

## **Application of section 36**

As detailed in the response, the Commission's qualified person is of the view that the peer reviews are exempt from disclosure under Section 36(2)(b)(ii) of the Freedom of Information Act 2000 as disclosure would be likely to cause prejudice.

Section 36(2)(b)(ii) provides that information is exempt if in the reasonable opinion of the qualified person, disclosure of the information would, or would be likely to inhibit the free and frank exchange of views for the purposes of deliberation.

This is a qualified exemption so we are required to consider the public interest test.

### **Public arguments in favour of disclosing the requested information interest**

- There is a public interest in providing transparency in our research processes to demonstrate the validity of the results.
- There is a public interest in disclosing information which can inform public debate on important areas of research such as the prevalence of gambling.

### **Public interest arguments in favour of maintaining the exemption**

- It is in the public interest for the Commission to be able to call upon the advice and insight of external experts. If we were unable to offer anonymity, we would be impaired in our ability to do this.
- It is in the public interest that experts feel free to offer honest and impartial opinions and views. If these were subject to disclosure, experts would not be as candid in the sharing of opinions and views.
- The performance of peer reviews supports the Commission in getting the best value from research products. If this process were undermined by the reluctance of expert reviewers to carry out reviews or if those involved were less open and candid in putting views and opinions forward, this would not be in the public interest.

### **Balance of the public interest arguments**

There is a legitimate interest in openness and accountability around the work of the Commission.

There is also a public interest in disclosure of information which will inform public debate on important issues such as the prevalence of gambling. Releasing reviewer comments would not further these interests to any degree in addition to the published research.

We are of the view that there is a very strong public interest in the Commission being able to seek the views and opinions of external experts, and that those views and opinions are shared as openly, honestly and candidly as possible. If we were unable to do this, this would impact on the quality of important research products which is clearly to the detriment of the public interest.

In this case, we are of the view that the public interest in favour of maintaining the exemption outweighs the public interest in disclosure.