



22 May 2023

Our reference: LEX 73213

Centrelink Customer
Right to Know

By email: foi+request-10026-647b17fd@righttoknow.org.au

Dear Centrelink Customer

Freedom of Information Request - Internal Review Decision

I refer to your request for internal review of the Freedom of Information (FOI) decision made by an authorised decision maker of Services Australia (the Agency) under the *Freedom of Information Act 1982* (FOI Act) on 18 April 2023 (LEX 72293) (the original decision).

Background

On 5 March 2023, you made a request under the FOI Act for the following documents:

I request a copy of operational blueprints relating to Section 24, such as:
110-19111307
106-07120080

On 18 April 2023, the decision maker decided to:

- grant you **part access** to two documents (Documents 1 and 2) with some of the content removed

On 21 April 2023, you sought internal review of the original decision, stating:

Incomplete Headings:

First, a minor point: there are some incomplete headings in the document (ending with "Read more..."). Could you please provide those? I am content to receive this in a separate document if it is the only additional material you choose to provide.

Request for Review:

Second, I am requesting a review of your decision regarding the exempted sections on pages 29-30.

While I understand your concerns and support efforts to protect processes against circumvention, I believe that these omitted sections are particularly relevant for release under public interest, as they appear to relate to processes for ensuring procedural fairness. This can be inferred from the fact that these omitted sections are preceded by "each case must be based on its own merit..." and followed by "...This determination is a process of weighing all the facts."

It seems only fair that honest individuals can review these processes to ascertain whether they have been assessed in accordance with procedural fairness. Given that section 24 applies to the most vulnerable customers, it is even more crucial that they are empowered to identify and challenge flaws in section 24 decisions affecting them.

In considering the release of this section, please take into account:

1) Difficulty in circumventing evidentiary requirements: The eligibility and assessment processes of section 24 require detailed evidence, making it difficult for individuals to manipulate the system even with more detailed knowledge of the assessment process. The fundamental eligibility criteria, such as assessment of financial hardship, are already disclosed. Moreover, the most dishonest customers could circumvent the entire process simply by not disclosing their partnered status. Therefore, it is unclear how publishing a section related to procedural fairness would meaningfully aid dishonest customers. On the contrary, any additional emphasis on the consideration of their entire circumstances may serve to discourage them.

2) Public interest and procedural fairness: Honest customers are most affected by the lack of disclosure, as they need to understand the process to provide necessary and relevant information to substantiate their claims and to identify and challenge decision-making errors, oversights, or procedural fairness issues. Disclosing the assessment process promotes transparency and procedural fairness in keeping with the objectives of the Act.

3) Efficient service provision and reduced burden on the agency: By disclosing the assessment process, customers can self-assess their eligibility, potentially reducing the workload on the agency by decreasing the number of submitted cases and/or increasing the decision-readiness of such cases, streamlining the process.

4) Reducing incorrect decisions and appeals: Disclosure enables customers to better present their cases, reducing the likelihood of incorrect decisions and subsequent appeals, alleviating the burden on the review system.

5) Please explore alternative options for release, such as:

- Redacting only the most sensitive parts while preserving the overall understanding of the assessment process.
- The agency could add a separate, exempt section that provides guidance on potential misuse detection.

I hope you agree to release additional parts of pages 29-30 to help ensure that honest customers have access to the information they need to understand and navigate the assessment process while still safeguarding the agency's ability to detect and prevent misuse.

On 3 May 2023 you requested to expand the scope of your review request as follows:

could you please expand the scope of my review request to include the following:

- Material requested in my review request dated 21 April 2023
- The section: Partner visas and section 24 - Page 7
- Item/Scenario 12 in Table 1 - Page 34
- The three sections on Page 53 and the section at the top of page 54

Please also review the public interest factors I mentioned in my review request 21 April 2023, so that a balance is struck between helping ensure that vulnerable customers have access to the information they need to understand and navigate the

assessment process while still safeguarding the agency's ability to detect and prevent circumvention of the process.

On the same day, 3 May 2023 you requested to further expand the scope of your review request to include:

please consider if the information at the bottom of page 8 can be released, or be released in part.

Summary of my internal review decision

Having considered the material before me, I have decided to affirm the original decision. That is, I have decided to:

- grant you **part access** to 2 documents (Documents 1 and 2) with some of the content removed.

I have decided that certain documents, or parts of documents, you have requested are exempt under the FOI Act, as they include:

- operational information, the disclosure of which would be contrary to the public interest and have a serious or significant effect on the Agency's ability to conduct its operations efficiently and properly.

Please see the schedule at [Attachment A](#) to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

How we will send your documents to you

The documents are attached.

You can ask for a review of our decision

If you disagree with any part of the decision you can ask for a review by the Office of the Australian Information Commissioner. See [Attachment B](#) for more information about how to request a review.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@servicesaustralia.gov.au.

Yours sincerely

Amanda
Authorised FOI Decision Maker
Freedom of Information Team
FOI and Ombudsman Branch | Legal Services Division
Services Australia



SCHEDULE OF DOCUMENTS FOR RELEASE
INTERNAL REVIEW – Centrelink Customer (Right to Know) – LEX 73213– LEX 72239

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1.	1-37	7 March 2023	Treatment of a partnered person as single under Section 24 new determinations 106-07120080	Release in part	s 47E(d)	Operational information redacted under s 47E(d) Out of scope information deleted under s 22
2.	38-56	6 February 2023	Member of a couple reviews – Section 24 110-19111307	Release in part	s 47E(d)	Operational information redacted under s 47E(d) Out of scope information deleted under s 22

REASONS FOR DECISION

What you requested

On 5 March 2023 you wrote to the Agency to make a FOI request in the following terms:

I request a copy of operational blueprints relating to Section 24, such as:
110-19111307
106-07120080

On 18 April 2023, the Agency provided you with the original FOI access decision, to

- grant you **part access** to 2 documents (Documents 1 and 2) with some of the content removed

Your request for internal review

In your correspondence to the Agency dated 21 April 2023, and received by the Agency on the same day, you requested an internal review of the original decision. You submitted the following reasons for seeking internal review:

Incomplete Headings:

First, a minor point: there are some incomplete headings in the document (ending with "Read more..."). Could you please provide those? I am content to receive this in a separate document if it is the only additional material you choose to provide.

Request for Review:

Second, I am requesting a review of your decision regarding the exempted sections on pages 29-30.

While I understand your concerns and support efforts to protect processes against circumvention, I believe that these omitted sections are particularly relevant for release under public interest, as they appear to relate to processes for ensuring procedural fairness. This can be inferred from the fact that these omitted sections are preceded by "each case must be based on its own merit..." and followed by "...This determination is a process of weighing all the facts."

It seems only fair that honest individuals can review these processes to ascertain whether they have been assessed in accordance with procedural fairness. Given that section 24 applies to the most vulnerable customers, it is even more crucial that they are empowered to identify and challenge flaws in section 24 decisions affecting them.

In considering the release of this section, please take into account:

1) Difficulty in circumventing evidentiary requirements: The eligibility and assessment processes of section 24 require detailed evidence, making it difficult for individuals to manipulate the system even with more detailed knowledge of the assessment process. The fundamental eligibility criteria, such as assessment of financial hardship, are already disclosed. Moreover, the most dishonest customers could circumvent the entire process simply by not disclosing their partnered status. Therefore, it is unclear how publishing a section related to procedural fairness would

meaningfully aid dishonest customers. On the contrary, any additional emphasis on the consideration of their entire circumstances may serve to discourage them.

2) Public interest and procedural fairness: Honest customers are most affected by the lack of disclosure, as they need to understand the process to provide necessary and relevant information to substantiate their claims and to identify and challenge decision-making errors, oversights, or procedural fairness issues. Disclosing the assessment process promotes transparency and procedural fairness in keeping with the objectives of the Act.

3) Efficient service provision and reduced burden on the agency: By disclosing the assessment process, customers can self-assess their eligibility, potentially reducing the workload on the agency by decreasing the number of submitted cases and/or increasing the decision-readiness of such cases, streamlining the process.

4) Reducing incorrect decisions and appeals: Disclosure enables customers to better present their cases, reducing the likelihood of incorrect decisions and subsequent appeals, alleviating the burden on the review system.

5) Please explore alternative options for release, such as:

- Redacting only the most sensitive parts while preserving the overall understanding of the assessment process.
- The agency could add a separate, exempt section that provides guidance on potential misuse detection.

I hope you agree to release additional parts of pages 29-30 to help ensure that honest customers have access to the information they need to understand and navigate the assessment process while still safeguarding the agency's ability to detect and prevent misuse.

On 3 May 2023 you requested to expand the scope of your review request as follows:

could you please expand the scope of my review request to include the following:

- Material requested in my review request dated 21 April 2023
- The section: Partner visas and section 24 - Page 7
- Item/Scenario 12 in Table 1 - Page 34
- The three sections on Page 53 and the section at the top of page 54

Please also review the public interest factors I mentioned in my review request 21 April 2023, so that a balance is struck between helping ensure that vulnerable customers have access to the information they need to understand and navigate the assessment process while still safeguarding the agency's ability to detect and prevent circumvention of the process.

On the same day, 3 May 2023 you requested to expand the scope of your review request to include:

please consider if the information at the bottom of page 8 can be released, or be released in part.

What I took into account

In reaching my decision I took into account:

- your original request dated 5 March 2023

- the original decision dated 18 April 2023
- your request for internal review dated 21 April 2023
- your correspondence, both of which were received on 3 May 2023 expanding the scope of your review request
- documents falling within the scope of your request
- whether the release of material would be in the public interest
- consultations with Agency officers about:
 - the nature of the documents
 - the Agency's operating environment and functions
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (Guidelines), and
- the FOI Act.

Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act, including internal review decisions under section 54C of the FOI Act.

I have decided certain parts of the documents you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that the exemption applies to the documents are discussed below.

Incomplete Headings

I note that you have referred to the phrase “Read More...” which occurs throughout Documents 1 and 2 (being Operational Blueprints of the Agency). The Operational Blueprints are an online resource available to Agency staff via the Agency’s intranet. The online version of the Operational Blueprints allows a user to select ‘Read More’ to expand the page and read further information. When the document is printed and being prepared by the relevant business area for the FOI team to consider an FOI request, the full copy retains the phrase “Read More...” despite all of the information, including information contained in expanded form when an Agency staff member selects ‘Read More’, being displayed in Documents 1 and 2. Therefore there is no further information that can be provided to you.

Section 47E(d) - Operations of the Agency

I have considered your internal review request with respect to the information redacted under section 47E(d) of the FOI Act. I note that you are seeking review of the decision to remove some of the information on pages 7, 8, 29, 30, 34, 53 and 54 under section 47E(d) of the FOI Act. I have therefore only considered those parts of the original decision in the consideration of your request for internal review.

Section 47E(d) of the FOI Act provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Paragraph 5.20 of the Guidelines provides:

The term 'substantial adverse effect' broadly means 'an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person'. The word 'substantial', taken in the context of substantial loss or damage, has been interpreted as 'loss or damage that is, in the circumstances, real or of substance and not insubstantial or nominal'.

In *Re James and Australian National University* (1984) 6 ALD 687 the phrase 'conduct of operations' was interpreted to extend 'to the way in which an agency discharges or performs any of its functions.'

Paragraphs 6.121 of the Guidelines further states:

Examples of circumstances where the AAT has upheld the exemption include where it was established that:

- disclosure of the Australian Electoral Commission policies in relation to the accepted reasons for a person's failure to vote in a Federal election would result in substantial changes to their procedures to avoid jeopardising the effectiveness of methods and procedures used by investigators
- disclosure of information provided by industry participants could prejudice the Australian Competition and Consumer Commission's ability to investigate anti-competitive behaviour and its ability to perform its statutory functions
- disclosure of the Universal Resource Locators (URLs) and Internet Protocols (IPs) of internet content that is either prohibited or potentially prohibited content under Schedule 5 to the Broadcasting Services Act 1992 could reasonably be expected to affect the Australian Broadcasting Authority's ability to administer a statutory regulatory scheme for internet content to be displayed.

I have applied the exemption in section 47E(d) of the FOI Act to parts of Documents 1 and 2 as they contain internal Agency investigation procedures as well as information relating to when a decision maker has a discretion when making a decision under section 24, including in relation to special circumstances.

Having regard to the above, I am satisfied that information contained in the documents is relevant to the assessment, implementation, delivery and management of a program administered by the Agency, and therefore is relevant to the conduct of the Agency's operations.

Specifically, releasing internal investigation procedures and decision maker discretion considerations in Documents 1 and 2 would have a substantial adverse effect on the proper and efficient conduct of the operations of the Agency. In particular, I consider the release of the exempted material, which is not publicly available, has the real potential to enable individuals who are in receipt of income support payments, or are applying for such a payment, to circumvent the equitable provision of Government services.

While I have no reason to believe you would misuse the exempt material in any way, the FOI Act does not control or restrict use or dissemination of the information once released in

response to an FOI request, so I must consider actions any member of the public might take once the information enters the public domain.

For reasons detailed above, I am satisfied that internal Agency investigation procedures as well as information relating to when a decision maker has a discretion when making a decision under section 24 of the *Social Security Act 1991* are conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act provides:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act.

I have also considered the relevant factors indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- increase the likelihood that customers will be able to circumvent the eligibility and assessment criteria of a government program
- prejudice the Agency's ability to properly and efficiently deliver services to the public in the most equitable way
- prejudice the government program's integrity.

Based on the above public interest factors, I am satisfied that the public interest in disclosing the conditionally exempt parts of Documents 1 and 2 is outweighed by the public interest against disclosure of the conditionally exempt material. This is because I consider there is a persuasive public interest in ensuring that the Agency is able to efficiently provide services to the Australian public.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

Summary of my decision

I have decided to:

- grant you **part access** to 2 documents (Documents 1 and 2) with some of the content removed

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information decision

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of an Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under section 54L of the FOI Act, you can apply for a review of an FOI decision by contacting the Office of the Australian Commissioner.

Applying for external review by the Australian Information Commissioner

If you do not agree with the internal review decision, you can ask the Australian Information Commissioner to review the decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Services Australia decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the agency's decision.

Complaints to the Australian Information Commissioner and Commonwealth Ombudsman

Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.