providing administrative support to the Medical Board.

¹¹ Ibid, [5.157].

¹² *John Theodoridis and Services Australia (Freedom of information)* [2023] AICmr 135 (19 December 2023), [28].

¹³ FOI Guidelines, [5.160].

¹⁴ FOI Guidelines, [5.166].

Waiver of privilege

39. The FOI Act makes it clear that a document is not exempt under s. 42 if legal professional privilege has been waived. Legal professional privilege can only be waived by the person entitled to claim the privilege.¹⁵ As the client and receiver of the legal advice in this case, only Ahpra (and the Medical Board) can waive its privilege in relation to the document in question.¹⁶
40. I am satisfied that Ahpra has not explicitly or implicitly waived privilege. The document has not been widely distributed, the advice has not been disclosed to others and there has not been public announcements of Ahpra's reliance on the legal advice in a manner that discloses the substance of the legal advice.¹⁷ Further, there are no other circumstances indicating a disclosure of information inconsistent with the document's confidentiality protected by the privilege.¹⁸

Operational information

41. A document is not exempt from release under s. 42 where the relevant information is operational information.¹⁹ Operational information is information held by an agency to assist it to perform or exercise its functions or powers in making decisions or recommendations affecting members of the public.²⁰
42. The FOI Guidelines state that a document is not considered to contain operational information if it is legal advice prepared for a specific matter and is not intended for wider or general use in the agency.²¹
43. Having reviewed the document in question, I am satisfied the information is not operational information. The information is almost exclusively legal advice regarding the notification about the Applicant. There is no indication that the legal advice was intended for wider or general use by Ahpra.
44. I acknowledge that the document contains a small amount of information that could be considered factual in nature. However, this information is so intertwined with the legal advice specific to the Applicant's circumstances that it would be impracticable to separate it.

Finding

45. I am satisfied that document 118 is exempt from release in full under s. 42.

Section 47C: Documents subject to deliberative processes

46. Ahpra found documents 110, 116, 119, 122 and 126 to be conditionally exempt in full under s. 47C. These documents include an assessment report, immediate action referral forms, a 'for noting' agenda paper and an investigation report.
47. A document is conditionally exempt under s. 47C if its disclosure would disclose deliberative matter in the nature of, or relating to, either:

¹⁵ Ibid, [5.168].

¹⁶ Ibid, [5.169].

¹⁷ Ibid, [5.170].

¹⁸ Ibid, [5.171].

¹⁹ s. 42(3).

²⁰ S. 8A.

²¹ FOI Guidelines, [5.182].

- an opinion, advice or recommendation that has been obtained, prepared or recorded
 - a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or minister.²²
48. The term ‘deliberative matter’ is a shorthand term for opinion, advice, recommendation, consultation and deliberation that is recorded or reflected in a document.²³
49. The main requirements of this conditional exemption are that:
- the document contains or relates to ‘deliberative matter’²⁴
 - the document was prepared for a ‘deliberative purpose’²⁵
 - the document contains material that is not ‘purely factual’ or non-deliberative²⁶
 - it would be contrary to the public interest to give access at the time of the decision.²⁷
50. In the Administrative Appeals Tribunal decision of *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information)* [2015] AATA 945, Deputy President Forgie explained that:
- ...the meanings of the words ‘opinion’, ‘advice’ and ‘recommendation’ all involve consideration, followed by the formation of a view either about a certain subject or about a course of action and the subsequent transmission of that view.²⁸
51. The FOI Guidelines explain that a ‘deliberative process’ generally refers to:
- the action of deliberating, in common understanding, involves the weighing up or evaluation of the competing arguments or consideration that may have a bearing upon one’s course of action. In short, the deliberative processes involved in the functions of an agency are its thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.²⁹

Ahpra’s submission

52. In its decision dated 20 May 2024, Ahpra said:

The information exempt under section 47C would, if disclosed, disclose opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place in the deliberative processes of Ahpra and the [Medical] Board. This claim is made in respect of the assessment, investigation and agenda reports prepared by the Ahpra officer for the Board during the management of the notification raised about [the Applicant]. Specifically, the information relates to risk assessments, opinions and recommendations generated as part of the agency’s functions in preparing material for assessment by the Board as statutory decision makers.

²² s. 47C(1).

²³ *Parnell & Dreyfus and Attorney-General’s Department* [2014] AICmr71, [38].

²⁴ Ibid.

²⁵ Ibid.

²⁶ s. 47C(2).

²⁷ s. 11A(5).

²⁸ *Wood; Secretary, Department of Prime Minister and Cabinet and (Freedom of information)* [2015] AATA 945, [39].

²⁹ FOI Guidelines, [6.54].

The deliberative material I have identified does not contain operational information (as defined in section 8A). To the extent that the documents may contain purely factual information, such information is so connected to the deliberative nature of the document that its separation would not be practicable. The information does not include reports of scientific or technical experts, reports of a prescribed body or organisation, or the record or reasons for a final decision given in the exercise of a power or adjudicative function.

I note that the National Health Practitioner Privacy Commissioner (the Commissioner) in its review decision of 'AC' and Ahpra (FOI), considered the case of *Crowe and Department of Prime Minister and Cabinet* at [39]. In the case of *Crowe*, the Australian Information Commissioner (the AIC) stated that:

"many sentences in the IGB [Incoming Government Brief] that mirror comments that are already in the public domain or that could individually be released without consequence. However, as I noted in Parnell & Dreyfus at [82], the confidentiality that attaches to deliberative content in an IGB has less to do with the character of individual sentences or comments, and more to do with their inclusion in a document of a special nature".³⁰

I consider that the nature of an Ahpra assessment, investigation and agenda report is inherently deliberative in the context of its agency operations, such that they are a class of document of a 'special nature' within the meaning contemplated by *Crowe*. The nature of the assessment, investigation and agenda reports subject to the current FOI application cannot be distinguished in substance from those considered by the Commissioner in 'AC' and Ahpra.

The Applicant's submissions

53. During the review, the Applicant submitted:

Need an investigation and info via FOI in relation to lack of record keeping by [A]hpra vis a vis [police]. Contacting an [individual] for evidence regarding my capacity to practice (complaint from a corrupt cop I never met. In addition, [the individual] had no concerns on the record....

Application of the deliberative processes exemption

54. I am of the view that the relevant documents contain deliberative matter in the form of opinion, advice, recommendation, consultation and deliberation in relation to the functions of Ahpra and the Medical Board under the Health Practitioner Regulation National Law (the National Law).
55. I acknowledge that the documents contain some information that is non-deliberative in nature. However, I consider the non-deliberative matter to be an integral part of the deliberative process for which the documents were prepared.
56. In the case of *Hassan v Australia Health Practitioner Regulation Agency* [2014] QCAT 414 (Hassan), the Queensland Civil and Administrative Tribunal (QCAT) found an investigation report and other documents to be exempt under the former s. 36 (internal working documents exemption). This exemption provided that an exempt document is a document that would disclose matter in the nature of or relating to opinion, advice, recommendation, consultation or deliberation occurring or recorded

³⁰ *Crowe and Department of Prime Minister and Cabinet* [2014] AICmr 72 (30 July 2014), [39].

as part of the deliberative processes involved in the functions of an agency and release would be contrary to the public interest.

57. In *Hassan*, the applicant was a registered medical practitioner whose conduct had been investigated after a number of complaints were received. The investigation was undertaken by the then Health Quality Complaints Commissioner, who ultimately referred the matter to the Medical Board of Queensland (which subsequently became the Medical Board). The applicant in that case sought documents related to the investigation of their conduct, including an investigation report prepared by an investigation officer for consideration by a committee of the Board. It contained an analysis of evidence and other factual information, as well as the investigator's findings and recommendations. In finding the document to be exempt, QCAT stated:

...The investigator's findings are not the Committee's findings and it is up to the Committee to come to its own conclusions about the investigation. Similarly, the recommendation made by the investigator does not necessarily have to be adopted by the Committee it is a matter for it to consider with all of the other relevant information.

58. In the case of *Hanes v Australian Health Practitioner Regulation Agency (Review and Regulation)* [2013] VCAT 1270 (19 July 2013) (*Hanes*), the Victorian Civil and Administrative Tribunal (VCAT) noted the tribunal had on many occasions found documents exempt under the internal working documents exemption when they concerned the investigation of a complaint.
59. Considering the nature of the relevant documents as reports relating to the management of a notification and containing recommendations for the Medical Board's consideration, I am satisfied that they are conditionally exempt under s. 47C.
60. I am now required to consider whether it would be contrary to the public interest to give the Applicant access to the conditionally exempt documents at this time.

Section 11A(5): The public interest test

61. Section 11A(5) provides that, if a document is conditionally exempt, it must be disclosed unless in the circumstances access to the document at this time would, on balance, be contrary to the public interest.
62. In *Seven Network (Operations) Limited and Australian Competition and Consumer Commission (Freedom of Information)* [2019] AICmr 29 (6 June 2019) (*Seven Network*), the Australian Information Commissioner explained that:

...the public interest test does not require a decision-maker to consider whether disclosure of conditionally exempt material would be in the public interest. Rather, a decision-maker must start from the position that access to a conditionally exempt document must be given, unless giving access to the document, at the time of the decision would, on balance, be contrary to the public interest.³¹

³¹ *Seven Network (Operation) Limited and Australian Competition and Consumer Commission (freedom of Information)* [2019] AICrm 29 (6 June 2019, [47]).

Factors favouring disclosure

63. The FOI Act provides public interest factors to be considered where relevant, including that disclosure would:
- promote the objects of the FOI Act (including all the matters set out in ss. 3 and 3A)
 - inform debate on a matter of public importance
 - promote effective oversight of public expenditure
 - allow a person access to his or her personal information.³²
64. The FOI Guidelines also provide a non-exhaustive list of public interest factors favouring disclosure.³³
65. In forming its decision, Ahpra considered the following factors in favour of disclosure:
- promoting the objects of the Act, particularly in increasing scrutiny, discussion, comment and review of the Government's activities
 - facilitating access to information to members of the public that allows them to be satisfied that proper processes have been followed by the agency
 - revealing information that informed a decision-making process.
66. I agree that disclosure of the relevant documents would promote the objects of the FOI Act and reveal information that informed a decision-making process, which may in turn improve the quality of advice and decision-making processes of Ahpra and the Medical Board.
67. While I agree there are public interest factors that favour disclosure of the relevant documents, these factors must be balanced against any public interest factors opposing disclosure when determining whether access should be given to a conditionally exempt document.

Factors against disclosure

68. Ahpra put forward the following factors against disclosure:
- the public interest in protecting and maintaining the integrity of Ahpra and the Board's processes. Ahpra's ability to receive, assess and investigate notifications in respect of the health, performance and/or conduct of registered health practitioners is integral to the maintenance and enforcement of the National Law. There is a strong public interest in ensuring proper processes for consumer protection,³⁴ and that only suitable practitioners in various fields of the health profession are able to provide services to the public.³⁵
 - that disclosure could reasonably be expected to prejudice the conduct of future investigations, by discouraging staff from keeping detailed records of their deliberations,³⁶ or being more circumspect in their preliminary findings that are expressed to Ahpra because of public scrutiny.³⁷

³² s. 11B(3).

³³ FOI Guidelines, [6.231].

³⁴ *Ah Teo v Pacific Media Group* [2016] VSC 626, [30].

³⁵ *Hanes v Ahpra* [2013] VCAT 1270 [67] quoting *Hulls and Victorian Casino and Gaming Authority* (1998) 12 VAR 483.

³⁶ See *Hanes* at [30].

³⁷ *Hassan v Ahpra* [2014] QCAT 414, [26].

69. The Hanes decision is also relevant when considering factors against disclosure. In that case, the Tribunal accepted Ahpra's submissions that disclosure of the relevant material would be contrary to the public interest. Ahpra's submissions included that there is a public interest in protecting and maintaining the integrity of its investigative processes in relation to notifications and in ensuring its ability to investigate notifications is not hampered by the disclosure of confidential information..
70. In Hanes, VCAT noted how disclosure of information relating to notifications would make investigations more difficult and suggested that the broad public interest centres around Ahpra's role in protecting the public in terms of regulating the provision of medical services. I consider this to be a persuasive point.

Balancing the public interest factors for and against disclosure

71. In balancing the public interest in this case, I have considered the factors for and against disclosure, including relevant factors favouring disclosure set out in s. 11B(3). In particular, I consider that releasing the relevant documents would promote the objects of the FOI Act by:
- facilitating access to documents generally
 - facilitating access to information that allows individuals to be satisfied that proper processes have been followed
 - revealing information that informed a decision-making process
 - allowing a person to access their personal information or information relating to matters that otherwise concern them.
72. The factors against disclosure include the public interest in protecting and maintaining the integrity of Ahpra and the Medical Board's processes for assessing and investigating notifications about the health, performance and/or conduct of registered health practitioners. There is a strong public interest in Ahpra and the Medical Board being able to carry out their statutory functions as efficiently and effectively as possible.
73. I also note that the National Law creates a reasonable expectation of confidentiality over the communications and documents relevant to the assessment and investigation of notifications. I acknowledge that deliberate matter in the form of opinions, advice, preliminary findings and recommendations to the Medical Board are made on the understanding that they will be treated confidentially and will only be used to assist the Medical Board in undertaking its functions under the National Law.
74. While I acknowledge the Applicant's interest in obtaining access to the documents, I accept there is a stronger public interest in Ahpra and the Medical Board's ability to perform their functions in a way that is consistent with their statutory duties and the legislative framework.
75. I am satisfied that giving the Applicant access to the conditionally exempt material at this time would, on balance, be contrary to the public interest.

Finding

76. I am satisfied that documents 110, 116, 119, 122 and 126 are exempt in full under s. 47C.

Section 47E(c): Document affecting management and assessment of personnel

77. Ahpra found documents 112-115, 120-121, 123-125 and 128-129 to be conditionally exempt in part under s. 47E(c) to the extent they revealed the names and contact details of certain Ahpra staff and Medical Board members. These documents include risk assessments, Ahpra internal emails, handover documents and Decisions and Actions papers.
78. Section 47E conditionally exempts a document where disclosure would, or could reasonably be expected to, prejudice or have a substantial adverse effect on certain identified agency operations. A document is conditionally exempt under s. 47E(c) if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency.
79. The FOI Guidelines explain that the decision-maker is required to assess the likelihood of the predicted or forecast event, effect or damage occurring after disclosure of the document.³⁸ There must be more than a merely an assumption or allegation that damage may occur if the document is released.³⁹ It also must arise from the disclosure of the document being assessed. In particular, the decision maker may need to consider the context of the document and the integrity of a system that may require the documents, such as witness statements required to investigate a workplace complaint.⁴⁰
80. The FOI Guidelines further explain that the term ‘substantial adverse effect’ broadly means ‘an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person’. The word ‘substantial’, taken in the context of substantial loss or damage, has been interpreted as ‘loss or damage that is, in the circumstances, real or of substance and not insubstantial or nominal’.⁴¹
81. As an example, the FOI Guidelines note how the Administrative Appeals Tribunal (AAT) has accepted that candour is essential when an agency seeks to investigate staff complaints, especially those of bullying. Staff may be reluctant to provide information or cooperate with investigators if they are aware that the subject matter of those discussions may be disclosed through the FOI process.⁴²
82. A decision-maker should clearly describe the expected effect and its impact on usual operations or activities in the statement of reasons.⁴³
83. The FOI Guidelines deal specifically with public servants and state that, in some circumstances, it may be appropriate to address concerns about the work health and safety impacts of disclosing public servants’ personal information (such as names and contact details) under s. 47E(c), rather than s. 47F.⁴⁴ In particular, the FOI Guidelines state:

³⁸ FOI Guidelines, [6.14].

³⁹ Ibid, [6.90].

⁴⁰ Ibid, [6.105].

⁴¹ Ibid, [6.18].

⁴² Ibid, [6.106].

⁴³ Ibid, [6.19].

⁴⁴ Ibid, [6.109] and [6.151].

An assessment conducted on a case-by-case basis, based on objective evidence, is required when considering whether it is appropriate to apply s 47E(c). The type of objective evidence needed to found a decision that disclosure of a public servant's personal information may pose a work health and safety risk will depend on all the circumstances. For example, the security risks to operational law enforcement and intelligence agencies, and to the employees of law enforcement and intelligence agencies more generally, will be well known to the agency based on experience and understanding of the operating environment. Some agencies will already be aware of, and have documented, abusive behaviour by individuals that will be sufficient evidence not to disclose the personal information of their staff to those individuals. That information may have informed a decision by an agency to impose communication restrictions on an individual to mitigate work health and safety risks. In some cases, a public servant may be able to provide evidence of online abuse or harassment. Additionally, self-report by an individual of their health and safety concerns should this information be disclosed may be sufficient.

Relevant factors to consider when deciding whether s 47E(c) applies to conditionally exempt the names and contact details of public servants include:

- the nature of the functions discharged by the agency
- the relationship between the individual public servant and the exercise of powers and functions discharged by the agency (i.e., are they a decision maker?)
- the personal circumstances of the individual public servant which may make them more vulnerable to, or at greater risk of, harm if their name and contact details are released, for example – due to family violence or mental health issues
- whether the relevant information is already publicly available
- whether the FOI applicant has a history of online abuse, trolling or insults
- any communication restrictions the agency has imposed upon the individual
- whether the FOI applicant has a history of harassment or abusing staff.⁴⁵

Ahpra's operations

84. Under the National Law, the Medical Board's functions include:

- registering suitably qualified and competent persons in the health profession and, if necessary, imposing conditions on the registration of persons in the profession
- overseeing the receipt, assessment and investigation of notifications about persons who are or were registered as health practitioners under the National Law
- overseeing the management of health practitioners and students registered in the health profession, including monitoring conditions, undertakings and suspensions imposed on the registration of the practitioners or students.⁴⁶

⁴⁵ FOI Guidelines, [6.110] and [6.111].

⁴⁶ National Law, s. 35.

85. Ahpra supports the Medical Board by collecting and assessing relevant information. Ahpra provides this information to the Medical Board and the Medical Board decides whether to take regulatory action.
86. Under the National Law, all 'protected information' must be treated confidentially, subject to specific exceptions.⁴⁷ 'Protected information' means any information that comes to a person's knowledge in the course of, or because of, the person exercising functions under the National Law. An exception arises where the disclosure is with the agreement of the person to whom the information relates.⁴⁸

Ahpra's submissions

87. In its decision of 20 May 2024, Ahpra said:

The information in the FOI documents that [Ahpra has] found to be conditionally exempt from disclosure under section 47E(c) are names of Ahpra staff and [Medical] Board members who attended a meeting of the Medical Board in which the notification decision was made, as well as names of Ahpra staff who corresponded on [the Applicant's] case. Ahpra and the [Medical] Board retain and manage staff incidentally to the fulfilment of its regulatory functions under the National Law. In managing its staff, Ahpra has a legal responsibility to ensure the health and safety of its workforce. Section 19 of the *Work Health and Safety Act 2011* requires employers to ensure, as far as is reasonably practicable, the health and safety of their workers, including by eliminating risks to health and safety so far as is reasonably practicable to do so, or to otherwise minimise those risks where elimination is not reasonably practicable.

Disclosure of staff information in the present circumstances could reasonably be expected to expose those staff to a workplace health and safety risk, by enabling them to be inappropriately contacted or made the subject of menacing or harassing communication outside of accepted channels and processes. In circumstances where there already exists a pattern of unreasonable and persistent contact, I consider that the risk of harm to Ahpra's workplace health and safety is real and is not fanciful.

On this basis,[Ahpra considers] that disclosure of Ahpra staff and [Medical] Board Member names could reasonably be expected to adversely affect Ahpra and the National Boards' management of staff and it is my view that this adverse effect is serious and not insubstantial. [Ahpra] therefore find[s] the relevant information to be conditionally exempt under section 47E(c) of the FOI Act.

88. During the review, Ahpra further submitted:

- [The Applicant] presents as a workplace, health and safety risk to Ahpra staff and [Medical] Board members who attended the Board meeting in which the notification decision was made as demonstrated by [the Applicant's] pattern of ongoing and persistent unreasonable communications with Ahpra and other stakeholders.
- We repeat and rely on the reasons provided in the access decision including that the disclosure of Ahpra staff and Board member information could reasonably be expected to expose those individuals to a workplace health and safety risk by enabling them to be inappropriately contacted

⁴⁷ National Law, s. 216.

⁴⁸ Ibid, s. 216(2)(d).

or made the subject of menacing or harassing communication outside of accepted channels and processes.

- We note that [the Applicant] has also sent approximately 429 emails to the Ahpra FOI inbox since the access decision was made. In our view, the communications have gone beyond fair comment or the expression of a legitimate grievance, and have been offensive, harassing and menacing, and targeted toward individual Ahpra officers whose identities are known to him. We consider that where there is a pattern of unreasonable and persistent contact from [the Applicant] that the risk of harm to Ahpra staff and [Medical] Board members is real and not fanciful.

The Applicant's submissions

89. During the review, the Applicant submitted:

Although my speech may have been offensive to [Ahpra] and [the police], it was required in order to evoke a an [sic] emotional response regarding important issues. These are contentious issues and unfortunately our woke class of bureaucrats are more concerned with language than content. Western culture is in serious trouble if we continue to entertain this nonsense.

Application of the management and assessment of personnel conditional exemption

90. As noted above, the FOI Guidelines deal with the application of s. 47E(c) to the personal information of public servants. In particular, they state that it may be appropriate to address concerns about work health and safety impacts under s. 47E(c). The FOI Guidelines note how relevant factors include whether the FOI applicant has a history of online abuse, trolling or insults, whether they are subject to any communication restrictions and whether they have a history of harassment or abusing staff.⁴⁹
91. In *Bachelard and Australian Federal Police (Freedom of Information)* [2024] AATA 312, the AAT applied s. 47E(c) to information in statements and a Professional Standards Report, on the basis that, if released, it would have a real and material impact on appointees' willingness to participate fully and frankly in an investigative process. In particular, there would be an impact on the management of personnel and their discipline.
92. There is evidence in this matter that the Applicant has engaged in harassment and other unreasonable behaviour. This includes the Applicant's persistent, unreasonable and inappropriate contact with Ahpra staff through email. I accept Ahpra's submissions that withholding the names of the staff and members of the Medical Board involved in the Applicant's notification is necessary to protect them from risk of unfair and inappropriate contact from the Applicant amounting to an occupational health and safety risk.
93. The Applicant's conduct towards Ahpra staff has been ongoing during notifications and FOI processes, strongly indicating the risk of harm following disclosure of the relevant information can be reasonably expected. The effect on the management of personnel is clearly adverse and I am satisfied, on balance, the effect is substantial.
94. Accordingly, I am satisfied that the information is conditionally exempt under s. 47E(c).

⁴⁹ FOI Guidelines, [6.110] and [6.111].

Section 11A(5): The public interest test

Factors favouring disclosure

95. I consider paragraphs [63] to [67] to be relevant here.

Factors against disclosure

96. Paragraph [68] is also relevant to the consideration of the public interest test in relation to this exemption.

97. Ahpra put forward a further factor against disclosure:

Ahpra has an obligation to ensure the workplace health and safety of its staff. Disclosure of staff information in the present circumstances could reasonably be expected to expose those staff to a workplace health and safety risk, by enabling them to be contacted outside of usual processes, and in circumstances where there already exists a pattern of unreasonable and persistent contact.

98. I agree there is a strong public interest in protecting and maintaining the integrity of Ahpra's investigative processes in relation to the health, conduct and performance of health practitioners, as well as protecting Ahpra staff and Medical Board members from workplace health and safety risk.

Balancing the public interest factors

99. In balancing the public interest in this case, I have considered the factors for and against disclosure, including relevant factors favouring disclosure set out in s. 11B(3).

100. My consideration of these factors in paragraphs [72] to [74] is also relevant here.

101. While I acknowledge the Applicant's interest in obtaining access to the exempt information in the relevant documents, I accept there is a stronger public interest in Ahpra and the Medical Board's ability to perform their functions in a way that is consistent with their statutory duties and the legislative framework, and in a way that is consistent with work health and safety obligations. I am satisfied that disclosure of personal information about Ahpra officers and Medical Board members in the present circumstances could reasonably be expected to expose those individuals to a workplace health and safety risk in circumstances where there already exists a pattern of unreasonable and persistent contact.

102. Based on the available information, I am satisfied that the public interest factors against disclosure outweigh those in favour of disclosure.

103. Therefore, I am satisfied that giving the Applicant access to the conditionally exempt material at this time would, on balance, be contrary to the public interest.

Finding

104. I am satisfied that the exempt information contained within documents 112-115, 120-121, 123-125 and 128-129 is exempt under s. 47E(c).

Section 47E(d): Documents affecting certain operations of agencies

105. Ahpra found documents 4-7, 9-11, 13, 15-58, 70-71, 110-111, 116-117, 119-120, 122 and 126-127 to be conditionally exempt in full or in part under s. 47E(d). These documents include correspondence exchanged between, and call logs of conversations between, Ahpra and police, Ahpra and the Applicant's employer, and Ahpra and a third-party witness.
106. I have already found some of the documents outlined above to be exempt in full or in part under other provisions of the FOI Act. I will therefore not consider whether the following documents are also exempt under s. 47E(d): documents 100, 116, 119, 122 and 126 (which I have found to be exempt in full under s. 47C).
107. A document is conditionally exempt under s. 47E(d) if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.⁵⁰
108. The FOI Guidelines explain that the predicted effect needs to be reasonably expected to occur and that there must be more than merely an assumption or allegation that damage may occur if the document were to be released.⁵¹
109. The term 'substantial adverse effect' broadly means an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person.⁵²
110. A decision-maker should clearly describe the expected effect and its impact on usual operations or activities in the statement of reasons.⁵³

Ahpra's operations

111. I have described Ahpra's operations at [84] to [86].

Ahpra's submissions

112. In its decision dated 20 May 2024, Ahpra said:

Documents comprising of correspondence with third parties and Ahpra internal documents, are in this instance conditionally exempt from release under section 47E(d) of the FOI Act, because the disclosure of that information would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of Ahpra and the National Boards for the following reasons:

- the FOI Act does not restrict the subsequent use of information released to an applicant under the FOI Act. In Australia there is case law relating to disclosure of information under the FOI Act, for example, the Administrative Appeals Tribunal (AAT) has stated that '*access to a document under the FOI Act must be considered not on the basis of the identity and the*

⁵⁰ s. 47E(d).

⁵¹ FOI Guidelines, [6.90].

⁵² Ibid, [6.18].

⁵³ Ibid, [6.92].

*qualities of the person who seeks that access but on the basis that it may be seen by anybody. As it is usually expressed, access under the FOI Act, is access to the world at large’;*⁵⁴

- information received, generated or otherwise held by Ahpra and the National Boards is held on the understanding that it will be treated in a confidential manner and used in accordance with the National Law and the *Privacy Act 1988* (Cth) (the Privacy Act). The information in this instance is considered protected information within the meaning of section 214 of the National Law. It is an offence to disclose protected information unless an exception applies;⁵⁵
- if these documents or parts of the documents were released under the FOI Act, without the express consent of the relevant parties, this would likely have a significant adverse impact on the future flow of information from those such as notifiers, practitioners or other third parties. Pertinently, this may inhibit individuals from expressing freely and providing complete and frank information out of concern that their communications may be subject to disclosure under the FOI Act. This would reduce the effectiveness of parties’ participation in the regulatory process and in turn make the investigation of notifications less effective, slower and more costly;
- given the importance of Ahpra receiving as much relevant information as possible when investigating a notification and providing information to a Board to assist in its decision-making, this impact could reasonably be expected to be a substantial adverse effect on the proper and efficient conduct of the operations of the agency.⁵⁶

On this basis, [Ahpra considers] that disclosure could reasonably be expected to adversely affect the operations of Ahpra and the National Boards. [Ahpra] find[s] this adverse effect to be serious and not insubstantial. [Ahpra] therefore find[s] that the relevant documents...are conditionally exempt either in full or in part under section 47E(d).

113. During the review, Ahpra said:

- Disclosure of the documents comprising of correspondence with third parties and Ahpra’s internal documents, could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of Ahpra and the Board;
- It is integral for the efficient management of notifications that the Board can continue to meet an individual’s expectation of confidentiality over the communications and documents provided to assist the Board in its investigation;
- This maintenance of confidentiality is critical to ensuring that investigations are carried out both efficiently and effectively; and
- If the documents were released under the FOI Act, without the express consent of the relevant parties, this would likely have a significant adverse impact on the future flow of information from practitioners and other government agencies. Pertinently, this may inhibit individuals from expressing freely and providing complete and frank information out of concern that their communications may be subject to disclosure under the FOI Act. This would reduce the

⁵⁴ *Meschino and Centrelink* [2002] AATA 627 [23]

⁵⁵ National Law, s. 216.

⁵⁶ *YJI v Australian Health Practitioner Regulation Agency* [2023] VCAT 206, [69].

effectiveness of parties' participation in the regulatory process and in turn make the investigation of notifications less effective, slower and more costly.

The Applicant's submissions

114. During the review, the Applicant submitted:

Freedom of information is key to democracy... I could care less about the preservation of relationship between police and medical board... It's dangerous. And if the evidence is legit, clear, concise and in keeping with reality - I'm happy.

Application of the certain operations of agencies exemption

115. I have considered whether documents 4-7, 9-11, 13, 15-58, 70-71, 111, 117, 120 and 127 are conditionally exempt in full or in part under s. 47E(d).

116. After inspecting the documents, I am of the view that the exempt information was provided to or generated by Ahpra while Ahpra was undertaking its functions under the National Law, namely to:

- assess and investigate the notification about the Applicant
- provide information to the Medical Board to support the Medical Board's decision-making.

117. The information Ahpra exempted in the relevant documents consisted of correspondence with third parties obtained during the course of managing the notification about the Applicant. This includes communications with police, the Applicant's employer and a witness.

118. Third parties must be willing to provide information necessary to facilitate Ahpra and the Medical Board's assessment and investigation of a notification. This allows the Medical Board to determine whether regulatory action is required to manage any risks posed by the relevant medical practitioner's health, conduct or performance.

119. As outlined in my decisions of 'AA', 'AC', 'AD', 'AE', 'AF', 'AG', 'AI', 'JH', 'MS', 'AM', 'AN' and 'AP',⁵⁷ I draw on the Australian Information Commissioner's decision in *Graham Mahony and Australian Charities and Not-for-profits Commission (Freedom of information)* [2019] AICmr 64 (31 August 2019) (Mahony). In Mahony, the request was for access to all documents relevant to investigations conducted by the Australian Charities and Not-for-profits Commission (ACNC) into concerns relating to a particular building fund. The Australian Information Commissioner affirmed the ACNC's decision to exempt documents falling within the scope of the request. In discussing whether s. 47E(d) applied in that case, the Australian Information Commissioner stated:

The fact that s. 150-25 of the Australian Charities and Not-for-profits Commission Act 2012 (ACNC Act) protects information provided to or obtained by the ACNC under the ACNC Act from disclosure, leads me to be satisfied that the ACNC, as it contends, relies on sensitive information being provided to it on a voluntary basis and on the understanding that the information will not be disclosed to third parties. As the ACNC explained in its reasons for decision..., I accept that the rationale for this secrecy provision is to establish a regulatory regime where the ACNC can discharge its regulatory functions in an environment of trust and engagement with the not-for-profit.⁵⁸

⁵⁷ The Commissioner's decisions are published on her office's website: <www.nhpo.gov.au/foi-review-decisions>.

120. It is my view that similarities can be drawn between provisions of the ACNC Act and the confidentiality provisions in the National Law. Section 216 of the National Law creates a reasonable expectation that information provided to Ahpra or the Medical Board in relation to a notification will be treated confidentially. If Ahpra discloses the document requested by the Applicant, a reasonable person could conclude that information prepared for the Medical Board in the future may not be treated confidentially. This in turn could reasonably be expected to affect how effectively Ahpra and the Medical Board can carry out their functions, as the information they are able to access may be less readily provided or more difficult to obtain.
121. Taking all relevant factors into consideration, I am satisfied that disclosing the information exempted in the relevant documents could reasonably be expected to affect the future flow of information from third parties to Ahpra and the Medical Board. Ahpra and the Medical Board rely on candid communication from third parties to carry out their role in ensuring public safety.
122. In addition, the National Law imposes a duty of confidentiality in relation to protected information. I consider that release of the exempt information could reasonably be expected to reduce third parties' confidence in Ahpra's ability to maintain the confidentiality of protected information.
123. I consider that disclosure of the exempt information would prejudice the integrity and robustness of the notification process and thereby have a substantial adverse effect on the proper and efficient conduct of the operations of Ahpra and the Medical Board.
124. Accordingly, I am satisfied that the information exempted in the relevant documents is conditionally exempt in full or in part under s. 47E(d).
125. I am now required to consider whether it would be contrary to the public interest to give the Applicant access to the conditionally exempt material at this time.

Section 11A(5): The public interest test

Factors favouring disclosure

126. I consider paragraphs [63] to [67] to be relevant here.

Factors against disclosure

127. I consider paragraphs [68] to [70] to be relevant here.

128. Ahpra also put forward the following factors against disclosure:

- the potential damage to the working relationship between Ahpra and police through the inappropriate disclosure of information which was given to Ahpra in circumstances where it was understood the communications were confidential and for an express purpose. Ahpra relies on full and frank information from other government entities in order to carry out its regulatory functions. The entities' inability to share information with Ahpra would negatively affect Ahpra's agency operations
- the public interest in Ahpra and the National Boards being able to carry out their statutory functions as efficiently and effectively as possible, including interacting with third parties to assist

⁵⁸ *Graham Mahony and Australian Charities and Not-for-profits Commission (Freedom of information)* [2019] ALCmr 64 (31 August 2019), [22].

with any necessary assessments and investigations. Disclosure could reasonably be expected to affect Ahpra's ability to obtain similar information in the future, thereby making the assessment and investigation of notifications more difficult.

129. I consider there is a strong public interest in protecting and maintaining the integrity of Ahpra and the Medical Board's assessment and investigative processes. Disclosure of the exempt information could have a significant adverse impact on the integrity and robustness of assessment and investigation processes, and the ability of Ahpra and the Medical Board to carry out their functions and duties in an effective manner.

Balancing the public interest factors

130. The proper and efficient management and investigation of health practitioners is an integral function of Ahpra and the Medical Board under the National Law. It would be contrary to the public interest if these processes (and by extension, the core function to ensure the protection of the health and safety of the public) were prejudiced as a result of the disclosure of exempted information in the relevant documents under the FOI Act.

131. Based on the available information, I am satisfied that the public interest factors against disclosure outweigh those in favour of disclosure.

132. I am satisfied that giving the Applicant access to the conditionally exempt material at this time would, on balance, be contrary to the public interest.

Finding

133. I am satisfied that documents 4-7, 9-11, 13, 15-58, 70-71, 111, 117, 120 and 127 are conditionally exempt in full or in part under s. 47E(d).

Section 47B: Documents affecting Commonwealth-State relations

134. Ahpra found documents 4-7, 9-11, 13, 15-57, 111, 117, 120 and 127 to be conditionally exempt in full or in part under s. 47B.

135. I have found these documents to be exempt in full or in part under s. 47E(d) and s. 47E(c). I will therefore not consider whether the documents are also exempt under s. 47B.

Section 47F: Documents affecting personal privacy.

136. Ahpra found documents 58, 70-71 and 127 to be conditionally exempt in full or in part under s. 47F.

137. I have found these documents to be exempt in full or in part under s. 47E(d). I will therefore not consider whether the documents are also exempt under s. 47F.

Conclusion

138. I affirm Ahpra's decision of 20 May 2024.

Richelle McCausland

National Health Practitioner Privacy Commissioner

Rights

Review rights

If a review party is not satisfied with a review decision of the Commissioner, the party may apply to a relevant tribunal to have the decision reviewed. This application must be made within 28 days after the day the party receives the Commissioner's decision.⁵⁹

Where an application for a review is made to the relevant tribunal, the proper respondent to such a proceeding is the agency to whom the freedom of information request was initially made (not the Commissioner). In this case, the respondent is Ahpra.⁶⁰

Appeal rights

A review party may appeal to the Supreme Court on a question of law from a decision of the Commissioner if the party believes the Commissioner incorrectly interpreted and applied the FOI Act.

An appeal must be made either:

- within 28 days after the day a review party receives the Commissioner's review decision, or
- within further time that the Supreme Court or another appropriate court allows, and
- in any way that is prescribed by rules of court made under the relevant legislation of the Supreme Court or another appropriate court.

In determining a question of law, the Supreme Court may make findings of fact if its findings of fact are not inconsistent with findings of fact made by the Commissioner (other than findings resulting from an error of law), and it appears to be convenient for the Supreme Court.

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⁵⁹ s. 57A.

⁶⁰ s. 60(3).

Annexure A: Schedule of documents

Documents that were released in full are not included in this table.

Document no.	Date of document	Document description	Number of pages	Ahpra's decision	NHPPC's decision
4.	27 October 2021	Webform notification received from notifier	10	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
5.	23 March 2022	Schedule 5 documents, received by Ahpra from [police]	134	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
6.	22 April 2022	Schedule 5 documents, received by Ahpra from [police]	10	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
7.	22 April 2022	Charge sheet received by Ahpra from [police]	3	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
9.	22 July 2022	Email from the Applicant, forwarded by [police] to Ahpra	5	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
10.	27 July 2022	Webform notification received from notifier to	9	Exempt in part	Exempt in part

		Ahpra		ss. 47B and 47E(d)	s. 47E(d)
11.	27 July 2022	Automated email of webform notification to Ahpra	18	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
13.	31 October 2022	Correspondence between [police] and Ahpra	4	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
15.	Various	Emails from the Applicant, forwarded by [police]	104	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
16 – 57.	Various	Correspondence between [police] and Ahpra		Exempt in full ss. 47B and 47E(d)	Exempt in full s. 47E(d)
58.	12 April 2022	Call log between Ahpra and the Applicant's employer	1	Exempt in part ss. 47E(d) and 47F	Exempt in part s. 47E(d)
70.	23 June 2022	Correspondence between Ahpra and a third-party witness	3	Exempt in full ss. 47E(d) and 47F	Exempt in full s. 47E(d)

71.	23 June 2022	Call log between Ahpra and a third-party witness	2	Exempt in full ss. 47E(d) and 47F	Exempt in full s. 47E(d)
110.	3 November 2022	Assessment Report	3	Exempt in full ss. 47C and 47E(d)	Exempt in full s. 47C
111.	3 November 2022	Assessment Report attachments	12	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
112.	7 February 2022	Risk assessment for National Special Issues Committee (NSIC), Ahpra internal email	1	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
113.	7 February 2022	Reply to NSIC risk assessment, Ahpra internal email	2	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
114.	14 February 2022	Decision and Actions of the Medical Board of Australia	3	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
115.	12 May 2022	Approval to send immediate action form, Ahpra internal email	2	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
116.	16 May 2022	Immediate action referral form, Ahpra internal email	6	Exempt in full ss. 47C and	Exempt in full

				47E(d)	s. 47C
117.	23 May 2022	Immediate action referral form attachments	131	Exempt in part ss. 47B and 47E(d)	Exempt in part s. 47E(d)
118.	30 May 2022	Ahpra internal legal advice	6	Exempt in full s. 42	Exempt in full s. 42
119.	6 June 2022	For Noting Agenda Paper	6	Exempt in full ss. 47C and 47E(d)	Exempt in full s. 47C
120.	6 June 2022	For Noting Agenda Paper attachments	131	Exempt in part ss. 47B, 47E(c) and 47E(d)	Exempt in part ss. 47E(d) and 47E(c)
121.	6 June 2022	Immediate Action handover, Ahpra internal email	1	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
122.	6 April 2022	Immediate Action referral form	5	Exempt in full ss. 47C and 47E(d)	Exempt in full s. 47C
123.	6 June 2022	Decision and Actions paper of NSIC of the Medical Board of Australia	5	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)

124.	5 August 2022	Notifications approved for consolidation, Ahpra internal email	6	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
125.	5 August 2022	Request to consolidate notifications, Ahpra internal email	6	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
126.	4 October 2022	Investigation Report	11	Exempt in full ss. 47C and 47E(d)	Exempt in full s. 47C
127.	10 October 2022	Investigation Report attachments	176	Exempt in part ss. 47B, 47E(d) and 47F	Exempt in part ss. 47E(d)
128.	10 October 2022	Decisions and Actions of the NSIC of the Medical Board of Australia	6	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)
129.	31 October 2022	Delegate decision to proceed with proposed action, Ahpra internal email	2	Exempt in part s. 47E(c)	Exempt in part s. 47E(c)