

Australian Public Service Employee Census 2018

7 May – 8 June

Highlights Report: Research Branch

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RESPONSES:

48 of 76

RESPONSE RATE:

63%

CHANGES FOR 2018



A number of enhancements were introduced to 2018 APS employee census, including:

Additional Questions

Some additional questions were included to explore cultural and linguistic diversity, workgroup performance, discrimination and management location in more detail.

Employee Engagement

Questions from the internationally recognised 'Say, Stay, Strive' model of engagement have been included in the census again to enable the measurement of employee engagement. See [Measuring Employee Engagement Intuitive Model Robust Science](#) for more information on this model. This year a new calculation method was applied and questions were added to the model. The APSC model that was used for a number of years is still available in the ORC International accesspoint portal.

Senior Leadership

Previous senior leadership questions grouped all senior leaders (a respondent's immediate supervisor and the broader senior leadership group in an agency) into a single cohort. In 2018, questions continue to differentiate between a respondent's immediate senior leader and the broader leadership group within the respondent's agency.

Wellbeing index and Innovation index

Questions were retained this year in order to collectively provide a validated index percentage score to measure Wellbeing and Innovation. This is in recognition of considerable research which shows that these two areas are strongly associated with employee engagement. This year a new calculation method was applied.

Additional Data

More data is available for your agency via the online accesspoint portal. Please see your agency census coordinator for more information.

Feedback on the census is always welcomed and can be provided to the APSC's Workforce Performance Team at stateoftheservice@apsc.gov.au.

MAKING THE MOST OF YOUR RESULTS



01.

Identify the areas where you are performing well.

These will tend to be high results which are notably above any comparative results. These should be celebrated. Share the good news with employees.

Understanding your report and getting to action!

The results in this report give you summary information.

Take the time to fully understand this report and digest the results.

Consider your response rate and if it is representative of the views of your colleagues.

Identify areas that need improvement.

02.

These will be the lower results, and/or those which are scoring notably below your comparators. Consider discussing these areas with your colleagues in focus groups or individually or team meetings, gather their thoughts and solutions before deciding on actions to take.

03.

Consider if there is actually room for improvement.

This report shows the proportion of colleagues responding positively (strongly agree + agree), neutrally (neither agree nor disagree) or negatively (disagree + strongly disagree) to the question asked in the survey. Look at how your positive scores compare to your parent unit, and your last survey's results.

04.

Consider the impact of high neutral responses (lots of employees ticking 'neither agree nor disagree')

Ask your colleagues about their views to find out what is causing this. More communication and involvement may help to shift them to a positive frame of mind.

Take action - think 'quick wins', short term and long term.

05.

Encourage all colleagues to help with action planning and implementation.

Think about what you want employees to be saying about their working lives in the future and what should be put in place to make this happen.

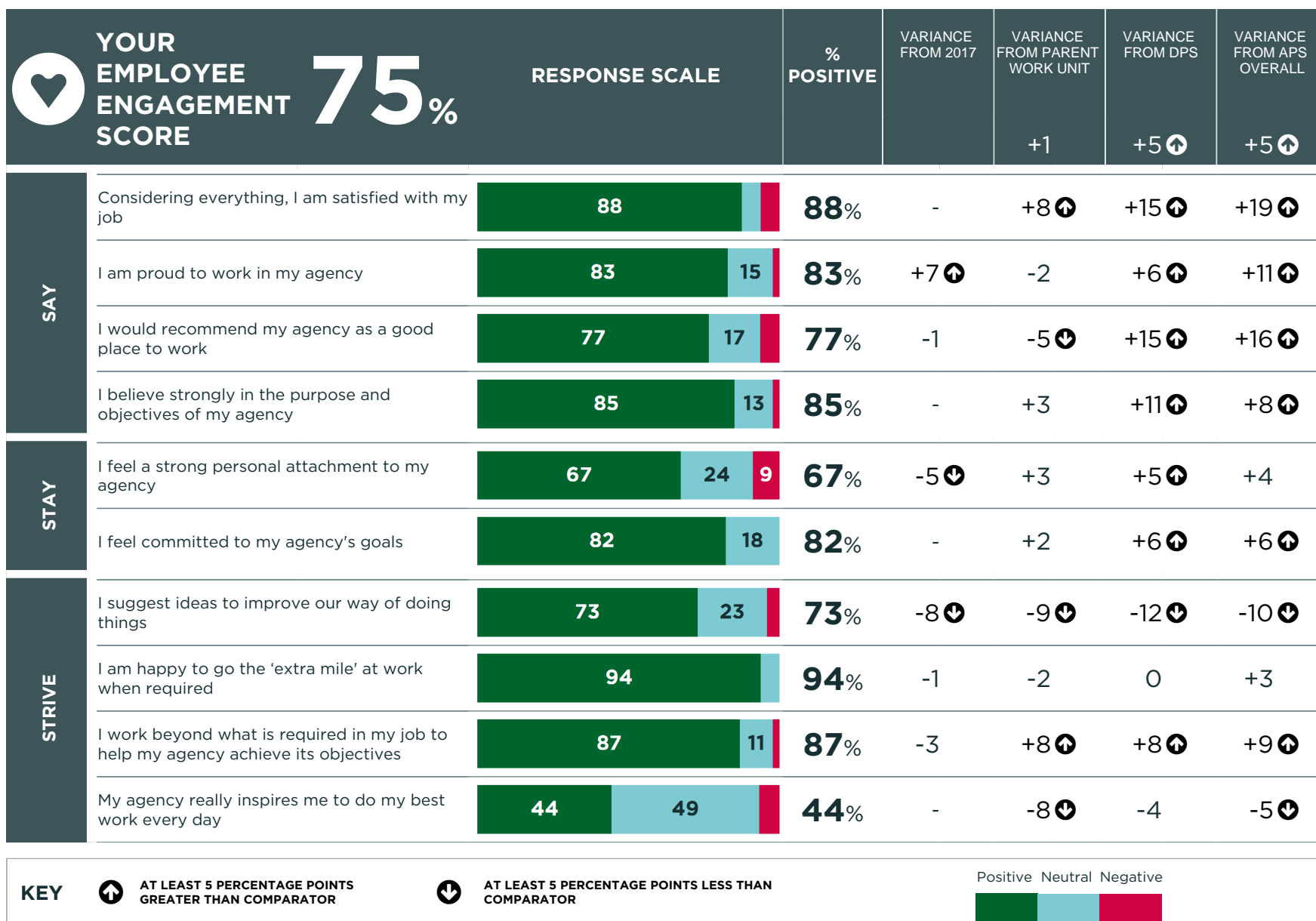
EMPLOYEE ENGAGEMENT: SAY, STAY, STRIVE



HOW ENGAGED IS YOUR TEAM?

NO VARIATION BETWEEN YOUR OVERALL 2017 AND 2018 ENGAGEMENT SCORES ARE REPORTED AS NEW QUESTIONS WERE ADDED TO THE 2018 MODEL WHICH ALSO USES A MORE ROBUST CALCULATION METHOD.

ENGAGEMENT SCORES AREN'T JUST ABOUT HOW MUCH PEOPLE LIKE WORKING FOR AN AGENCY. IT IS A MEASURE OF THE EMOTIONAL CONNECTION AND COMMITMENT EMPLOYEES HAVE TO WORKING FOR THE AGENCY.



INCLUSION AND DIVERSITY



EXPLORE
THE FULL
RESULTS

Demographics

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

What is your gender?

Male	<div></div>	44%	-1	+7 ↑	-9 ↓	+6 ↑
Female	<div></div>	54%	+1	-7 ↓	+9 ↑	-4
X (Indeterminate/Intersex/Unspecified)		0%	-	-	0	0
Prefer not to say	<div></div>	2%	-	0	-1	-1

Do you identify as Aboriginal and/or Torres Strait Islander?

Yes		0%	-	-2	-2	-4
No	<div></div>	100%	0	+2	+2	+4

Do you have an ongoing disability?

Yes	<div></div>	13%	+7 ↑	-1	+5 ↑	+4
No	<div></div>	88%	-7 ↓	+1	-5 ↓	-4

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

INCLUSION AND DIVERSITY



EXPLORE THE FULL RESULTS

IN LINE WITH THE AUSTRALIAN BUREAU OF STATISTICS STANDARDS, CULTURAL AND LINGUISTIC DIVERSITY IS COMPRISED OF FOUR VARIABLES: COUNTRY OF BIRTH; MAIN LANGUAGE OTHER THAN ENGLISH SPOKEN AT HOME; PROFICIENCY IN SPOKEN ENGLISH; AND INDIGENEOUS STATUS.

Demographics

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

In which country were you born?

Australia	<div></div>	81%	-	-1	+1	+3
Other country	<div></div>	19%	-	+1	-1	-3

Do you speak a language other than English at home?

No, English only	<div></div>	92%	-	+1	+6 ↑	+10 ↑
Yes, other	<div></div>	8%	-	-1	-6 ↓	-10 ↓

How well do you speak English?

Very well	The data for this question has been hidden for anonymity reasons.
Well	The data for this question has been hidden for anonymity reasons.
Not well	The data for this question has been hidden for anonymity reasons.
Not at all	The data for this question has been hidden for anonymity reasons.

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

INCLUSION AND DIVERSITY



EXPLORE
THE FULL
RESULTS

Demographics

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Do you identify as Lesbian, Gay, Bisexual, Trans, and/or Intersex (LGBTI+)?

Yes		6%	+3	+1	+3	+2
No		90%	0	+1	-2	-2
Prefer not to say		4%	-3	-2	-1	0

Do you have carer responsibilities?

Yes		42%	0	+12	+8	+2
No		58%	0	-12	-8	-2

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

INCLUSION AND DIVERSITY



EXPLORE THE FULL RESULTS

FOR EACH QUESTION SHOWN HERE, INFORMATION ABOUT THE PROPORTION OF COLLEAGUES RESPONDING POSITIVELY (STRONGLY AGREE + AGREE), NEUTRALLY (NEITHER AGREE NOR DISAGREE) OR NEGATIVELY (DISAGREE + STRONGLY DISAGREE) IS PROVIDED

LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

		RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
Attitudinal	The people in my workgroup behave in an accepting manner towards people from diverse backgrounds	83 8 8	83%	-6 ⬇	-3	+1	-5 ⬇
	My SES manager actively supports people of diverse backgrounds	47 40 13	47%	-30 ⬇	-16 ⬇	-15 ⬇	-18 ⬇
	My agency is committed to creating a diverse workforce (e.g. gender, age, cultural and linguistic background, disability, Indigenous, LGBTI+)	53 32 15	53%	-5 ⬇	-9 ⬇	-9 ⬇	-24 ⬇
	My supervisor actively supports people from diverse backgrounds	85 13	85%	-	+3	+7 ⬆	0
	My agency supports and actively promotes an inclusive workplace culture	56 31 13	56%	-	-11 ⬇	-9 ⬇	-19 ⬇

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



WELLBEING INDEX

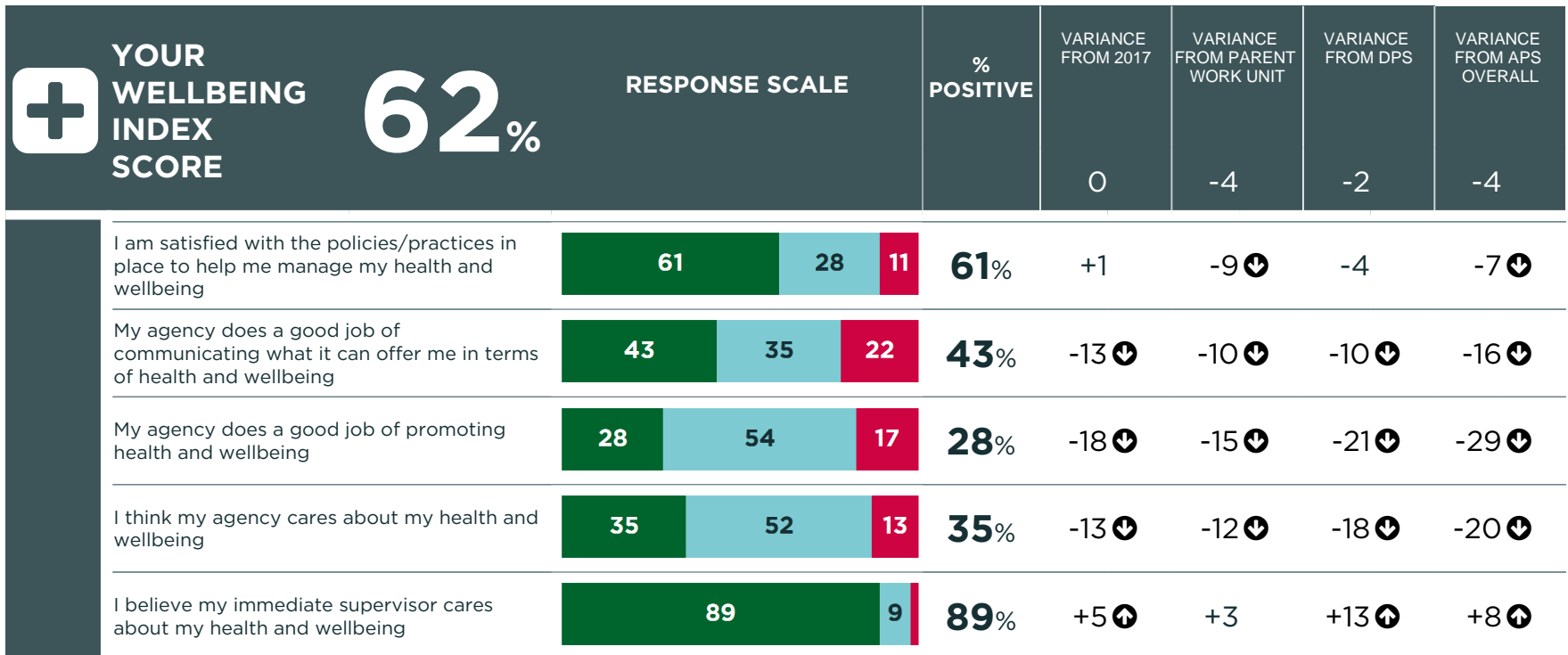


WELLBEING

THE VARIANCE FROM 2017 IS BASED ON A RE-CALCULATED 2017 INNOVATION SCORE THAT USES A MORE ROBUST CALCULATION METHOD.

THE WELLBEING SCORE PROVIDES AN INDICATION OF THE STATE OF EMOTIONAL AND PHYSICAL HEALTH AND WELLBEING AMONG EMPLOYEES. IT MEASURES BOTH THE PRACTICAL AND CULTURAL ELEMENTS THAT ALLOW FOR A SUSTAINABLE AND HEALTHY WORKING ENVIRONMENT.

HIGH LEVELS OF ENGAGEMENT WILL NOT BE SUSTAINABLE AND WILL LEAD TO BURN OUT WITHOUT RECIPROCALLY STRONG LEVELS OF WELLBEING.



KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



SENIOR LEADERSHIP



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

Senior leadership: Immediate SES manager

- My SES manager is of a high quality
- My SES manager is sufficiently visible (e.g. can be seen in action)
- My SES manager communicates effectively
- My SES manager ensures that work effort contributes to the strategic direction of the agency and the APS
- My SES manager effectively leads and manages change
- My SES manager engages with staff on how to respond to future challenges

S47F

RESPONSE SCALE

% POSITIVE

VARIANCE FROM 2017

VARIANCE FROM PARENT WORK UNIT

VARIANCE FROM DPS

VARIANCE FROM APS OVERALL

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



SENIOR LEADERSHIP



EXPLORE THE FULL RESULTS

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WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

Senior Leadership: All SES

	RESPONSE SCALE			% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
In my agency, the SES are sufficiently visible (e.g. can be seen in action)	17	17	59	17%	-7⬇️	-24⬇️	-29⬇️	-34⬇️
In my agency, communication between the SES and other employees is effective	22	20	48	22%	+1	-19⬇️	-16⬇️	-23⬇️
In my agency, the SES set a clear strategic direction for the agency	35	33	28	35%	-2	-17⬇️	-11⬇️	-20⬇️
In my agency, the SES are of a high quality	22	35	33	22%	-12⬇️	-19⬇️	-19⬇️	-29⬇️
In my agency, the SES work as a team	22	37	15	22%	-	-16⬇️	-15⬇️	-18⬇️
In my agency, the SES clearly articulate the direction and priorities for our agency	36	33	27	36%	-	-13⬇️	-9⬇️	-18⬇️

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



IMMEDIATE SUPERVISOR



EXPLORE THE FULL RESULTS

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WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

		RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
Immediate supervisor	My supervisor treats people with respect	94	94%	+1	+1	+11⬆	+6⬆
	My supervisor communicates effectively	83	83%	+11⬆	+2	+11⬆	+5⬆
	My supervisor encourages me to contribute ideas	81	81%	-2	+2	+5⬆	-1
	My supervisor helps to develop my capability	67	67%	-6⬆	-2	0	-5⬆
	My supervisor displays resilience when faced with difficulties or failures	81	81%	-2	-1	+8⬆	+3
	My supervisor gives me responsibility and holds me to account for what I deliver	83	83%	-1	+1	+2	-1
	My supervisor challenges me to consider new ways of doing things	60	60%	+1	-2	-5⬆	-13⬆

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



IMMEDIATE SUPERVISOR



EXPLORE
THE FULL
RESULTS

Immediate supervisor

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Where is your immediate supervisor's normal work location?

In the same office as me	<div></div>	98%	-	0	+12	+17
In the same office as me but on a different floor	<div></div>	2%	-	0	-9	-1
In a different office, but in the same town/city		0%	-	-	-3	-3
In a different town/city or state		0%	-	-	-	-13
In a different country		0%	-	-	-	0

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

WORKPLACE CULTURE



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

		RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
Culture	I receive the respect I deserve from my colleagues at work	<div><div>85</div><div>13</div></div>	85%	+2	+7 ⬆	+13 ⬆	+9 ⬆
	Relationships at work are strained [negatively worded question - "Always" or "Often" responses are negative, while "Rarely" or "Never" responses are positive]	<div><div>74</div><div>24</div></div>	74%	+1	+6 ⬆	+31 ⬆	+21 ⬆
	The people in my workgroup treat each other with respect	<div><div>88</div><div>8</div></div>	88%	0	-1	+11 ⬆	+5 ⬆
	My agency actively encourages ethical behaviour by all of its employees	<div><div>79</div><div>21</div></div>	79%	+5 ⬆	-1	+5 ⬆	-1
	I have unrealistic time pressures [negatively worded question - "Always" or "Often" responses are negative, while "Rarely" or "Never" responses are positive]	<div><div>13</div><div>52</div><div>35</div></div>	13%	-16 ⬆	-23 ⬆	-20 ⬆	-17 ⬆
	Staff are consulted about change at work	<div><div>20</div><div>50</div><div>30</div></div>	20%	-20 ⬆	-27 ⬆	-21 ⬆	-27 ⬆
	I am happy to go the 'extra mile' at work when required	<div><div>94</div></div>	94%	-1	-2	0	+3
	Internal communication within my agency is effective	<div><div>36</div><div>28</div><div>36</div></div>	36%	-5 ⬆	-14 ⬆	-7 ⬆	-10 ⬆
	In general, employees in my agency feel they are valued for their contribution	<div><div>54</div><div>28</div><div>17</div></div>	54%	+8 ⬆	+1	+15 ⬆	+11 ⬆
	My agency really inspires me to do my best work every day	<div><div>44</div><div>49</div></div>	44%	-	-8 ⬆	-4	-5 ⬆
KEY		⬆ AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR	⬆ AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR	Positive Neutral Negative			

WORKPLACE CULTURE



EXPLORE
THE FULL
RESULTS

APS Values

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Do colleagues in your immediate workgroup act in accordance with the APS Values in their everyday work?

Always	<div></div>	57%	-4	+1	+16	+9
Often	<div></div>	41%	+11	+3	-3	0
Sometimes	<div></div>	2%	-3	-4	-9	-6
Rarely		0%	-	-	-2	-1
Never		0%	-	-	0	0
Not sure		0%	-	-	-2	-1

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

WORKPLACE CULTURE



EXPLORE
THE FULL
RESULTS

APS Values

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Does your supervisor act in accordance with the APS Values in his or her everyday work?

Always	<div></div>	67%	+1	-3	+16	+8
Often	<div></div>	30%	+2	+5	-2	0
Sometimes	<div></div>	2%	-1	-1	-8	-4
Rarely		0%	-	-1	-3	-1
Never		0%	-	-	-1	0
Not sure		0%	-	-	-2	-2

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

WORKPLACE CULTURE



EXPLORE
THE FULL
RESULTS

APS Values

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Do senior leaders (i.e. the SES) in your agency act in accordance with the APS Values?

Always		24%	-6 ↓	-9 ↓	-6 ↓	-15 ↓
Often		38%	+13 ↑	+2	+4	+6 ↑
Sometimes		11%	-3	+2	-5 ↓	+1
Rarely		4%	-1	0	-1	+2
Never		0%	-	-	-1	-1
Not sure		22%	+1	+5 ↑	+10 ↑	+8 ↑

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

WORKPLACE CULTURE



EXPLORE THE FULL RESULTS

EMPLOYEES WHO REPORTED EXPERIENCING DISCRIMINATION IN THE LAST 12 MONTHS IN THE COURSE OF THEIR EMPLOYMENT WERE ASKED WHAT THE BASIS WAS FOR THE DISCRIMINATION. EMPLOYEES COULD SELECT ONE OR MORE DISCRIMINATION TYPES FROM A LIST OF EIGHT ITEMS. PLEASE SEE QUESTION 84 OF THE 2018 QUESTIONNAIRE FOR THESE ITEMS.

Discrimination

RESPONSE SCALE

%

VARIANCE FROM 2017

VARIANCE FROM PARENT WORK UNIT

VARIANCE FROM DPS

VARIANCE FROM APS OVERALL

During the last 12 months and in the course of your employment, have you experienced discrimination on the basis of your background or a personal characteristic

Yes	<div></div>	17%	-	+5 ↑	+4	+5 ↑
No	<div></div>	83%	-	-5 ↓	-4	-5 ↓

Did this discrimination occur in your current agency?

Yes	The data for this question has been hidden for anonymity reasons.
No	The data for this question has been hidden for anonymity reasons.

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

WORKPLACE CULTURE



EXPLORE THE FULL RESULTS

EMPLOYEES WHO REPORTED EXPERIENCING BULLYING OR HARASSMENT IN THEIR CURRENT WORKPLACE DURING THE LAST 12 MONTHS WERE ASKED WHAT TYPE OF BULLYING OR HARASSMENT THEY EXPERIENCED. EMPLOYEES COULD SELECT ONE OR MORE OPTIONS FROM A LIST OF NINE ITEMS. PLEASE SEE QUESTION 86 OF THE 2018 QUESTIONNAIRE FOR THESE ITEMS.

Bullying and harassment

RESPONSE SCALE

%

VARIANCE FROM 2017

VARIANCE FROM PARENT WORK UNIT

VARIANCE FROM DPS

VARIANCE FROM APS OVERALL

During the last 12 months, have you been subjected to harassment or bullying in your current workplace?

Yes	<div></div>	7%	-4	-2	-9↓	-7↓
No	<div></div>	91%	+7↑	+5↑	+13↑	+11↑
Not Sure	<div></div>	2%	-3	-3	-4	-4

Did you report the harassment or bullying?

I reported the behaviour in accordance with my agency's policies and procedures

The data for this question has been hidden for anonymity reasons.

It was reported by someone else

The data for this question has been hidden for anonymity reasons.

I did not report the behaviour

The data for this question has been hidden for anonymity reasons.

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

WORKPLACE CONDITIONS



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

		RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
Your job	My job gives me opportunities to utilise my skills	94	94%	+4	+9 ↑	+11 ↑	+14 ↑
	I am fairly remunerated (e.g. salary, superannuation) for the work that I do	73 13 15	73%	+16 ↑	+3	+9 ↑	+12 ↑
	Considering everything, I am satisfied with my job	88	88%	-	+8 ↑	+15 ↑	+19 ↑
	I am satisfied with my non-monetary employment conditions (e.g. leave, flexible work arrangements, other benefits)	72 15 13	72%	-7 ↓	-9 ↓	-8 ↓	-4
	I am satisfied with the stability and security of my current job	75 15 10	75%	-3	+2	+5 ↑	+5 ↑
	I am satisfied with the opportunities for career progression in my agency	19 32 49	19%	-17 ↓	-18 ↓	-17 ↓	-21 ↓

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



WORKPLACE CONDITIONS



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

		RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
Flexible working arrangements	My supervisor actively supports the use of flexible work arrangements by all staff, regardless of gender	85	85%	+1	+3	+9 ⬆	+3
	My SES manager actively supports the use of flexible work arrangements by all staff, regardless of gender	s47F					
Work-life balance	Considering your work and life priorities, how satisfied are you with the work-life balance in your current job?	78	78%	+5 ⬆	-4	+4	+4
Mobility	My agency provides opportunities for mobility within my agency (e.g. temporary transfers)	24 33 43	24%	-	-26 ⬇	-21 ⬇	-28 ⬇
	My agency provides opportunities for mobility outside my agency (e.g. secondments and temporary transfers)	28 30 41	28%	-	-4	+6 ⬆	-4
	My immediate supervisor actively supports opportunities for mobility	41 39 20	41%	-	-13 ⬇	-1	-9 ⬇

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



WORKGROUP PERFORMANCE



EXPLORE THE FULL RESULTS

FOR EACH QUESTION SHOWN HERE, INFORMATION ABOUT THE PROPORTION OF COLLEAGUES RESPONDING POSITIVELY (STRONGLY AGREE + AGREE), NEUTRALLY (NEITHER AGREE NOR DISAGREE) OR NEGATIVELY (DISAGREE + STRONGLY DISAGREE) IS PROVIDED

LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

	RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
My workgroup has the tools and resources we need to perform well	<div><div>65</div><div>13</div><div>22</div></div>	65%	-	-7 ↓	+3	+4
The work processes we have in place allow me to be as productive as possible	<div><div>56</div><div>20</div><div>24</div></div>	56%	-	-7 ↓	+1	+3
The people in my workgroup complete work to a high standard	<div><div>91</div><div>9</div></div>	91%	-	+3	+15 ↑	+13 ↑
My supervisor ensures that my workgroup delivers on what we are responsible for	<div><div>89</div></div>	89%	-	-3	+11 ↑	+9 ↑

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



PERFORMANCE MANAGEMENT



EXPLORE
THE FULL
RESULTS

Performance Management

RESPONSE SCALE

%

VARIANCE
FROM 2017

VARIANCE
FROM PARENT
WORK UNIT

VARIANCE
FROM DPS

VARIANCE
FROM APS
OVERALL

Received regular and timely feedback from your supervisor

Yes	<div></div>	83%	-	-5 ↓	+2	0
No	<div></div>	17%	-	+5 ↑	-2	0

Received constructive feedback from your supervisor

Yes	<div></div>	83%	-	-5 ↓	+4	-1
No	<div></div>	17%	-	+5 ↑	-4	+1

Your supervisor has checked in regularly with you to see how you are progressing

Yes	<div></div>	80%	-	-2	+7 ↑	-2
No	<div></div>	20%	-	+2	-7 ↓	+2

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER
THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN
COMPARATOR

PERFORMANCE MANAGEMENT



EXPLORE THE FULL RESULTS

Performance Management

RESPONSE SCALE

%

VARIANCE FROM 2017

VARIANCE FROM PARENT WORK UNIT

VARIANCE FROM DPS

VARIANCE FROM APS OVERALL

In the past 12 months, have you discussed with your supervisor your overall performance over the previous year and the performance expectations for the future year?

Yes	<div></div>	80%	-	-5 ↓	+3	+4
No	<div></div>	11%	-	+6 ↑	+1	+2
Not applicable (e.g. have not worked with my current supervisor long enough for this conversation to occur)	<div></div>	9%	-	-1	-3	-6 ↓

In the past 12 months, did your supervisor recognise when your job performance changed for any reason?

Yes	<div></div>	17%	-	0	-5 ↓	-11 ↓
No		0%	-	-3	-19 ↓	-15 ↓
Not applicable (e.g. my performance has not changed)	<div></div>	83%	-	+3	+24 ↑	+26 ↑

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

PERFORMANCE MANAGEMENT



EXPLORE THE FULL RESULTS

FOR EACH QUESTION SHOWN HERE, INFORMATION ABOUT THE PROPORTION OF COLLEAGUES RESPONDING POSITIVELY (STRONGLY AGREE + AGREE), NEUTRALLY (NEITHER AGREE NOR DISAGREE) OR NEGATIVELY (DISAGREE + STRONGLY DISAGREE) IS PROVIDED

LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

Performance Management

To what extent do you agree that in the past 12 months, the performance expectations of your job were clear and unambiguous?

RESPONSE SCALE

96

%
POSITIVE

96%

VARIANCE
FROM 2017

+14 ⬆

VARIANCE
FROM PARENT
WORK UNIT

+6 ⬆

VARIANCE
FROM DPS

+26 ⬆

VARIANCE
FROM APS
OVERALL

+29 ⬆

How satisfied are you with your supervisor in managing your performance?

76

15

9

76%

-

-4

+6 ⬆

+1

To what extent do you agree that the support by your supervisor has helped to improve your performance?

63

24

13

63%

-

0

+7 ⬆

+3

My overall experience of performance management in my agency has been useful for my development

37

37

26

37%

+5 ⬆

-5 ⬇

-5 ⬇

-11 ⬇

My supervisor openly demonstrates commitment to performance management

63

24

13

63%

+11 ⬆

-4

+6 ⬆

-1

I received recognition when I last accomplished something significant at work

76

11

13

76%

-

+6 ⬆

+13 ⬆

+11 ⬆

I can identify a clear connection between my job and my agency's purpose

85

13

85%

-

+2

+8 ⬆

+5 ⬆

To what extent do you agree that your agency deals with underperformance effectively?

9

64

27

9%

-

-4

-8 ⬇

-10 ⬇

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



CAPABILITY



EXPLORE THE FULL RESULTS

FOR EACH QUESTION SHOWN HERE, INFORMATION ABOUT THE PROPORTION OF COLLEAGUES RESPONDING POSITIVELY (STRONGLY AGREE + AGREE), NEUTRALLY (NEITHER AGREE NOR DISAGREE) OR NEGATIVELY (DISAGREE + STRONGLY DISAGREE) IS PROVIDED

LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

	RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
My immediate supervisor provides time for me to attend learning programs	<div><div>87</div><div>11</div></div>	87%	-	+4	+14 ⬆	+9 ⬆
My immediate supervisor shares links, readings and information	<div><div>76</div><div>11</div><div>13</div></div>	76%	-	+1	+20 ⬆	+7 ⬆
My immediate supervisor provides me with opportunities to develop relevant capabilities for my career	<div><div>59</div><div>22</div><div>20</div></div>	59%	-	+6 ⬆	+8 ⬆	-4
My immediate supervisor gives me the opportunity to apply what I learn in my day-to-day work	<div><div>74</div><div>17</div><div>9</div></div>	74%	-	+4	+9 ⬆	+4
I am able to access learning and development solutions to meet my needs	<div><div>63</div><div>17</div><div>20</div></div>	63%	-	-7 ⬇	0	-6 ⬇
I have a clear understanding of my development needs	<div><div>65</div><div>22</div><div>13</div></div>	65%	-	0	-1	-9 ⬇
I seek out opportunities to apply what I learn in my day-to-day work	<div><div>80</div><div>15</div></div>	80%	-	+7 ⬆	+7 ⬆	+5 ⬆
I have the appropriate skills, capabilities, and knowledge to do my job	<div><div>98</div></div>	98%	-	-1	+3	+9 ⬆

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



CAREER INTENTIONS



EXPLORE THE FULL RESULTS

EMPLOYEES COULD SELECT FROM TWELVE REASONS AS TO WHY THEY WANT TO LEAVE THEIR AGENCY. PLEASE SEE QUESTION 42 OF THE 2018 QUESTIONNAIRE FOR THESE ITEMS.

RESPONSE SCALE		%	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
In the last 12 months, have you applied for a job? [Multiple Response]						
Yes, outside the APS	<div></div>	24%	+6 ↑	+4	+10 ↑	+12 ↑
Yes, in my agency	<div></div>	15%	-6 ↓	-5 ↓	-5 ↓	-21 ↓
Yes, in another APS agency	<div></div>	15%	-8 ↓	+2	-7 ↓	-3
No	<div></div>	59%	+1	+1	+2	+9 ↑
Which of the following statements best reflects your current thoughts about working for your agency?						
I want to leave my agency as soon as possible		0%	-	-3	-7 ↓	-6 ↓
I want to leave my agency within the next 12 months	<div></div>	20%	+8 ↑	+9 ↑	+8 ↑	+11 ↑
I want to leave my agency within the next 12 months but feel it will be unlikely in the current environment	<div></div>	13%	+10 ↑	+4	+4	+3
I want to stay working for my agency for the next one to two years	<div></div>	29%	-21 ↓	-2	+3	+5 ↑
I want to stay working for my agency for at least the next three years	<div></div>	38%	+13 ↑	-9 ↓	-8 ↓	-12 ↓
Main primary reason behind desire to leave agency:						
Other (please specify)	<div></div>	25%	-	+3	+15 ↑	+13 ↑
KEY			↑ AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR		↓ AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR	

RISK MANAGEMENT



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

	RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS	VARIANCE FROM APS OVERALL
My agency supports employees to escalate risk-related issues with managers	51 38 11	51%	-	-5 ↓	-12 ↓	-20 ↓
Risk management concerns are discussed openly and honestly in my agency	41 41 18	41%	-	-8 ↓	-16 ↓	-21 ↓
Employees in my agency have the right skills to manage risk effectively	28 58 14	28%	-	-11 ↓	-15 ↓	-21 ↓
Appropriate risk taking is rewarded in my agency	14 45 41	14%	-2	-4	-6 ↓	-14 ↓
Senior leaders in my agency demonstrate and discuss the importance of managing risk appropriately	30 43 27	30%	-	-8 ↓	-12 ↓	-18 ↓
When things go wrong, my agency uses this as an opportunity to review, learn, and improve the management of similar risks	30 48 23	30%	-	-7 ↓	-13 ↓	-19 ↓

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



INNOVATION INDEX

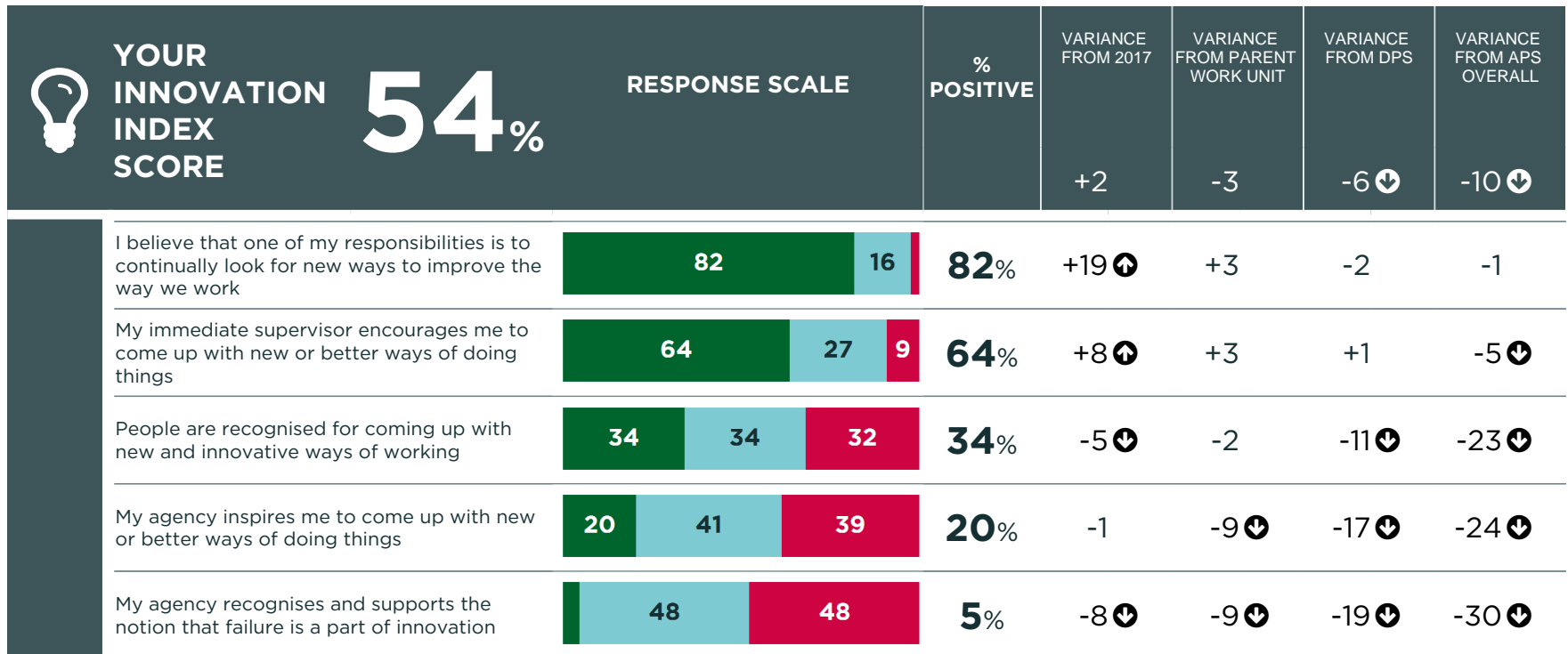


INNOVATION

THE VARIANCE FROM 2017 IS BASED ON A RE-CALCULATED 2017 INNOVATION SCORE THAT USES A MORE ROBUST CALCULATION METHOD.

THE INNOVATION SCORE ASSESSES BOTH WHETHER EMPLOYEES FEEL WILLING AND ABLE TO BE INNOVATIVE, AND WHETHER THEIR AGENCY HAS A CULTURE WHICH ENABLES THEM TO BE SO.

IT IS IMPORTANT TO BALANCE HIGH LEVELS OF INNOVATION WITH EQUALLY STRONG LEVELS OF ENGAGEMENT. ORGANISATIONS THAT ENABLE AND ENCOURAGE INNOVATION AMONG EMPLOYEES WHO ARE NOT ENGAGED RISK A POTENTIAL MISALIGNMENT OF GOALS AND OBJECTIVES.



KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



DPS SPECIFIC QUESTIONS



EXPLORE THE FULL RESULTS

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LOOK AT HOW YOUR POSITIVE SCORE COMPARES TO THE AVAILABLE COMPARISONS.

WHERE ARE YOU PERFORMING WELL?

IS THERE ROOM FOR IMPROVEMENT?

	RESPONSE SCALE	% POSITIVE	VARIANCE FROM 2017	VARIANCE FROM PARENT WORK UNIT	VARIANCE FROM DPS
The people in my immediate workgroup are held to account for the quality of work they deliver	96	96%	+15 ⬆	+5 ⬆	+14 ⬆
My agency routinely applies merit in decisions regarding engagement and promotion	65 24 11	65%	-	+6 ⬆	+17 ⬆
I can count on my peers when I need help	91	91%	-	+5 ⬆	+9 ⬆
I believe I collaborate well together with my peers	98	98%	-	+6 ⬆	+5 ⬆
I feel safe to raise new ideas and receive feedback	80 17	80%	-	0	+6 ⬆
In DPS the lines of communication are "open" all the way to the SES Executive	24 26 50	24%	-	-25 ⬇	-20 ⬇
DPS is moving in the right direction	46 46 9	46%	-	-8 ⬇	-5 ⬇
I understand the priorities for my work in the next six months	91 9	91%	-	-1	+14 ⬆
I am looking forward to the next 12 months with enthusiasm	61 30 9	61%	-	+6 ⬆	+7 ⬆

KEY



AT LEAST 5 PERCENTAGE POINTS GREATER THAN COMPARATOR



AT LEAST 5 PERCENTAGE POINTS LESS THAN COMPARATOR

Positive Neutral Negative



TIME TO TAKE ACTION



CELEBRATE

What things do we do well?

THINK ABOUT HOW WE CAN BUILD ON OUR STRENGTHS AND LEARN FROM WHAT WE ARE GOOD AT.



INVESTIGATE FURTHER WITH OUR TEAMS

Are there any other opportunities coming out of the results that we want to explore further?

HOW COULD WE INVESTIGATE? THROUGH LOOKING AT THE DATA IN MORE DETAIL OR THROUGH DISCUSSIONS WITH STAFF?



OPPORTUNITIES

Areas we need to focus on and turn into action plans:

WHAT ARE THE KEY THINGS WE NEED TO IMPROVE TO MAKE WORKING HERE BETTER?



USE THIS PAGE TO START YOUR LOCAL ACTION PLANS

IDENTIFY AREAS TO CELEBRATE, OPPORTUNITIES FOR IMPROVEMENT AND AREAS WHICH YOU NEED TO INVESTIGATE FURTHER.

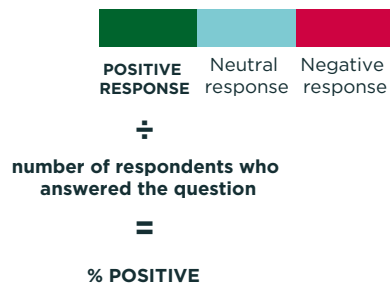
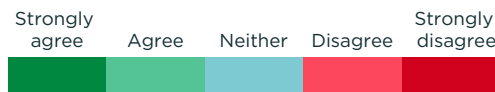
PRIORITISE 3 AREAS TO TAKE FORWARD

	PRIORITISE 3 AREAS FOR ACTION	TIMESCALES	OWNER	RESOURCES REQUIRED	TARGET / SUCCESS MEASURE
1					
2					
3					

GUIDE TO THIS REPORT

% POSITIVE

WHERE RESULTS ARE SHOWN AS POSITIVE PERCENTAGES (% POSITIVE), THESE ARE CALCULATED BY ADDING TOGETHER POSITIVE RESPONSES ("STRONGLY AGREE" + "AGREE") AND DIVIDING BY THE NUMBER OF RESPONDENTS WHO ANSWERED THE QUESTION.



ROUNDING

RESULTS ARE PRESENTED AS WHOLE NUMBERS FOR EASE OF READING, WITH ROUNDING PERFORMED AT THE LAST STAGE OF CALCULATION FOR MAXIMUM ACCURACY. VALUES FROM X.00 TO X.49 ARE ROUNDED DOWN AND VALUES FROM X.50 TO X.99 ARE ROUNDED UP. THEREFORE IN SOME INSTANCES, RESULTS MAY NOT TOTAL 100%.

	STRONGLY AGREE	AGREE	NEITHER	DISAGREE	STRONGLY DISAGREE	TOTAL
NUMBER OF RESPONSES	151	166	176	96	24	613
PERCENTAGE	24.63%	27.08%	28.71%	15.66%	3.92%	100%
ROUNDED PERCENTAGE	25%	27%	29%	16%	4%	101%
NUMBER OF POSITIVE	151 + 166 = 317					
% POSITIVE	317 ÷ 613 = 52%					

ANONYMITY

IT IS ORC INTERNATIONAL'S PRACTICE NOT TO DISPLAY THE RESULTS OF GROUPS TO THE EXTENT WHERE THE ANONYMITY OF INDIVIDUALS MAY BE COMPROMISED. RESULTS FOR WORK UNITS WITH LESS THAN 10 RESPONDENTS WILL NOT RECEIVE AN INDIVIDUAL REPORT. HOWEVER, THEIR DATA WILL STILL CONTRIBUTE TO THE SCORES FOR THEIR PARENT UNIT AND THE ORGANISATION OVERALL.

COMPARISONS TO PARENT

WITHIN THIS REPORT A COMPARISON AGAINST PARENT REFERS TO PARLIAMENTARY LIBRARY

s47F

From: Brigden, Robert (DPS) <Robert.Brigden@aph.gov.au> on behalf of Brigden, Robert (DPS)
Sent: Thursday, 3 January 2019 10:39 AM
To: FOI
Cc: s47F; Brigden, Robert (DPS)
Subject: RE: FOI request - Consultation - APSC Ref: C18/2356. Response required by 3 Jan 19 [DLM=For-Official-Use-Only]
Attachments: DPS to APSC re. FOI request 3 Jan 2019.pdf

Good morning

As requested, please find attached DPS' response to the below FOI request.

Please let me know if I can assist further.

Kind regards

Robert Brigden

A/g Assistant Secretary | People and Governance
COO Division

T: s47F | M: s47F | E: Robert.Brigden@aph.gov.au
Parliament House | PO Box 6000 | Canberra ACT 2600



PARLIAMENT OF AUSTRALIA
DEPARTMENT OF PARLIAMENTARY SERVICES

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From: FOI [mailto:FOI@apsc.gov.au]
Sent: Thursday, 20 December 2018 4:48 PM
To: Brigden, Robert (DPS)
Cc: s47F
Subject: FOI request - Consultation - APSC Ref: C18/2356. Response required by 3 Jan 19 [DLM=For-Official-Use-Only]

For Official Use Only

FOI Reference: C18/2356

Good afternoon Mr Brigden,

You will recall from our conversation that the Australian Public Service Commission (APSC) has received a request seeking access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The applicant has sought access to:

The 2018 APS Employee Census "Benchmark Report" (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Services.

The APSC has identified the attached document which contains information relating to the functions of your agency, as falling within the terms of the FOI request.

We would appreciate your agency's views on whether your agency wishes to raise any objections to the possible release of the attached document under the FOI Act. It would assist if you could express any objections your agency may have to the release of the document in terms of the exemptions provided for in the FOI Act, and outline the harm that would result, so the decision-maker can make an informed decision on any exemptions. The exemptions which may be applicable under the FOI Act are outlined at [FOI Exemptions](#).

Comments on release of the document would be appreciated by **Thursday 3rd January 2019**, or sooner if possible.

If you would like to discuss this request or any aspect of the documents, please do not hesitate to contact me on the details below. Please note, I will be out of the office on leave over the Christmas/New Year break from Monday 24th December 2018 and returning on Tuesday 8th January 2019. In my absence, please contact s47F (cc'd to this email) on s47F if you wish to discuss this matter further.

Regards

s47F

s47F | FOI Coordinator
Assistant Director
Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building
Parkes Place West, Parkes ACT 2600

P: s47F | E: s47F@apsc.gov.au

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s47F

FOI Coordinator
Legal Services
Australian Public Service Commission
Level 4, B Block, Treasury Building
Parkes Place West
PARKES ACT 2601

By email: FOI@apsc.gov.au

Dear s47F

FOI request - Consultation - APSC Ref: C18/2356

The Australian Public Service Commission (the **APSC**) has received the following request under the *Freedom of Information Act 1982* (Cth) (the **FOI Act**):

The 2018 APS Employee Census “Benchmark Report” (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Services.

The APSC has legislative responsibility to report to Parliament each year on the ‘State of the Service’. The findings of the employee census provide vital input to this report. It provides insight into employees’ views about the APS, their agency and their workplace. The census results help target strategies to build APS workplace capability now and in the future: see [APSC employee census](#). The census is open to all Commonwealth agencies, of which the Department of Parliamentary Service (**DPS** or the **Department**) is one. DPS employees are provided an opportunity to respond to a series of generic questions about working for the Commonwealth. However, some of the questions chosen by DPS are for specific purposes, for example, the questions chosen for the 2018 census relate to the level of engagement of DPS staff. The data obtained through the survey is considered by DPS to be confidential in nature. For reporting purposes, the data and resultant reports are held by the APSC.

As this information relates directly to the operations of DPS, the APSC have commenced third party consultation processes under the FOI Act. Given the detailed and confidential nature of the information contained in the Benchmark Report (the **Report**), and that DPS (and office holders) is not a prescribed authority for the purposes of the FOI Act, the Department objects to the release of this confidential information to the applicant for the following reasons:

47F – personal privacy

A document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Personal information under the FOI Act is defined by reference to the Privacy Act 1988 (Cth). This means:

... information or an opinion about an identified individual, or an individual who is reasonably identifiable:
whether the information or opinion is true; and
whether the information or opinion is recorded in a material form.

Section 47F(2) of the FOI Act states:

In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency ... must have regard to the following matters:

- (a) the extent to which the information is well known;
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- (c) the availability of the information from publicly accessible sources; and
- (d) any other matters that the agency or Minister considers relevant.

A large proportion of the results contained in the report relate to opinions about the leadership of that branch. The leadership group of the Research Branch of the Parliamentary Library is small. It is made up of two people, the Parliamentary Librarian and the Assistant Secretary of the Research Branch. DPS contends the disclosure of the Report will lead to the unreasonable disclosure of personal information about any person, specifically the Parliamentary Librarian and the Assistant Secretary Research Branch.

The information contained in the elements of the Report directly relates to the management and leadership style of the Parliamentary Librarian and the Assistant Secretary Research Branch. The Report, by its very nature, contains information or opinions about identifiable individuals. Further, the information contained in the report is confidential, and therefore is not well known or available from publicly accessible sources. Accordingly, DPS considers the Report is conditionally exempt under section 47F of the FOI Act.

47E(c) – assessment of personnel

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

... have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency.

The release of this information may lead to a reluctance of DPS employees to engage fully in future APSC census activities. There is a real risk that if an employee's comments or opinions in such surveys are to be released to the world at large through the FOI process then employees may become reluctant to engage fully in such processes. This is a particular risk on this occasion, given the small number of people that work in the Research Branch. This would have a serious detrimental, ongoing effect on the ability of DPS to monitor its staff and the effectiveness of the employee engagement programs that are currently underway. Further, for the same reasons, the release of this information would affect the broader APSC 'State of the Service'.

Accordingly, DPS considers the Report is conditionally exempt under section 47E(c) the FOI Act.

47E(d) – operations of an agency

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

... have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The statutory functions of the Parliamentary Library include the provision of high quality information, analysis and advice to Senators and Members of the House of Representatives in support of their parliamentary and representational roles. These functions must be performed with the highest standards of scholarship and integrity.

Any information about the attitude and opinion of employees within the Parliamentary Library about their health and wellbeing, attendance, performance management, leadership, and general impressions of working with the Parliamentary Library should not be released on the basis that the information, when considered in isolation and without context would, or could reasonable by expected to result in a substantial adverse effect on the proper and efficient conduct of the operations of the Library.

Release of the Benchmark Report to the applicant may raise questions about the efficient and effective operation of the Research Branch of the Library, which may cause Senators and Members of the House of Representatives to question their confidence in the research and analysis work performed.

While the Parliamentary Library is not an agency for the purposes of the FOI Act, it is nevertheless an integral part of the legislated functions and services provided by DPS to the Australian Parliament. As such, the release of this information would, or could reasonably be expected to undermine the effectiveness and impartiality of the Parliamentary Library and DPS more broadly.

Accordingly, DPS considers the Report is conditionally exempt under section 47E(d) of the FOI Act.

Public interest test

Access must generally be given to a conditionally exempt document unless disclosure would be contrary to the public interest at the time of decision. As the above exemptions are conditional, the public interest test, set out in section 11B of the FOI Act will need to be applied.

Factors in favour of disclosure

The factors that must be taken into account when considering the public interest are set out in section 11B(3) of the FOI Act.

Section 11B(3)(a) of the FOI Act imposes a requirement for agencies to consider the objects of the FOI Act when determining the public interest. The objects include giving the Australian community access to information held by the Government of the Commonwealth, see section 3(1). This is a reference to the Executive Government of the Commonwealth of Australia.

The functions of the Parliamentary Service (which includes DPS) is set out in section 9(2) of the *Parliamentary Service Act 1999* (Cth) (the PS Act). This states [my emphasis]:

The Parliamentary Service serves the Parliament by providing professional support, advice and facilities to each House of the Parliament, to parliamentary committees and to Senators and Members of the House of Representatives, independently of the Executive Government of the Commonwealth.

Section 68A of the PS Act is also a relevant factor in considering the public interest. This section provides [my emphasis]:

68A Departments and office holders not prescribed authorities for Freedom of Information Act purposes:

None of the following is a prescribed authority for the purposes of the Freedom of Information Act 1982:

- (a) a Department of the Parliament that is established under this Act;
- (b) a person who holds, or performs the duties of, an office established under this Act.

DPS is a Department of the Parliament established under Division 1, Part 7 of the PS Act, and is therefore not subject to the FOI Act. This broad exclusion from the operation of the FOI Act makes no distinction between administrative and non-administrative (parliamentary) documents. While the APSC holds DPS information, DPS respectfully submits that the data and the information contained in the Report is confidential information that belongs to the Parliamentary Service, and not the Executive Government of the Commonwealth. As such, the confidential information contained in the Report should not be released to the applicant. To do so would be an act inconsistent with the Objects of the FOI Act, and section 68A of the PS Act, and therefore unreasonable.

Notwithstanding the above arguments, DPS further submits:

- the release of the documents would not assist materially or effectively in informing debate on matters of public importance (noting that DPS does not form part of the Executive Government) - 11B(3)(b);
- as the Report does not relate to the expenditure of public monies, the release of the documents would not promote the effective oversight of public expenditure - 11B(3)(c); and
- as the Report contains aggregated data, the release of the documents would not allow a person to access his or her own personal information - 11B(3)(d).

Factors against disclosure

The FOI Act does not list any factors weighing against disclosure. However, taking into account possible factors listed in the FOI Guidelines, DPS considers the factors against disclosure of the Report, are set out in the above paragraphs. On balance, and given that the disclosure of this information would be inconsistent with the Objects of the FOI Act and section 68A of the PS Act, DPS considers that the public interest factors in favour of releasing the requested information are not persuasive.

If the decision is to release the requested information to the applicant, DPS requests formal review rights under section 27 of the FOI Act.

Please advise Robert Brigden, Ag Assistant Secretary People and Governance (Robert.Brigden@ahp.gov.au) if you require further information in support of DPS' objections or other assistance with this matter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rob Stefanic', with a long horizontal line extending to the right.

Rob Stefanic
Secretary



Australian Government
Australian Public Service Commission

FOI reference: C18/2356

s22

Dear s22

Decision on your Freedom of Information Request

I write in response to your email request dated 12 December 2018, seeking access to documents held by the Australian Public Service Commission (the Commission) under the *Freedom of Information Act 1982* (FOI Act).

You have requested access to the following:

The 2018 APS Employee Census "Benchmark Report" (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Service(s).

Department of Parliamentary Service

On 14 December 2018, the Commission wrote to you to advise that due to the nature of the document requested, that the request was more relevant to the Department of Parliamentary Services (DPS) and that your request would be transferred in accordance with section 16 of the FOI Act. You advised that DPS was not subject to the FOI Act, and this was subsequently confirmed by DPS.

My Decision

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests. This letter sets out my decision on your request for access.

Having undertaken searches for relevant documents across the Commission, I have identified one document as falling within the scope of your request. This document comprises a Report, being the APS Employee Census 2018, Highlights Report: Research Branch. This report is provided by the Commission to DPS under a fee-for-service agreement after participation by the DPS in the APS employee census (the Census).

Due to the nature of the document sought, I have decided to refuse access in full to the Report. The reasons for my decision are set out at **Attachment A** to this letter.

Review Rights

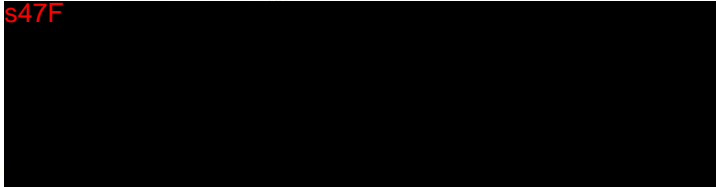
You are entitled to seek review of this decision. Your rights are set out at **Attachment B** to this letter.

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the Commission's FOI Officer by email at foi@apsc.gov.au.

Yours sincerely

s47F



Tim Beard
Acting Group Manager
Workforce Information Group
Authorised FOI decision maker

// January 2019

REASONS FOR DECISION

Your request

1. You requested access to the following:

'...The 2018 APS Employee Census "Benchmark Report" (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Services'.

Material taken into account

2. In making my decision, I took into account a number of factors, including:
 - the terms of your request as submitted to the Commission;
 - the content of the document and the detailed Branch level information contained in the document to which you sought access;
 - the purpose for which the document to which you sought access to was created, and where applicable, provided to the Commission;
 - the ordinary method the document to which you have sought access to is distributed;
 - the communications made to third parties at the time of collection of the information contained within the relevant document;
 - whether release of the material is in the public interest;
 - the relevant provisions of the *Freedom of Information Act 1982* (Cth) (FOI Act), and
 - the guidelines published by the Office of the Australian Information Commissioner (OAIC) under section 93A of the FOI Act, (the FOI Guidelines).

Findings of fact and reasons for decision

3. I have determined that sections 47, 47E(d) and 47F of the FOI Act apply in full to the document falling within the scope of your request. My findings of fact and reasons for deciding that the exemption provisions apply to the document, are set out below.

Section 47 – Commercially valuable information

4. Section 47 of the FOI Act provides that a document is exempt if its disclosure would disclose information having a commercial value that would be, or reasonably expected to be diminished, if the information were disclosed.
5. The document to which you have sought access to is a report provided by the Commission to the DPS under a fee for service arrangement, through participation in the Census. Where an agency elects to participate in the Census they are referred to as a responding agency.
6. The document to which you have sought to access is not publicly available, nor is it available for purchase by an agency other than the responding agency. I have therefore determined that the document requested wholly contains information that has a commercial value to the Commission, the responding agency and more generally to the Commonwealth.

7. Due to the highly limited audience to whom the requested document is available, and particularly due to the provision of the requested document being linked to the service offering accepted by the responding agency, the commercial value of the Report, should access be available by means other than the service offering, would be greatly diminished, if not destroyed.
8. If bypassing the service arrangement with the Commission were to be accepted, and release made available by means such as requests under Freedom of Information legislation, to persons or organisations other than the responding agency, and more generally to the world at large (noting that release under the FOI Act is to 'the world at large', in line with the intentions of the FOI Act), the value in the service arrangement would be diminished or destroyed. It is foreseeable that agencies would no longer be willing to provide funding toward the facilitation of the APS employee census if the offerings provided under the arrangements no longer held value. Such effects would have a substantial and adverse impact on the functions of the Commission, contrary to the public interest.
9. The functions of the Australian Public Service Commissioner (the Commissioner) are set out in the *Public Service Act 1999* (Cth), and include section 41(2)(c), being the function of developing, reviewing and evaluating APS workforce management policies and practices and managing appropriate databases. Further, section 44 of the Public Service Act notes the Commissioner's function of annually reporting to Parliament on the state of the Australian Public Service (APS). Such functions are substantially reliant on the evaluation of data provided by Commonwealth agencies and APS employees participating in the Census.
10. As noted in the Commission's privacy policy, research consultants are engaged by the Commission as the service provider for the annual Census. The service provider supplies the technical solutions and support required to administer and report on the Census. The provider does this on a fee-for-service arrangement. Were the commercial value of the service offerings to the responding agency to be diminished or destroyed, by way of an alternate means to access the reporting analysis, it is foreseeable that the functions of the Commission would be detrimentally and substantially affected, as alternate means of financing, managing and facilitation of the Census would need to be arranged.

Section 47E(d) – Certain operations of agencies

11. Section 47E(d) of the FOI Act provides that a document is conditionally exempt if its 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.
12. The Commission has legislative responsibility to report to Parliament each year on the 'State of the Service'. The findings of the employee census provide vital input to this report. It provides insight into employees' views about the APS, their agency and their workplace. The census results help target strategies to build APS workplace capability now and into the future. The census is open to all APS agencies. The Department of Parliamentary Service (DPS) also participates. DPS employees are provided an opportunity to respond to a series of generic questions about working for the Commonwealth. The data obtained through the survey is considered to be confidential in nature. For reporting purposes, the data and resultant reports are held by the APSC. As such, the release of this information would, or could reasonably be expected to undermine the effectiveness and impartiality of DPS more broadly.
13. As such, the Report contains sensitive and/or confidential information, which if released, could reasonably be expected to have a substantial adverse effect on the proper and efficient

conduct of DPS and also the Commission by reducing the ability to engage in discussions with the Commissioner, agencies and senior government officials on matters relevant to core functions.

14. The release of such information would likely undermine interim policy positions, the Commission's interests in negotiations, and undermine the Commission's ability to provide advice to Government. Such a release would also likely risk the flow of confidential or sensitive information between the Commission and other Government agencies in obtaining such information for future Censuses. Accordingly, I am satisfied that the Report is conditionally exempt under section 47E(d) of the FOI Act.
15. I note that the application of section 47E(d) of the FOI Act is dependent on public interest considerations for and against disclosure. Such considerations are addressed below.

Section 47F – Personal privacy

16. Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.
17. The Report contains personal information of employees employed with the DPS, of which some of the information is not well known.
18. Further, a large proportion of the results contained in the Report relate to opinions about the leadership of that branch. The leadership group of the Research Branch of the Parliamentary Library is small. It is made up of two people, the Parliamentary Librarian and the Assistant Secretary of the Research Branch. Disclosure of the Report under FOI will lead to the unreasonable disclosure of personal information about any person, specifically the Parliamentary Librarian and the Assistant Secretary Research Branch.
19. The information contained in elements of the Report directly relates to the Research Branch. The Report, by its very nature, contains information or opinions about individuals that could reasonably identify them. Further, the information contained in the Report is confidential, and therefore is not well known or available from publicly accessible sources. Accordingly, I consider the Report is conditionally exempt under section 47F of the FOI Act.

20. I note that the application of section 47F of the FOI Act is dependent on public interest considerations for and against disclosure. Such considerations are addressed below.

Section 11A – Public interest considerations

21. As set out above, I have determined that parts of the documents are conditionally exempt under sections 47E(d) and 47F of the FOI Act.
22. Subsection 11A(5) of the FOI Act provides that an agency must give access to a document if it is conditionally exempt unless (in the circumstances) access to the document would, on balance, be contrary to the public interest (the public interest test).

Factors in favour of disclosure

23. The functions of the Parliamentary Service (which includes DPS) are set out in section 9(2) of the *Parliamentary Service Act 1999* (Cth) (the PS Act). Section 9 states that the Parliamentary Service serves the Parliament by providing professional support, advice and facilities to each House of the Parliament, to parliamentary committees and to Senators and

Members of the House of Representatives, independently of the Executive Government of the Commonwealth.

24. Further, section 68A of the PS Act is also a relevant factor in considering the public interest. This section provides that Departments and office holders not prescribed authorities for Freedom of Information Act purposes and includes for the purposes of the FOI Act, that
- (a) a Department of the Parliament that is established under this Act;
 - (b) a person who holds, or performs the duties of, an office established under this Act.
25. DPS is a Department of the Parliament established under Division 1, Part 7 of the PS Act, and is therefore not subject to the FOI Act. This broad exclusion from the operation of the FOI Act makes no distinction between administrative and non-administrative (parliamentary) documents.
26. While the APSC holds DPS information, the DPS data and the information contained in the Report is confidential information that is shared with the Parliamentary Service, and not provided to the Executive Government of the Commonwealth. To release confidential information such as this would be inconsistent with the Objects of the FOI Act [refer section 3 of the FOI Act] and section 68A of the Public Service Act.
27. Notwithstanding the above arguments, the Commission further submits:
- the release of the documents would not assist materially or effectively in informing debate on matters of public importance (noting that DPS does not form part of the Executive Government) - 11B(3)(b);
 - as the Report does not relate to the expenditure of public monies, the release of the documents would not promote the effective oversight of public expenditure - 11B(3)(c), and
 - as the Report contains aggregated data, the release of the documents would not allow a person to access his or her own personal information - 11B(3)(d).
28. When weighing up the public interest factors for and against disclosure under section 11A(5) of the FOI Act, I have taken the following factors into consideration in favour of disclosure:
- reflecting on the extent to which disclosure would promote the objects of the FOI Act;
 - promoting agency transparency, and
 - informing debate on a matter of public importance.
29. I confirm that I have not considered any factors deemed to be irrelevant to determining whether access would be in the public interest, as set down at section 11A(4) of the FOI Act.

Factors against disclosure

30. The FOI Act does not list any factors weighing against disclosure. However, taking into account possible factors listed in the FOI Guidelines, I consider the factors against disclosure of the Report, are set out in the above paragraphs. On balance, and given that the disclosure of this information would be inconsistent with the Objects of the FOI Act and section 68A of the PS Act, I consider that the public interest factors in favour of releasing the requested information are not persuasive.
31. I have also considered the following factors against disclosure:
- reflecting on the extent to which disclosure would release into the public forum information which is not otherwise well-known;

- jeopardising or otherwise having an adverse impact on deliberative matters;
- having an adverse impact on the ability of the Commission to undertake its functions in an efficient and effective manner;
- preserving the proper and efficient functioning of Government; and
- prejudicing an individual's right to privacy.

32. In making my decision, I have also taken into consideration part 6 of the FOI Guidelines with respect to the operations of agencies, personal privacy and the application of the public interest factors to each of these conditional exemptions.

Conclusion

33. For the reasons set out above, I am satisfied that the Report contains information that is exempt under section 47 of the FOI Act as indicated above.

34. Further, I am satisfied that the Report also contains information that is conditionally exempt under sections 47E and 47F of the FOI Act. I have further concluded that, on balance, it would be contrary to the public interest to release this information. Accordingly, supplementary to the application of the section 47 exemption described above, I have determined that the conditional exemptions described at sections 47E and 47F of the FOI Act, apply to the Report.

35. I have further concluded that, on balance, it would be contrary to the public interest to release the Report. Accordingly, it is my decision that the Report is exempt in full.

Legislation

36. A copy of the FOI Act is available from <https://www.legislation.gov.au/Details/C2018C00016>. If you are unable to access the legislation from this webpage, please contact our office.

Conclusion

37. For the reasons set out above, I am satisfied that each of the Documents contain commercially valuable information subject to exemption under section 47 of the FOI Act. Accordingly, I have determined that the documents are exempt in full.

Contacts

38. If you require clarification of any of the matters discussed in this decision, please contact the Commission's FOI Officer by email at FOI@apsc.gov.au.

Yours sincerely

s47F

Tim Beard
Acting Group Manager
Workforce Information

// January 2019

REVIEW RIGHTS

If you are dissatisfied with this decision, you have a right of review.

Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you a right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of this decision you must apply for the review, in writing, by whichever date is the later between:

- 30 days of you receiving this notice; or
- 15 days of you receiving the documents to which you have been granted access.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed.

Applications for internal review can be lodged in one of the following ways:

Email: FOI@apsc.gov.au

Post: The FOI Coordinator
Australian Public Service Commission
B Block, Treasury Building
Parkes Place West
PARKES ACT 2600

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commission for review of the internal review decision if required.

Review by the Office of the Australian Information Commissioner

Section 54L of the FOI Act gives you a right to apply directly to the Australian Information Commissioner (the Information Commissioner) for review of certain decisions made under the FOI Act. If you wish to have the decision reviewed by the Information Commissioner you must apply for the review within 60 days of receiving this notice (decision).

The Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Australian Information Commissioner's website www.oaic.gov.au.

To assist the Information Commissioner, your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

Complaints

You can also complain to the Information Commissioner about how an agency handled an FOI request, or about other actions the agency took under the FOI Act.

You can contact the Information Commissioner to request a review of a decision or lodge a complaint in one of the following ways:

Email: enquiries@oaic.gov.au

Telephone: 1300 363 992

Website: www.oaic.gov.au

Post: GPO Box 2999
CANBERRA ACT 2601.

Complaint process with the Information Commissioner

You can complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. The Information Commissioner may investigate a complaint about the handling of an FOI request.

A complaint to the Information Commissioner must be made in writing. Preference is that you use the online FOI Complaint form. Such requests should detail the grounds on which it is considered that the action taken in relation to the FOI request should be investigated. Further information about making a complaint is available at <https://www.oaic.gov.au/freedom-of-information/FOI-complaints>



Australian Government

Office of the Australian Information Commissioner

Our reference: MR19/00055

Your reference: C18/2356

FOI Contact Officer

Australian Public Service Commission

By email: foi@apsc.gov.au

Notice of IC review and request for documents

Dear FOI Contact Officer

s22 has requested that the Information Commissioner review the Australian Public Service Commission (APSC) decision made on 11 January 2019, under the *Freedom of Information Act 1982* (the FOI Act). The application for review is attached.

I write under s 54Z of the FOI Act to notify you that the Information Commissioner will review the decision of the APSC.

Key issues

A key issue in this IC review is whether the Department has correctly determined that the documents the subject of the applicant's FOI request are exempt documents pursuant to ss 47, 47E(d) and 47F of the FOI Act.

Request for information

Please provide the following information to the OAIC by **8 May 2019**:

- the FOI request, and any correspondence that modifies its scope.
- the names and contact details of anyone who was consulted by the APSC, formally under ss 15(7), 26A 27A, or informally (including consultations with other government agencies).
- copies of any correspondence between the APSC, and anyone who was consulted, including file notes of any relevant telephone conversations.
- a marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied.
- submissions in relation to the exemptions claimed under ss 47, 47E(d) and 47F, and any other submissions the APSC wishes to make in support of its decision.

The APSC obligations

In requesting the above information, I draw your attention to the following provisions under the FOI Act, Guidelines and direction relevant to the IC review process:

FOI Act

- Section 55D(1) of the FOI Act provides that the agency or minister has the onus of establishing that a decision given in respect of the request or application is justified or the Information Commissioner should give a decision adverse to the IC review applicant.
- Section 55DA of the FOI Act requires agencies and ministers to assist the Information Commissioner in conducting an IC review.
- Section 55Z of the FOI Act authorises agencies and ministers to provide information for the purposes of an IC review and provides a protection from liability for doing so.

FOI Guidelines and IC review procedure direction

The Information Commissioner has issued guidelines under s 93A of the FOI Act that Australian Government agencies and ministers must have regard to when performing a function or exercising a power under the FOI Act: for information about the IC review process, see [Part 10](#).

The '[Direction as to certain procedures to be followed in IC reviews](#)' applies to agencies and ministers during IC reviews and during preliminary inquiries prior to the commencement of an IC review, if such inquiries are undertaken. The Direction sets out the procedures that agencies and ministers must follow in respect of the production of documents, the provision of a statement of reasons where access has been deemed to be refused and the provision of submissions.

In particular, paragraph 3.7 of the [IC Review Procedure Direction](#) requires agencies and ministers to:

- justify any requests for the Information Commissioner to inspect documents
- justify any requests for the Information Commissioner to accept submissions in confidence
- provide a response within three weeks to the Information Commissioner's request for information in this notice, unless an extension of time has been sought and granted, and
- make a request in writing to the Information Commissioner with supporting evidence prior to the due date if an extension of time is required.

The Information Commissioner will share the submissions you provide during IC review with the applicant unless there are compelling reasons not to. However, we do not provide the applicant with copies of the document/s at issue.

Third party notifications

Please consider whether it is necessary for you to notify any third parties (s 54P and s 54Q). If any third parties are notified of this IC review, please provide the OAIC with a copy of the written notifications. When notifying any relevant third parties under s 54P and 54Q of the FOI Act, please provide to the third party the OAIC reference number MR19/00055. Please send your response to this notice to FOIDR@oaic.gov.au.

If you wish to discuss the matter in the interim please contact the FOI team by email or by phone on 1300 363 992.

Yours sincerely

s47F

A large black rectangular redaction box covering the signature area.

s47F

A small black rectangular redaction box covering the name of the Acting Review Adviser.

Acting Review Adviser (Legal)
Freedom of Information
17 April 2019



Australian Government
Australian Public Service Commission

s47F

Acting Review Adviser (Legal)
Freedom of Information
Office of the Information Commissioner
By email: FOIDR@oaic.gov.au

Dear s47F

Thank you for your letter dated 17 April 2019 seeking submissions from the Australian Public Service Commission (the Commission) on a request for review of the Commission's FOI decision, our reference C18/2356 (primary decision).

1. The applicant [REDACTED] has requested access to the *2018 APS Employee Census "Benchmark Report"* (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Service(s).

Submission

1. The Commission agrees with the reasons set out in the primary decision for exempting the documents in relation to sections 47 and 47F of the *Freedom of Information Act 1982* (FOI Act). The Commission makes some additional comments below in relation to these exemptions.
2. The Commission further submits that the document the subject of the request would also be exempt under section 47C of the FOI Act.
3. The Commission would like to further clarify its view in relation to the exemption under paragraph 47E of the FOI Act.

Applicable exemption – section 47 of the FOI Act (Commercial information)

4. Section 47 provides that a document is an exempt document if the information contained in it has a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if disclosed.



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Australian Public Service Commission

5. The Commission agrees with the primary decision maker in relation to the exemption under section 47 and makes the following further comments.
6. The 'Benchmark report' (the report) contains information that has a unique commercial value to the Commission. The report is provided to the Department of Parliamentary Services (DPS) by the Commission solely under a fee for service arrangement. The staff of the DPS are not APS employees, and the DPS as a result does not automatically participate in the Census. The DPS voluntarily has an arrangement with the Commission to participate in the Census for their own purposes. The fee paid by the DPS facilitates the Commission procuring research consultants that provide the technical solutions and support required to administer the Census.
7. The report is provided under what is essentially a commercial agreement between DPS and the Commission for the provision of services in exchange for a fee. Although the Commission cannot enter into a contract with DPS, the Commission's relationship with DPS in relation to the Census is governed by the terms of a Memorandum of Understanding (MOU). The MOU specifically refers to the controls the Commission will put in place to de-identify responses and protect the confidentiality of the report.
8. The Commission's policy in relation to Census reports is that they belong to each agency and that disclosure of the content of the reports is a matter for the relevant agency to decide. Ordinarily, a FOI request for a Census report will be transferred to the relevant agency, which cannot occur in this case as DPS is not subject to the FOI Act. In the present case, DPS has expressed a clear desire for the content of the report to not be disclosed.
9. It is important that the information collected through the Census is collected on a confidential basis and only disclosed for the purpose for which it was collected for a number of reasons. Public release of these reports was not one of the purposes for which it was collected. Disclosure exceeding the purposes for which this data was collected would erode trust in the activity and may lead to employees being less likely to participate. This would impact on the size of the sample and the effectiveness of the data.
10. This is particularly so in the case of the relevant report being in relation to the Research Branch of the DPS, of which a large proportion relates to opinions about leadership of that Branch, which is made up of only two people. This specificity of the information in the report is more likely to have an impact on Census participation rates and effectiveness of the data in the future.



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Australian Public Service Commission

11. If the reports were made available through means other than the service offering, and particularly if they were made available to the world at large through the FOI process, participation would be affected and it is possible that the DPS would not see the value in the offering and may not be willing to provide funding that facilitates their voluntary, paid participation in the Census.
12. The report is not available for purchase by any other agency or otherwise made publicly available. They are distributed to DPS as an assessment of employees' views which can be used by management to improve a range of people management strategies.
13. The information in the report is still current as the 2019 APS Employee Census has not been completed.
14. I note that section 47 is not a public interest conditional exemption under the FOI Act. In other words, it is sufficient for a claim of exemption that a document simply meet the requirements of section 47. It is unnecessary to further consider the public interest test set out at subsection 11A (5) of the FOI Act.

Applicable conditional exemption – section 47F of the FOI Act (Personal privacy)

15. The Commission agrees with the primary decision maker in relation to the exemption under section 47F.

Applicable conditional exemption – section 47C of the FOI Act (Deliberative material)

16. While not specifically referred to in the primary decision, the Commission is of the view that the report would be exempt under section 47C of the FOI Act.
17. Section 47C conditionally exempts documents containing deliberative matter, relating to either an opinion, advice or recommendation that has been obtained, prepared or recorded; or 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.
18. Employee Census results clearly contain opinions and consultation for the purposes of a deliberative process of the DPS.
19. In this case, the reports contain results of an employee survey designed to inform management deliberations of the DPS. These results are weighed and considered in an individual agency context for the purpose of taking particular actions to address varied challenges an agency may face in any given year.



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Australian Public Service Commission

Applicable conditional exemption – section 47E of the FOI Act (Certain operations)

20. While not specifically referred to in the primary decision, the Commission is of the view that the report referred to in the request would be exempt under paragraph 47E(c) the FOI Act.
21. Paragraph 47E(c) conditionally exempts documents containing information which would, or could, reasonably be expected to have a substantial adverse effect on management or assessment of personnel.
22. As noted above and in the primary decision, a large proportion of the Research Branch's report relates to opinions about leadership of the Research Branch, which is made up of two people.
23. These reports contain matter clearly related to broader human resources policies and activities, and performance management policies. Disclosing their contents would have a substantial and adverse impact on participation by employees, and agencies, and in turn the ability of agencies to respond to challenges in the human resources space.
24. The Commission confirms that it agrees with the primary decision maker's conclusion that the document is conditionally exempt under paragraph 47E(d) in that it would reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the DPS and the Commission.
25. Diminishing participation rates in the employee Census would also have a significant and adverse effect on the operation of other agencies to manage their workforces effectively and of the Commission in carrying out its functions under the *Public Service Act 1999*.

Public interest considerations – subsection 11A (5) of the FOI Act

26. The Commission agrees with the public interest considerations set out in the primary decision, which are relevant assessment of the exemptions at sections 47C, 47E and 47F of the FOI Act. The Commission agrees that on balance it would be contrary to the public interest to release this information.
27. In summary, it is contrary to the public interest to disclose the report as disclosure could reasonably be expected to prejudice DPS's and the Commission's ability to



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Australian Public Service Commission

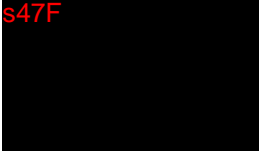
obtain confidential information, to obtain similar information in the future and to prejudice the management function of an agency.

28. As stated above, disclosing the report through the FOI process is likely to both impact on participation rates, full and frank discussion between employees and managers in agencies, and the resulting commerciality and utility of the results of the Census.

Please contact us if you wish to discuss.

Yours sincerely

s47F



s47F

General Counsel

7 May 2019



PARLIAMENT OF AUSTRALIA
DEPARTMENT OF PARLIAMENTARY SERVICES

AUSTRALIAN PUBLIC
SERVICE COMMISSIONER

- 9 JUL 2019

RECEIVED

Ref: 231/2019

OFFICIAL

DPS ref: D19/157044

Mr Peter Woolcott AO
Commissioner
Australian Public Service Commission
GPO Box 3176
CANBERRA ACT 2600

Uda Bull
FYS
Ab

Dear Mr Woolcott

Peter

Thank you for your letter of 8 May 2019 advising of the recent APS Secretaries Board decision to publish agency-level results of the Australian Public Service (APS) Employee Census.

The Department of Parliamentary Services (DPS) participates in the APS Employee Census process to collect information on the attitudes and opinions of DPS employees and to gauge their level of engagement with the workplace. Our participation in the APS Employee Census is voluntary, and on a fee-for-service basis.

I acknowledge the APS Secretaries Board decision to release the results does not apply to non-APS agencies, such as DPS. DPS traditionally publishes a high level report on its internal website of key departmental Census results.

At this time, DPS intends to publish its 2019 agency level results on its internal website and will continue to assess the merits of the proposal to release agency-level results more broadly.

I will be sure to let you know of our approach once these assessments have been finalised.

Yours sincerely

Rob Stefanic
Secretary

8 July 2019

OFFICIAL



Australian Government

Office of the Australian Information Commissioner

Our reference: MR19/00055

Agency reference: C18/2356

s47F

Legal Services
Australian Public Service Commission

MR19/00055 – s22 and Australia Public Services Commission – Preliminary view

Dear s47F

I write further to previous correspondence in relation to s22 (the applicant) application for IC review of a decision made by the Australian Public Service Commission (APSC) under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

I am writing to provide you with a preliminary view based on my experience as a review adviser and my analysis of the issues. I note that the preliminary view is not a decision by the Information Commissioner, but its purpose is to assist the NDIA to consider revising its decision under s 55G or to provide further submissions to address the issues raised.

In summary, it is my preliminary view that the APSC has not established that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)) and therefore if this matter were to proceed to a decision by the Information Commissioner, I would recommend that the APSC's decision be set aside.

I have requested the APSC's response by **close of business on Monday 8 June 2020**.

Background

On 12 December 2018, the applicant applied to the APSC to seek access to the following:

The 2018 APS Employee Census "Benchmark Report" (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Services.

On 14 December 2018, the APSC advised the applicant that it intends transfer the FOI request to the Department of Parliamentary Services (DPS) pursuant to s 16 of the FOI Act.

On the same day, the applicant responded to APSC's correspondence and advised that he does not wish to disclose his identity to the DPS.

On 20 December 2019, the APSC undertook informal consultation with DPS in relation to the FOI request.

On 3 January 2019, DPS advised the APSC that it objects to the disclosure. DPS provided submissions setting out the reasons for its objections.

On 11 January 2019, the APSC made its decision. The APSC advised the applicant that it had identified one document falling within the scope of the request. The APSC decided to refuse the applicant access in full. In making its decision, the APSC relied on the commercially valuable information exemption (s 47), certain operations of agencies exemption (s 47E(d)) and the personal privacy exemption (s 47F).

On 16 January 2019, the applicant sought IC review of the APSC's decision under s 54L of the FOI Act.

On 7 May 2019, the APSC provided the OAIC with submissions. In addition to the ss 47, 47E(d) and 47F exemptions that it relied on in making its decision, the APSC sought to rely the deliberative processes exemption (s 47C) and the management of personnel exemption (s 47E(c)).

On 7 November 2019, I requested further information from the APSC in relation to the s 47E(d) exemption.

On 12 December 2019, the APSC provided further submissions. The APSC advised the OAIC that following consultation with the DPS, neither APSC nor DPS objects to the DPS' submissions to be shared with the applicant. Accordingly, these submissions were provided to the applicant on the same day.

On 2 January 2020, the applicant provided his submission in response to the OAIC. A copy of the applicant's submission is attached.

Scope of IC review

The issues to be considered in this IC review are:

- whether the document APSC found exempt under s 47 is exempt under that provision
- whether the document that APSC found exempt under ss 47E(d) and 47F, and contends is exempt under ss 47C and 47E(c), is conditionally exempt under these provisions, and, if so, whether giving the FOI applicant access to the conditionally exempt document at this time would, on balance, be contrary to the public interest (s 11A(5)).

In providing this preliminary view as review adviser, I have had regard to:

- APSC's decision and reasons for decision

- an unedited copy of the documents identified as falling within the scope of the request
- the FOI Act
- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act to which agencies must have regard in performing a function or exercising a power under the FOI Act (FOI Guidelines), and
- the parties' submissions.

Commercially Valuable Information exemption (s 47)

APSC found the document exempt in full under s 47.

The FOI Guidelines discusses this exemption at paragraphs [5.196] – [5.198], and [5.204] – [5.208].

I have had the opportunity to examine an unedited copy of the documents at issue. I have also considered APSC's reasons for its decision, the submissions from the parties and the submission from the DPS.

In my view, the information contained in the document at issue consists of two categories:

1. the questions and templates created by the APSC, and
2. the statistics collated from the responses of DPS' employees.

In the APSC's reasons for its decision, the APSC determined that 'the document requested wholly contains information that has a commercial value to the Commission, the responding agency and more generally to the Commonwealth'. The APSC then referred to a fee for service arrangement with the Department of Parliamentary Services (DPS). I would be grateful if the APSC can kindly provide further clarification in relation to:

- the nature of the information in the document at issue which the APSC considers is of commercial value to the APSC. The APSC discusses in paragraph 10 of its reasons for decision, a fee for service arrangement between the service providers on behalf of the APSC and the responding agencies. I would be grateful if the APSC can kindly provide a copy of the fee for service agreement as an example.
- whether all participating agencies in the APS survey have the same fee for service agreement with the APSC, including those who participate voluntarily?
- I note that the format and questions appear similar, if not identical to documents of similar nature which are published on a number of other Commonwealth agencies' websites voluntarily (for example, by the OAIC on its website). In APSC's reasons for decision in paragraph 12, ASPC referred to the questions which DPS employees was given as 'a series of generic questions'. I would be grateful if the APSC can provide further information in relation to how this information still contains commercial value

to the APSC and how disclosing these generic questions and template would be, or could reasonably be expected to destroy or diminish its commercial value if it were disclosed

- the APSC decision describes the commercial value of the information in the document at issue to the APSC. However, it is unclear based on the information, how the information is of commercial value to the DPS and the Commonwealth as the APSC claims in its decision. For example, I would be grateful if the APSC can kindly provide further submissions on how the questions and templates created by the APSC and/or the statistics collated from DPS' employees would be of commercial value to the DPS.
- whether this information is still of commercial value to the APSC, noting that this information in the document at issue is now out of date.

In my preliminary view as review adviser, while the APSC did discuss in paragraphs 8 and 9 of its decision how the APSC and its operations would be adversely affected if the document is disclosed, these reasons appear to relate to s 47E(d) and has not addressed in sufficient detail the requirements of s 47(1)(b).

Based on the information before the OAIC at this time, it is my preliminary view as review adviser that the APSC has not discharged its onus in establishing that its decision in relation to s 47(1)(b) is justified and that the Information Commissioner should give a decision adverse to the applicant. In particular, there is insufficient information before the OAIC at this time to address the two criteria of s 47(1)(b), such as what is the commercial value of the information, which agency does that commercial value relates to, and how would disclosure of that information destroy or diminish, or could reasonably be expected to destroy or diminish the commercial value of that particular agency if the information is disclosed. Further contextual information in relation to part [5.204] and [5.205] of the FOI Guidelines in relation to the document at issue would assist the Information Commissioner in making her decision.

For these reasons, if this matter proceeds to a decision by the Information Commissioner, I would recommend that the APSC's decision under s 47(1)(b) of the FOI Act is set aside.

I invite the APSC to provide further submissions in response.

Deliberative processes exemption (s 47C)

The APSC contends the document at issue should be exempt in full under s 47C.

The FOI Guidelines discusses this exemption at paragraphs [6.52] – [6.88].

The APSC submits:

Employee Census results clearly contain opinions and consultation for the purposes of a deliberative process of the DPS.

In this case, the reports contain results of an employee survey designed to inform management deliberations of the DPS. These results are weighed and considered in an individual agency context for the purpose of taking particular actions to address varied challenges an agency may face in any given year.

I note the survey was conducted in 2018. I would be grateful if the APSC can kindly advise whether a subsequent survey was conducted. If so, it is unclear whether the deliberative process associated with the 2018 document has been finalised.

Further and in addition to the above, I invite further submissions from the APSC in relation to the following aspects of the s 47C exemption, where I feel insufficient information has been provided based on the information before the OAIC at this time:

- what is the deliberative matter?
- what is the deliberative process referred to in the APSC's submissions, noting the deliberative process must relate to the functions of an agency, minister or the government of the Commonwealth found in the Administrative Arrangements Orders or the instrument or Act that established the agency (See part [6.60] of the FOI Guidelines).

I would be grateful if the APSC can also provide further submissions in relation to whether the document at issue contains information that are excluded from being deliberative matters as detailed in part [6.66] of the FOI Guidelines, for example, content that is merely descriptive, incidental administrative or procedural or day to day contents, or purely factual information.

Management and assessment of personnel exemption (47E(c))

The APSC contends the document at issue should be exempt in full under s 47E(c).

The FOI Guidelines discusses this exemption at paragraphs [6.95] – [6.103], and [6.113] – [6.119].

On 7 May 2019, APSC submits:

These reports contain matter clearly related to broader human resources policies and activities, and performance management policies. Disclosing their contents would have a substantial and adverse impact on participation by employees, and agencies, and in turn the ability of agencies to respond to challenges in the human resources space.

In my preliminary view as review adviser, based on the information before the OAIC at this time, I seek further information in relation to the following aspects of the 47E(c) exemption:

- How the document at issue relates to the management or assessment of personnel by the DPS. For example, for what reasons was the report commissioned and what was the intended purposes once the report is prepared. Does the report relate to management of personnel or assessment of personnel or both? I would be grateful for further information in this regard.

- How would the effects of disclosure of a 2018 survey document be both substantial and adverse to DPS' ability to manage or assess its personnel? I note DPS submits that disclosure of the document at issue may lead to a reluctance of DPS employees to engage fully in future APSC census activities given the small number of people that work in the Research Branch. I would be grateful for further information in relation to the following:
 - how would disclosure of anonymously compiled survey result involving 48 of 76 unidentified staff lead to a reluctance of these employees to engage in the census in the future, and
 - I would also be grateful for further information in relation to whether the survey report was shared internally with DPS employees in the research branch in 2018, and whether it affected staff participation in the survey 2019 if the survey was conducted in subsequent years?
- Whether the effects of disclosure claimed is reasonably expected to occur, noting that there must be 'real' and 'substantial' grounds for expecting damage or occur which can be supported by evidence or reasoning (see part [5.27] of the FOI Guidelines).

Based on the information before the OAIC at this time, it is my preliminary view as review officer that the APSC has not discharged its onus in establishing that its contention in relation to s 47E(c) is justified and that the Information Commissioner should provide a decision adverse to the IC review applicant (s 55D(1)).

I invite further submissions from the APSC in this regard.

Certain operations of agencies exemption (s 47E(d))

APSC found the document exempt in full under s 47E(d).

The FOI Guidelines discusses this exemption at paragraphs [6.95] – [6.103], and [6.120] – [6.123].

I have had the opportunity to examine an unedited copy of the documents at issue. I have also considered APSC's reasons for its decision, the submissions from the parties and the submission from the DPS.

Proper and efficient conduct of APSC's operations

I would be grateful if the APSC can kindly provide further information in relation to the following aspects of its operations:

- In APSC's submission dated 12 December 2019, it discussed the functions of the APSC under s 41 of the *Public Services Act 1999* (PS Act). I would be grateful if the APSC can provide further information in relation to its obligations under any legislation, regulation or internal policy guidelines that require the APSC to engage with non-APS bodies in order to discharge its functions under the PS Act.

- I would be grateful if the APSC can provide some context or background information in relation to the proportion of APS and non-APS engagements that the APSC makes for the purposes of the APS survey each year, as part of its operations in order to discharge its functions under ss 41 and 44 of the PS Act.

Substantial and adverse effect

The APSC found disclosure ‘would likely undermine interim policy positions, the Commission’s interests in negotiations, and undermine the Commission’s ability to provide advice to Government. I would be grateful if the APSC can kindly provide further information in relation to each of these aspects and how the disclosure of the document at issue in this case would have both the substantial and adverse effects it claims on its operations.

I note the term ‘reasonably expected’ requires ‘real’ and ‘substantial’ grounds for expecting the damage to occur which can be supported by evidence or reasoning and that a mere allegation or possibility of damage is insufficient to meet the ‘reasonable expectation’ test (see Part [5.27] of the FOI Guidelines). I would be grateful if the APSC can provide further submissions on how the disclosure of the document at issue in this case would, or could reasonably be expected to undermine interim policy positions, the Commission’s interests in negotiations and undermine its ability to provide advice to Government as it claims.

Based on the information before the OAIC at this time, in my preliminary view as review adviser, the APSC has not discharged its onus in establishing that its decision in relation to s 47E(d) is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). In particular, the APSC has provided insufficient information in relation to how disclosure of the document at issue in this case, would, or could reasonably be expected to both significantly and adversely affect the proper and efficient conduct of its operations in accordance with the requirements of s 47E(d).

For these reasons, if this matter proceeds to a decision by the Information Commissioner, I would recommend that the APSC’s decision under s 47E(d) of the FOI Act is set aside.

I invite further submissions from the APSC in this regard.

Personal privacy exemption (s 47F)

The APSC found the document at issue exempt in full under s 47F.

The FOI Guidelines discusses this exemption at part [6.124] – [6.179].

I have had the opportunity to examine an unedited copy of the documents at issue. I have also considered APSC’s reasons for its decision, the submissions from the parties and the submission from the DPS. I would be grateful if the APSC can kindly provide further information in relation to the following aspects of the 47F exemption:

- Personal information – it is unclear based on the information before the OAIC at this time, which part of the report that the APSC found to contain personal information. I would be

grateful if the APSC can kindly mark up the areas where it contends personal information exists.

- Unreasonableness of disclosure – APSC found that the leadership group of the Research Branch of the Parliamentary Library is small, and consists of two people, the Parliamentary Librarian and the Assistant Secretary of the Research Branch. I would be grateful if the APSC can provide the OAIC with any subsequent consultation correspondence with the DPS and any further information whether the Parliamentary Librarian and the Assistant Secretary has objected to this information being released, and the grounds for their objections. While I acknowledge that the opinions held by employees regarding the leadership group may contain information that is not available from publicly accessible sources and is not well known, I am also mindful to consider whether disclosure of the information might advance the public interest in government transparency and integrity.

I would also invite further submissions from the APSC to address part [6.152] – [6.157] as to whether the personal information in the document at issue consists of information about agency employees included in the documents because of their usual duties or responsibilities and what are the exceptional circumstances that exists that would make disclosure unreasonable in this case.

For the above reasons, based on the information before the OAIC at this time, in my preliminary view as review adviser, the APSC has not discharged its onus in establishing that its decision in relation to s 47F is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). If this matter proceeds to a decision by the Information Commissioner, I would recommend that the APSC's decision under s 47F of the FOI Act is set aside.

I invite further submissions from the APSC in this regard.

Public interest considerations (s 11A)

In APSC's decision, it said:

When weighing up the public interest factors for and against disclosure under section 11A(5) of the FOI Act, I have taken the following factors into consideration in favour of disclosure:

- reflecting on the extent to which disclosure would promote the objects of the FOI Act;
- promoting agency transparency, and
- informing debate on a matter of public importance.

Based on my examination of the information before the OAIC at this time, In my preliminary view as review adviser, I agree with the APSC that the above are relevant public interest factors in favour of disclosure.

The APSC also said:

I have also considered the following factors against disclosure:

- reflecting on the extent to which disclosure would release into the public forum information which is not otherwise well-known;
- jeopardising or otherwise having an adverse impact on deliberative matters;
- having an adverse impact on the ability of the Commission to undertake its functions in an efficient and effective manner;
- preserving the proper and efficient functioning of Government; and
- prejudicing an individual's right to privacy.

In relation to the first factors, it is unclear based on the information before the OAIC at this time why 'releasing into the public forum information which is not otherwise well-known' would be a factor contrary to public interest. I would be grateful if the APSC can kindly provide clarification in relation to this factor.

In relation to the other factors the APSC found to be against disclosure, given my preliminary view above that the APSC has not discharged its onus in establishing that its decision in relation to s 47G is justified, some factors that the APSC considers are factors against disclosure in weighing public interest considerations have not been substantiated.

I note a further factor against disclosure raised by the APSC in its submission of 7 May 2019 raised 'full and frank discussions between employees and managers in agencies'. I would be grateful if the APSC can provide clarification how the disclosure of a survey

I invite further submissions from the APSC in this regard.

Other matters

I note in the reasons for its decision, the APSC said:

DPS is a Department of the Parliament established under Division 1, Part 7 of the PS Act, and is therefore not subject to the FOI Act. This broad exclusion from the operation of the Act makes no distinction between administrative and (parliamentary) documents.

I do acknowledge the wording of s 68A of the PS Act. However, I would invite the APSC to provide further submissions to address the following:

- Dr Allan Hawke AC, in his 2013 report on the operation of the *Freedom of Information Act 1982* and the *Australian Information Act 2010* had found that 'sound accountability arguments support all the parliamentary departments being subject to the FOI Act in some capacity. The Review agrees with the recommendation of the parliamentary departments in their joint submission that the parliamentary departments be subject to the FOI Act only in relation to documents of an administrative nature'.¹

¹ See page 55 of Chapter 5 of Dr Hawke's report:

<https://www.ag.gov.au/Consultations/Documents/ReviewofFOIlaws/FOI%20report.pdf>

- In the joint submissions to Dr Hawke's review by the Department of the Senate, the House of Representatives and the Department of Parliamentary Services, the three departments had supported that they be subject to the FOI Act in relation to documents of an administrative nature only.² In particular, page 4 of these submissions said that 'As publicly resourced agencies, the parliamentary departments support the principle that the administrative documents of any taxpayer-funded agency should be open to scrutiny subject to any claim of appropriate immunity (which the FOI Act exemptions generally reflect).'
- The Leader of the House, Mr Anthony Albanese, in his second reading speech indicated the major impetus for the Parliamentary Service Amendment (Freedom of Information) Bill 2013 and the reason for the haste in its introduction and debate, was in direct response to the concerns of the Joint Committee on the Parliamentary Library about:

'... the Library's ability to continue to provide individual members and senators with research and advice on a confidential basis in an environment where FOI access decisions are ultimately made by agents of the executive government and by the courts. The potential for such decisions to undermine the rights of Parliament and its members is considerable.'³

- As discussed in part [2.9] of the FOI Act, the phrase, 'matters of an administrative nature', is not defined in the FOI Act. In *Kline v Official Secretary to the Governor General*, the High Court held that the phrase refers to documents that concern 'the management and administration of office resources, such as financial and human resources and information technology'.⁴

In light of the above, and having had the opportunity to examine an unedited copy of the document at issue, it is my preliminary view that the document at issue appears to contain information of administrative nature concerning the management and administration of human resources by the DPS and not associated with any research and advice that the DPS provides to members and senators. For the purposes of increasing accountability and transparency in the DPS, a Commonwealth agency, it is my preliminary view as review adviser that this is a relevant factor in favour of disclosure in this case.

I invite APSC to provide any further submissions in relation to the above.

² See joint submission:

<https://www.ag.gov.au/Consultations/Documents/ReviewofFOI/Department%20of%20the%20Senate%20-%20Department%20of%20the%20House%20of%20Representatives%20and%20Department%20of%20Parliamentary%20Services.pdf>

³ See

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F9887dbf0-2eba-448e-82db-0288b44668a2%2F0019%22>

⁴ [2013] HCA 52 [13], [41] (joint judgment of French CJ, Crennan, Kiefel & Bell JJ).

Next steps

In summary, I would be grateful if the APSC could provide any submissions it wishes to make in response to this preliminary view and if relevant, advise whether it is willing to make a revised decision under s 55G of the FOI Act by **close of business on Monday 8 June 2020**.

Please kindly note this timeframe allows an additional week in order for APSC to undertake the necessary consultation with the DPS prior to providing its response, should it wish to further consult. In the event the APSC wishes to undertake further consultation with the DPS, please kindly note the IC review applicant's request for their identity to remain anonymous.

To assist the OAIC in this undertaking this IC review, please also provide:

1. If the APSC wishes to vary its position in relation to any exemptions, a marked up unedited version of the document at issue
2. If the APSC undertakes further consultation with the DPS in order to provide submissions in response to this preliminary view, the consultation correspondence.

In preparing its submissions, the APSC should have regard to Part 5 of the *Direction as to certain procedures to be followed in IC reviews* relating to the procedure in relation to submissions made during an IC review. In particular, please note the information at [5.2] – [5.4] about sharing submissions and requests to provide submissions in confidence.

If you have any questions, I can be contacted on s47F @oaic.gov.au or s47F .

Yours sincerely

s47F



Assistant Director
Freedom of information

18 May 2020

OFFICIAL: Sensitive



PARLIAMENT OF AUSTRALIA
DEPARTMENT OF PARLIAMENTARY SERVICES

DPS ref: D19/1324

Ms Angelene Falk
Australian Information Commissioner and Privacy Commissioner
GPO Box 5218
Sydney NSW 2001

Dear Ms Falk

Information Commissioner Review MR19/00055 – further submissions from the Department of Parliamentary Services

I refer to your office's letter dated 18 May 2020 to the Australian Public Service Commission (**APSC**) providing your preliminary view in relation to this application for Information Commissioner (**IC**) review.

The APSC has consulted the Department of Parliamentary Services (**DPS**) as the document in issue concerns its management functions. DPS's submissions follow.

The FOI Act does not apply to DPS

The functions of the Parliamentary Service (which includes DPS) is set out in section 9(2) of the Parliamentary Service Act 1999 (Cth) (PS Act). This states that the Parliamentary Service serves the Parliament by providing professional support, advice and facilities to each House of the Parliament, to parliamentary committees and to Senators and Members of the House of Representatives, independently of the Executive Government of the Commonwealth.

Section 68A of the PS Act provides that a Department of the Parliament that is established under the PS Act is not a prescribed authority for the purpose of the FOI Act. As DPS is a Department of the Parliament established under Division 1, Part 7 of the PS Act, it is not subject to the FOI Act. This is relevant to the public interest which is discussed below.

The Parliamentary Library and the position of the Parliamentary Librarian were created by Division 3 of Part 4 of the PS Act. The function of the Parliamentary Librarian is to provide high quality information, analysis and advice to Senators and Members. Parliament has recognised the confidential nature of the work undertaken by the Parliamentary Library as section 38B(2)(a) provides, *inter alia*, that the Parliamentary Librarian must perform her function in a confidential manner.

OFFICIAL: Sensitive

The Benchmark Report

The request seeks access to the 2018 APS Employee Census 'Benchmark Report' relating to the Research Branch of DPS (**Report**). The census was completed by 48 of the 76 employees who work in the Research Branch of the Parliamentary Library (**Research Branch**) and represents a snapshot of just over half the employees in the Research Branch at a particular point in time.

In 2018 (and in years before) DPS engaged the APSC to conduct the census as a means of obtaining anonymous employee feedback to assist the DPS leadership team to identify and action, as appropriate, matters or issues relating to the management and wellbeing of employees. DPS commissioned and paid the APSC to provide branch-specific benchmark reports to help identify any issues within each team. The Report which is the subject of the FOI request was commissioned to inform and assist DPS executive about employee attitudes and concerns to inform planning and decision making around employee management, specific to the Research Branch. The census deals with a range of issues including workplace culture and conditions and attitudes to immediate and senior leadership.

The Report is considered to be a confidential document and has not been made available beyond the senior executive of DPS. It has not been shared with employees in the Research Branch or more widely with other employees of DPS. Branch or section level reports are not widely shared, or published, as they reveal matters that potentially are attributable to particular individuals, or group of individuals, and contain information about matters for management action. The agency level report has been shared internally with DPS employees.

The data obtained through the census is considered to be confidential information. The data and resultant reports are held by the APSC who also is under an obligation of confidentiality.

While a number of agencies may publish their high level agency reports on their internal and external websites, DPS is not aware that any Commonwealth agency publishes granular reports that are about specific parts of an agency.

The Report is conditionally exempt under s 47E(c) – substantial adverse effect on management of personnel of the Commonwealth

Whilst DPS is not an agency for the purposes of the FOI Act, it does form part of the legislative branch of the Commonwealth.

The Report serves a particular purpose and was intended for a particular audience. It is submitted disclosure would have a substantial adverse effect on the ability of DPS to efficiently and effectively manage its personnel (personnel of the Commonwealth) and should be conditionally exempt under s 47E(c) of the FOI Act.

Branch-specific reports continue to inform the DPS executive's management plans. DPS relies on branch-level reports to inform employee management decision making by the senior leadership. The Report, with other reports from other branches, is used to compare engagement and concerns of employees at branch level, to identify any leadership and culture issues and take any appropriate

management action. The reports are shared with senior executive managers and are used as part of their performance and professional development discussions.

The issues around culture and employee satisfaction identified in the Report remain under active consideration by the DPS Executive. Even though the Report includes responses from 2018, it remains a current management tool to track and address issues across the Research Branch and DPS.

Employees in the Research Branch were asked to participate in the census and to provide frank feedback on issues or concerns in the Research Branch and in relation to the performance of their senior officers. Employees participated on the understanding that their responses would not be disclosed, including on an aggregated level. To maintain trust with employees, it is vital that those undertakings of confidentiality are preserved.

It is submitted disclosure would mean that employees would be reluctant, or simply would refuse, to participate in similar confidential feedback processes in the future. If DPS is not able to obtain responses at the Branch level in confidence, it would seriously adversely affect its ability to identify and respond to issues in the workplace. This would have a substantial adverse effect on the ability of DPS to effectively and efficiently manage employees in the Research Branch in particular, and throughout DPS.

The Research Branch is small and the characteristics and behaviours of individuals who work there are reasonably well-known. With the knowledge those individuals have of their fellow employees, there is a real risk that disclosure of the Report could reasonably identify one or more individuals. That is a key reason why DPS has not made the Report available to employees outside the senior management group.

If the Report was made available to employees in the Research Branch, I believe they would be concerned that they, or a cohort of individuals, have been identified by senior management as having provided particular responses.

For example, the second question on page 8 identifies that over half of the 48 employees who responded to the survey s47F

s47F it is entirely probable that employees would be concerned that they could be reasonably identifiable by senior management or other employees in the Research Branch. This concern, even if not reasonably held, could undermine the trust and confidence employees have in senior management and DPS as a whole.

I believe employees would become unwilling to participate in similar feedback processes as they would not trust that they are in fact anonymous and confidential. This would have a substantial adverse effect on the ability of DPS to obtain similar reports in the future and would substantially adversely affect the ability of DPS to effectively manage its employees in the future. The outcome from release of the Report will be the opposite of what was intended from undertaking the survey, being early identification and rectification of problems which otherwise will go unaddressed.

I believe disclosure to the public at large would not only undermine the confidence employees have that DPS will keep their personal information confidential but, as a consequence, also would adversely impact on the ability of DPS to continue to engage with employees of the Research Branch about the issues identified in the Report.

The disclosure of this Report will create a precedent for requests of similar reports across all Commonwealth agencies. The awareness by Commonwealth employees of the release of the Report will have a wide ranging impact and result in:

- reluctance of other public service agencies' employees participating in similar surveys in the future, and
- reluctance of managers across public service agencies to make difficult personnel decisions, given that opinions about them can be accessed through the FOI process.

I consider these adverse effects are substantial.

I consider the Report should be conditionally exempt under s 47E(c) of the FOI Act.

Parts of the Report are conditionally exempt under s 47F – unreasonable disclosure of personal information

As previously submitted, there is only one Senior Executive Service officer in the Research Branch, that is the Assistant Secretary. While strictly speaking the Parliamentary Librarian is not a member of the SES (as this role is a statutory appointment), employees commonly equate that position to being a member of the SES. The same individuals remain in those positions. They are known within DPS and by the public as the senior executives linked to the Research Branch. The Report contains personal information and opinion about these two individuals who are reasonably identifiable.

The responses in relation to senior management performance amounts to a subjective opinion of the performance and capability of the two individuals concerned. The information in the Report is not well known or publically available.

s47F [Redacted text block]

s47F [Redacted text block]

s47F [REDACTED]

s47F [REDACTED]

It is submitted that it would be unreasonable to disclose performance management issues of identified individuals. Disclosure would be an unreasonable disclosure of personal information and pages 10, 11 and 30 should be conditionally exempt under s 47F of the FOI Act.

Not in course of ordinary duties

Under paragraph 6.153 of the FOI Guidelines, it would normally not be unreasonable to disclose public servants' personal information in a document unless special circumstances exist.

The personal information in the Report is not information in the context of the individual's usual duties or responsibilities. The responses include opinions about their performance and capability in the workplace and is akin to, for example, a referee report. In other words, the Report is about opinions regarding the performance of the individuals and not related to the individuals' actual performance of their duties. s47F [REDACTED]

[REDACTED] It is submitted that in this case, special circumstances exist and it would be unreasonable to disclose information about a person's performance or assessment in the workplace in circumstances where the information and opinion was given in confidence and was commissioned for the limited purpose of management of personnel.

Public interest

As noted above, while the APSC holds DPS information, DPS itself is not subject to the FOI Act. To the extent that there is a public interest in making documents about the Parliamentary Library publically available, the Parliament has recognised that the FOI Act is not the appropriate mechanism. Parliament has put in place a number of mechanisms that address the accountability and transparency of the functions and operation of the Parliamentary Librarian. The Parliamentary Librarian is accountable to the Presiding Officers and a standing committee on the Parliamentary Library through an annual resource agreement under section 38G of the PS Act. In addition, the Parliamentary Librarian reports once a year to Parliament on the performance of her duties. An independent evaluation of the Parliamentary Library and its services is also undertaken during every

Parliamentary term and the report is published. All senior officers of DPS are also subject to scrutiny through Senate Estimates processes several times a year, so there is no shortage of public accountability and transparency mechanisms already in force.

As discussed above, DPS is not subject to the operation of the FOI Act. There is clear intent from Parliament to exclude the operation of the FOI Act for parliamentary departments. The Explanatory Memorandum to the Parliamentary Service Amendment (Freedom of Information) Bill 2013 (the amendment bill that inserted section 68A into the PS Act) provides that Parliament preserved the right to legislate further to apply the FOI Act to certain aspects of the Parliament's operations. Parliament has debated at some length on the application of the FOI Act to parliamentary departments and the *Review of the Freedom of Information Act 1982 and Australian Information Commissioner Act 2010* (Hawke Review) recommended that the parliamentary departments be subjected to the FOI Act in relation to documents of an administrative nature (recommendation 15). However, since section 68A came into effect in 2013, recommendation 15 has not been implemented and section 68A remains in effect without any amendments. It is submitted that there is clear intent from Parliament for parliamentary departments to remain exempted from the operation of the FOI Act. Accordingly, I submit that it would not be in the public interest for APSC to release a document that would normally be excluded from the FOI process, if the request was made to DPS.

Notwithstanding the already significant public disclosure of information about the functions of DPS, it could be argued that there may be some limited public interest in the public having oversight over the effectiveness of the management of the Parliamentary Library and the performance of senior officers. However, It is submitted that any public benefit is limited because the Report represents a snapshot of just over half of the employees of the Research Branch. As discussed above, in the absence of other information, s47F [REDACTED]

It is submitted that the public benefit is outweighed by the public interest in:

- the ability of DPS, and to some extent other Commonwealth agencies, to effectively and efficiently manage its employees and to maintain the relationship of trust with its employees and senior management
- maintaining reasonably held expectations of confidentiality
- preserving Parliament's intent to exclude parliamentary departments from the operation of the FOI Act
- protecting individuals from unreasonable interference with their privacy
- s47F [REDACTED]
- s47F [REDACTED]

On balance, taking all the factors into account, it is submitted disclosure of the Report is contrary to the public interest.

Even though parts of the Report do not contain responses (e.g. the first 3 pages and the last 2 pages) the applicant is unlikely to want access to only those parts of the document that do not contain actual responses.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Rob Stefanic', with a long horizontal line extending to the right.

Rob Stefanic
Secretary

11 June 2020

MEMORANDUM OF UNDERSTANDING

**MEMORANDUM OF UNDERSTANDING IN RELATION TO FUNDING FOR THE
2018 APS EMPLOYEE CENSUS**

Between

The Australian Public Service Commission
ABN 99470863260

And

Department of Parliamentary Services

CONTENTS

1.	Term of MOU	1
2.	Conduct of MOU	2
3.	Invoicing, payment and receipt of funding	2
4.	Confidentiality and protection of personal information	3
5.	Termination of MOU or change in scope of census services	3
	Schedule—MOU Details	6

Date

This Memorandum of Understanding (MOU) is dated 21 February 2018

Parties

This MOU is made between the following parties:

1. **The Australian Public Service Commission ABN 99 470 863 260 (APSC)**
and
2. **Department of Parliamentary Services (Agency)**

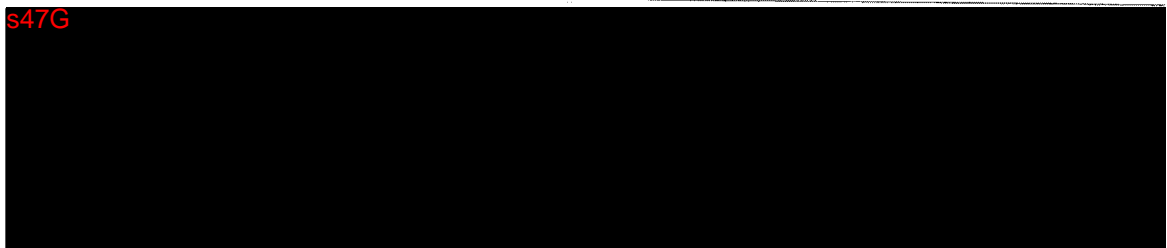
Context

APSC undertakes the annual APS employee census. This activity provides:

- a. Agencies with workforce data to inform their workforce planning programs and activities; and
- b. APSC with workforce data to inform the State of the Service Report and APS wide workforce initiatives.

Operative provisions

s47G



1. **Terms of MOU**

s47G



2. Conduct of MOU

s47G



3. Invoicing, payment and receipt of funding

s47G



4. Confidentiality and protection of personal information

s47G



5. Termination of MOU or change in scope of census services

s47G



MOU signature page

Signed for and on behalf of)
Department of Parliamentary Services)
by its duly authorised officer:)

s47F

Name of Agency's officer

s47F

Signature

In the presence of:

s47F

Name of witness

Signature of witness

Signed for and on behalf of APSC by)
its duly authorised officer:)

s47F

Signature

In the presence of:

s47F

Name of witness

Signature of witness

Selected service offer

s47G

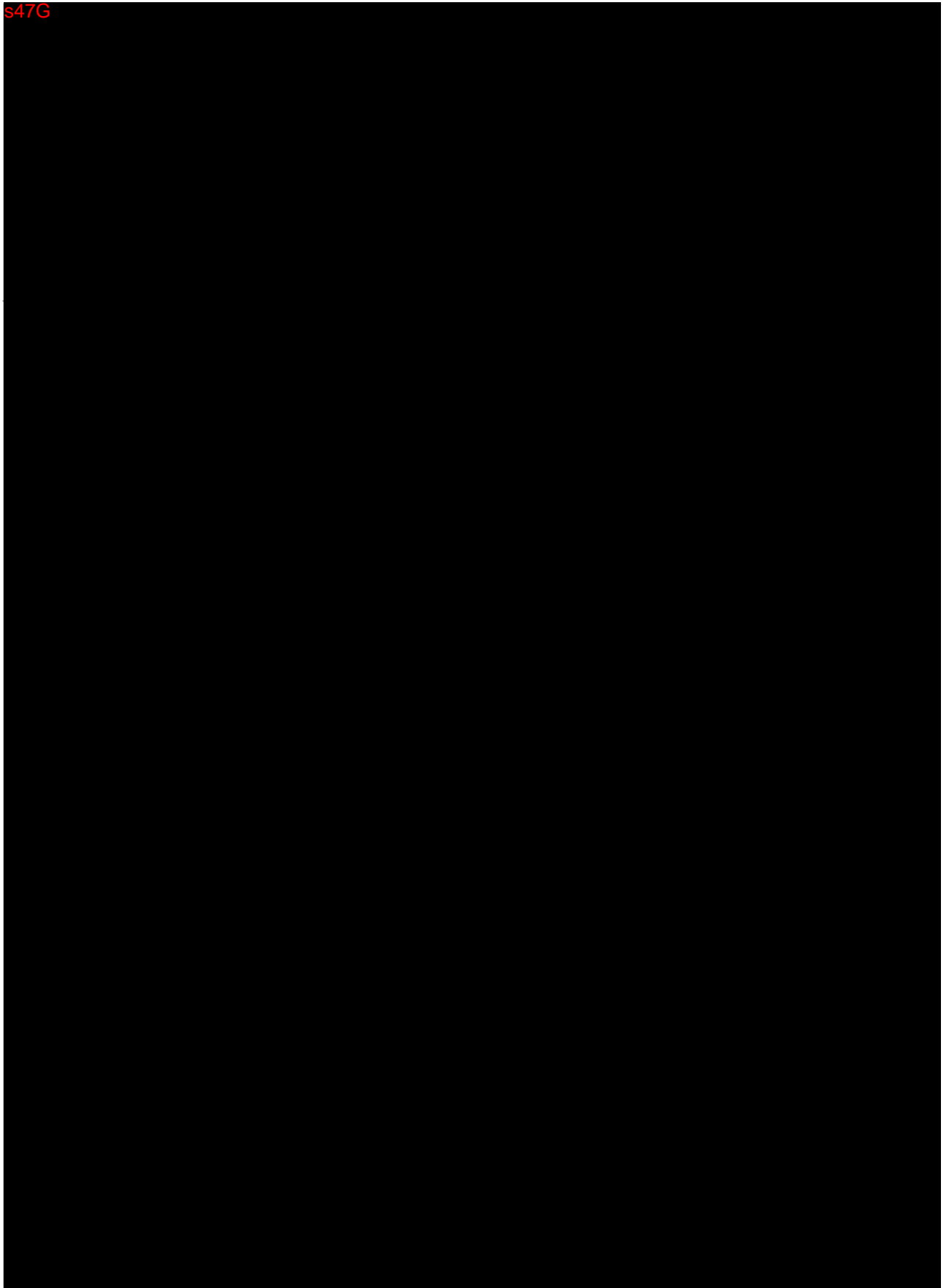


SCHEDULE—MOU DETAILS

s47G



s47G



s47G



From: [FOI](#)
To: s47F
Cc: [FOI](#)
Subject: Re: MR19/00055 IC review application [SEC=OFFICIAL]
Date: Monday, 15 June 2020 6:12:04 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[01 MR19-00055 APSC submissions.pdf](#)
[02 MR19-00055 DPS submissions.pdf](#)
[03 MR19-00055 personal information.pdf](#)
[04 MR19-00055 personal information.pdf](#)
[05 MR19-00055 personal information \(marked up\).pdf](#)
[06 MR19-00055 DPS MOU.PDF](#)
[image006.png](#)

OFFICIAL

Dear s47F

Thank you for providing your preliminary views on the Information Commissioner review application MR19/00055. We also thank you for granting an extension of time in which to respond to your request for further information.

Please find attached:

- further submissions by the Australian Public Service Commission (the Commission);
- further submissions by the Department of Parliamentary Services (DPS);
- submissions by two individuals consulted by the Commission;
- a marked up copy of the requested document showing specific categories of personal information;
- a memorandum of understanding for the provision of services by the Commission to DPS.

As noted in the attached submissions, we request that certain materials not be provided to the applicant because they contain personal information of third parties or other material that may be exempt from disclosure. Please consult the Commission, DPS and the individuals before disclosing these materials to the applicant.

The Commission has no objection to disclosure its own submissions to the applicant.

Please feel free to contact the Commission if you require any further information.

Regards

s47F
Legal Services

Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: s47F w: www.apsc.gov.au



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From: s47F [REDACTED] <s47F [REDACTED]@oaic.gov.au>

Sent: Monday, 18 May 2020 4:45 PM

To: FOI <FOI@apsc.gov.au>

Subject: MR19/00055 IC review application by Mr <applicant> - preliminary view [SEC=OFFICIAL]

OAIC reference: MR19/00055

Agency reference: C18/2356

Dear s47F [REDACTED]

Further to previous correspondence, please find my preliminary view to the APSC in this matter.

The APSC is invited to provide its response by **close of business on Monday 8 June 2020**.

The preliminary view refers to the applicant's submissions made on 2 January 2020. Please be advised the applicant provided the following submission to the OAIC.

In relation to the APSC's latest submission, including the letter from DPS, I make the following submissions:

- For the reasons set out in my original application for an IC review (Original Application), I dealt with the issues concerning personal privacy raised by the APSC at [5] below.
- The APSC's assertions about the legislative intent of the FOI Act and the Parliamentary Service Act are misguided ([7]-[9]). As per my Original Application, the FOI Act is not intended to apply only to the Executive Government. Moreover, there is no legislative ambiguity that would require recourse to consideration of legislative intent. The APSC's submission is effectively the untenable proposition that the Parliament legislated to amend the Parliamentary Service Act to exclude parliamentary departments from the scope of the FOI Act, but in doing so the Parliament did not clearly understand the Parliament's intent and enacted ambiguous drafting that did not give effect to the Parliament's intent. The various legislation has effect according to its plain meaning.
- The APSC's submissions at [10]-[14] directed at how the release of the document would impact on the operations of the APSC are strained and convoluted. There would be no material impact on the operations of the APSC because of the release of a document relating to one, potential comparator service (the Parliamentary service).
- The APSC's assertion at [11] that DPS would not participate in the Census in future years if this document were released is petulant and extraordinary, but does not raise any consideration relevant to the matters to be determined under the FOI Act. Moreover, contrary to the assertion by the APSC at [11] below, DPS is not an agency within the meaning of the FOI Act; therefore impacts on DPS must be disregarded.
- DPS is not a third party that is able to be consulted under the FOI Act. Accordingly, DPS's letter must be disregarded in its entirety. Even if DPS's letter is considered, my Original Application dealt with the various (and, in places, extraordinary) assertions made by DPS in the letter.

The *Direction as to certain procedures to be followed in IC reviews* referred to in the preliminary

view can be found on the [OAIC's website](#).

Should you wish to discuss any aspects of the preliminary view, I can be contacted on s47F [REDACTED].

Kind regards

s47F [REDACTED]



s47F [REDACTED] | Assistant Director
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
s47F [REDACTED] | margaret.sui@oaic.gov.au

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FOI

From: Heriot, Dianne (DPS) <Dianne.Heriot@aph.gov.au>
Sent: Thursday, 11 June 2020 5:59 PM
To: FOI
Subject: RE: Your personal information [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

OFFICIAL: Sensitive
Personal privacy

Dear s47F

I refer to your email asking for my views regarding the disclosure of the 2018 and 2019 Research Branch 'Highlights Reports' arising from the Australian Public Service Census.

s47F



Sincerely,

Dianne Heriot

From: FOI [mailto:FOI@apsc.gov.au]
Sent: Tuesday, 2 June 2020 2:14 PM
To: Heriot, Dianne (DPS)
Cc: FOI
Subject: Your personal information [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

OFFICIAL:Sensitive
Personal privacy

Dear Dr Heriot

I am writing to request your views about disclosure of two documents that could potentially disclose personal information about you.

The Australian Public Service Commission (the Commission) has received two freedom of information (FOI) requests for access to the Research Branch 'Highlights Report' arising from the Australian Public Service (APS) Census. The requested reports are the two most recent Highlights Reports generated in 2018 and 2019.

The Highlights Reports include aggregated survey responses by staff in the Research Branch of the Parliamentary Library. A number of the survey responses relate to opinions about the leadership of the Research Branch. As we understand it, the responses to these two questions relate only to two positions: the Parliamentary Librarian and the Assistance Secretary Research Branch. As the responses to these questions relate only to two individuals, disclosure of the responses could potentially involve the disclosure of personal information about you and/or the Assistant Secretary Research Branch.

Under section 47F of the *Freedom of Information Act 1982* (FOI Act), personal information in a document may be exempt from disclosure if disclosure would involve an unreasonable disclosure of the personal information. The

Commission would be grateful if you could advise whether you consider disclosure of the reports would involve an unreasonable disclosure of personal information about you.

If you feel that disclosure would involve an unreasonable disclosure of your personal information, your views will be taken into account by the decision maker in deciding on disclosure of the requested documents under the FOI Act. If, having regard to your views, the decision maker decides the information is not exempt from disclosure, you will have a right to seek review of the decision before the information is disclosed. You will be notified separately about your review rights should these circumstances arise.

We would be grateful if you could provide your views by **9 June 2020**.

Regards

s47F

Legal Services

Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: s47F w: www.apsc.gov.au



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FOI

From: Curtis, Jonathan (DPS) <Jonathan.C.Curtis@aph.gov.au>
Sent: Thursday, 11 June 2020 5:52 PM
To: FOI
Subject: RE: Your personal information [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

**OFFICIAL: Sensitive
Personal privacy**

Dear s47F

I refer to your email below and thank-you for the opportunity to provide my views on the two FOI requests.

s47F

[Redacted]

[Redacted]

[Redacted]

Yours sincerely,

Jonathan Curtis

Assistant Secretary Research Branch

Parliamentary Library

T: s47F | M: s47F | E: jonathan.c.curtis@aph.gov.au

Parliament House | PO Box 6000 | Canberra ACT 2600



PARLIAMENT OF AUSTRALIA

DEPARTMENT OF PARLIAMENTARY SERVI

From: FOI [mailto:FOI@apsc.gov.au]
Sent: Tuesday, 2 June 2020 2:14 PM
To: Curtis, Jonathan (DPS)
Cc: FOI
Subject: Your personal information [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

OFFICIAL:Sensitive
Personal privacy

Dear Mr Curtis

I am writing to request your views about disclosure of two documents that could potentially disclose personal information about you.

The Australian Public Service Commission (the Commission) has received two freedom of information (FOI) requests for access to the Research Branch 'Highlights Report' arising from the Australian Public Service (APS) Census. The requested reports are the two most recent Highlights Reports generated in 2018 and 2019.

The Highlights Reports include aggregated survey responses by staff in the Research Branch of the Parliamentary Library. A number of the survey responses relate to opinions about the leadership of the Research Branch. As we understand it, the responses to these two questions relate only to two positions: the Parliamentary Librarian and the Assistance Secretary Research Branch. As the responses to these questions relate only to two individuals, disclosure of the responses could potentially involve the disclosure of personal information about you and/or the Parliamentary Librarian.

Under section 47F of the *Freedom of Information Act 1982* (FOI Act), personal information in a document may be exempt from disclosure if disclosure would involve an unreasonable disclosure of the personal information. The Commission would be grateful if you could advise whether you consider disclosure of the reports would involve an unreasonable disclosure of personal information about you.

If you feel that disclosure would involve an unreasonable disclosure of your personal information, your views will be taken into account by the decision maker in deciding on disclosure of the requested documents under the FOI Act. If, having regard to your views, the decision maker decides the information is not exempt from disclosure, you will have a right to seek review of the decision before the information is disclosed. You will be notified separately about your review rights should these circumstances arise.

We would be grateful if you could provide your views by **9 June 2020**.

Regards

s47F

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Document 13

From: FOI
To: s47F
Subject: FW: MR19/00055 IC review application by Mr Daniel Weight - preliminary view [SEC=OFFICIAL]
Date: Monday, 25 May 2020 4:26:22 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[MR19-00055 Preliminary view to the APSC.pdf](#)

OFFICIAL

Hi s

As discussed, OAIC's preliminary view on disclosure of the DPS report is attached.

We (and Katrina) met with the Commissioner this afternoon and it is now likely the Commission will make further submissions maintaining its view that the report should be exempt.

FYI

s47F

From: s47F <s47F@oaic.gov.au>
Sent: Monday, 18 May 2020 4:45 PM
To: FOI <FOI@apsc.gov.au>
Subject: MR19/00055 IC review application by Mr Daniel Weight - preliminary view [SEC=OFFICIAL]

OAIC reference: MR19/00055

Agency reference: C18/2356

Dear s47F

Further to previous correspondence, please find my preliminary view to the APSC in this matter.

The APSC is invited to provide its response by **close of business on Monday 8 June 2020**.

The preliminary view refers to the applicant's submissions made on 2 January 2020. Please be advised the applicant provided the following submission to the OAIC.

In relation to the APSC's latest submission, including the letter from DPS, I make the following submissions:

- For the reasons set out in my original application for an IC review (Original Application), I dealt with the issues concerning personal privacy raised by the APSC at [5] below.
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- The APSC's submissions at [10]-[14] directed at how the release of the document would impact

on the operations of the APSC are strained and convoluted. There would be no material impact on the operations of the APSC because of the release of a document relating to one, potential comparator service (the Parliamentary service).

- The APSC's assertion at [11] that DPS would not participate in the Census in future years if this document were released is petulant and extraordinary, but does not raise any consideration relevant to the matters to be determined under the FOI Act. Moreover, contrary to the assertion by the APSC at [11] below, DPS is not an agency within the meaning of the FOI Act; therefore impacts on DPS must be disregarded.
- DPS is not a third party that is able to be consulted under the FOI Act. Accordingly, DPS's letter must be disregarded in its entirety. Even if DPS's letter is considered, my Original Application dealt with the various (and, in places, extraordinary) assertions made by DPS in the letter.

The *Direction as to certain procedures to be followed in IC reviews* referred to in the preliminary view can be found on the [OAIC's website](#).

Should you wish to discuss any aspects of the preliminary view, I can be contacted on s47F

Kind regards

s47F



s47F | Assistant Director
Freedom of Information
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
s47F | s47F@oaic.gov.au

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Document 14

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Document:	Brief Chronology
Matter:	MR19/00055 - s22 v Australian Public Service Commission
As at:	3 August 2021

Date	Action	Document
12 December 2018	APSC received FOI request for: <i>The 2018 APS Employee Census "Benchmark Report" (or the equivalent document, if the description has changed since 2017) relating to the Research Branch of the Department of Parliamentary Services.</i>	
-	Commission identified the APS Employee Census 2018, Highlights Report: Research Branch (the Report) as within scope. The Report is provided by the Commission to DPS under a fee-for-service.	0
20 December 2018	APSC consulted DPS in writing about disclosure of the requested document (APSC ref D19/1051)	
3 January 2019	DPS response to APSC consultation – includes undated letter from Rob Stefanic, Secretary DPS (APSC ref. D19/1051 – DPS ref. D19/1324).	0.1
11 January 2019	DPS consulted about extract of draft decision on FOI request. DPS response also 11/1/19 – Secretary has no concerns with proposed approach	
11 January 2019	Primary decision on FOI request – document exempt in full: <ul style="list-style-type: none"> Section 47 – commercially valuable information <ul style="list-style-type: none"> Document prepared under fee for service arrangement between APSC and DPS Paragraph 47E(d) – certain operations of agencies <ul style="list-style-type: none"> disclosure would adversely affect the operations of both DPS and the APSC Section 47F – personal privacy <ul style="list-style-type: none"> Disclosure would result in the unreasonable disclosure of personal information about employees in DPS 	1
16 January 2019	Applicant applied to OAIC for review of primary decision	2
17 April 2019	OAIC notified APSC of request for review and issued request for relevant documentation	3
7 May 2019	APSC notified DPS of OAIC review	
8 May 2019	Commission filed submissions to OAIC, agreeing with its refusal reasoning and further submitted disclosure of the report would also be exempt under 47C because it contained opinions and consultation for the purposes of a deliberative process of DPS.	4
8 May 2019	DPS provided courtesy copy of APSC submissions to OAIC	
8 May 2019	Australian Public Service Commissioner wrote to Secretary DPS to advise of Secretaries Board decision to publish agency-level APS Census results	
8 July 2019	Secretary DPS wrote to Australian Public Service Commissioner in response to letter of 8/5/19 to advise that DPS would publish its agency level results internally on its intranet site and would continue to consider whether the publish the results more broadly	5
7 November 2019	OAIC wrote to APSC advising preliminary view on application of paragraph 47E(d). OAIC invited further submissions from APSC.	
12 November 2019	APSC wrote to DPS notifying DPS of OAIC invitation for further submissions and invited discussion about handling of response to OAIC.	
15 November 2019	DPS asked APSC to seek extension to enable DPS to provide submissions to APSC	

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Legal privilege

18 November 2019	DPS asked APSC whether the January 2019 letter from the Secretary DPS had been provided to OAIC	
19 November 2019	APSC advised DPS that letter had not been provided to OAIC but APSC will provide letter with response to OAIC's request for additional submissions	
19 November 2019	OAIC grants extension of time to respond to request for additional submissions	
21 November 2019	DPS requested copy of OAIC request for additional submissions	
25 November 2019	Copy of OAIC request for additional submissions provided to DPS	
29 November 2019	DPS requested advice about APSC proposed response	
4 December 2019	DPS provided with copy of proposed revised redactions to requested document	
6 December 2019	DPS response to APSC proposed revised decision. Secretary DPS position remains that report should be exempt in full	
11 December 2019	APSC advised DPS that APSC decided against making revised decision. Copy of draft response to OAIC provided to DPS. DPS was advised that APSC submissions, including Secretary DPS's January 2019 letter, would be shared with applicant	
12 December 2019	DPS advised APSC that DPS had no concerns with proposed submissions to OAIC	
12 December 2019	APSC additional submissions provided to OAIC. Submissions included Secretary DPS's January 2019 letter to APSC	
12 December 2019	OAIC requested confirmation from APSC that Secretary DPS's letter could be shared with applicant	
12 December 2019	APSC advised OAIC that DPS expressed no concerns about letter being shared with applicant	
6 January 2020	OAIC advised APSC that applicant wishes to proceed to a decision by OAIC. Matter will now proceed to published decision by OAIC	
17 January 2020	APSC advised DPS of OAIC's notice that matter would proceed to decision by Information Commissioner	
18 May 2020	OAIC writes to the APSC providing preliminary view	
15 June 2020	APSC files to OAIC: <ul style="list-style-type: none"> • further submissions by the APSC; • further submissions by the DPS; • submissions by two individuals consulted by the APSC • a marked up copy of the requested document showing specific categories of personal information; • a memorandum of understanding for the provision of services by the Commission to DPS. 	7.1 – 7.6
24 February 2021	OAIC write to APSC requesting copies of s 54P notices it had provided to the third parties	
3 March 2021	APSC provide to OAIC s 54P notices	8.1 - 8.2
4 March 2021	OAIC agree to accept third parties' response to consultation in confidence.	