



1 June 2023

Our reference: LEX 73338

Tex

Only by email: foi+request-10213-f84cfd50@righttoknow.org.au

Dear Tex,

Decision on your Freedom of Information Request

I refer to your request, received by Services Australia (the Agency) on 2 May 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

I request, under the Freedom of Information Act 1982 a copy of the following document:

Operational Blueprint article 'myGov Code Generator app 133-17111700'

This includes all three "tabs" on the page -

"Background", "Process", "Training and Support".

My decision

The Agency holds 1 document (totalling 7 pages) that relates to your request.

I have decided to grant you **part access** to 1 document with some of the content removed.

I have decided that parts of the document that you requested are exempt under the FOI Act because they contain operational information, the disclosure of which would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Agency and release would be contrary to the public interest.

Please see the schedule at **Attachment A** to this letter for a detailed document list 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. There are two ways you can do this. You can ask for an internal review from within the Agency, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for a review of the decision. 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

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



SCHEDULE OF DOCUMENTS FOR RELEASE
Tex (Right to Know) - LEX 73338

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1.	1 - 7	22 Apr 2023	myGov Code Generator app 133-17111700	Partial release	s47E(d)	Operational information deleted under s47E(d)



REASONS FOR DECISION

What you requested

I request, under the Freedom of Information Act 1982 a copy of the following document:

Operational Blueprint article 'myGov Code Generator app 133-17111700'

This includes all three "tabs" on the page -

"Background", "Process", "Training and Support".

What I took into account

In reaching my decision I took into account:

- your original request dated 2 May 2023
- the documents that fall within the scope of your request
- whether the release of material is 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 (the Guidelines); and
- the FOI Act.

Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

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

Section 47E(d) of the FOI Act – adverse effect on the proper and efficient conduct of the operations of an agency

I have applied the conditional exemption in section 47E(d) to document 1.

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

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.

Proper and efficient conduct of the operations of an agency

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

Document 1 contains information relating to the myGov Code Generator app, which creates a one-time access code for users to sign in to their myGov account. I am satisfied that information contained in the document is relevant to the delivery and management of a function administered by the Agency, and therefore is relevant to the conduct of the Agency's operations.

Reasonable expectation of a substantial adverse effect

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* it was held that the term 'substantial adverse effect' meant that the effect had to be 'serious' or 'significant'. Further, paragraph 6.101 of the Guidelines provides:

... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

Document 1 contains information about Agency computer systems and data. I am satisfied there is a possibility of real harm resulting from release as the documents contain information about the Agency's cyber operations and environment. Disclosure of this information creates the real risk of third party actors gaining insight into the Agency systems and architecture, and exploiting this knowledge for malicious purposes.

The FOI Act does not control or restrict any subsequent use or dissemination of the information. Whilst I am not suggesting you would misuse the information, I must consider the release of these documents could reasonably be expected to facilitate and/or promote circumvention of the Agency's efforts to prioritise its provision of services on the basis of need and vulnerability and to maintain a secure cyber environment and secure computer systems. If this occurred, it would result in a real and substantial compromise the Agency's operations in prioritising claims effectively, maintaining a secure computer system and discharging its statutory obligations consistent with the objects of social security law.

For reasons detailed above, I am satisfied that parts of Document 1 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 prejudice to the confidentiality, integrity and availability of the Agency's systems and data.

Based on the above public interest factors, I am satisfied that the public interest in disclosing the conditionally exempt parts of Document 1 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.

Conclusion

In summary, I am satisfied that parts of the document, as set out in the Schedule, are conditionally exempt under section 47E(d) of the FOI Act. Furthermore I have decided that on balance it would be contrary to the public interest to release this information. Accordingly I have decided not to release the document in full to you.

As identified in the Schedule, I have deleted the exempt information in the documents and released the remaining material in accordance with section 22(1) of the FOI Act.

Summary of my decision

In conclusion, I have decided to grant you part access to 1 document.

I have decided that document 1 is conditionally exempt in part, under section s47E(d) of the FOI Act, and disclosure would be contrary to the public interest for the purposes of section 11A(5).



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information (FOI) 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 a FOI 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 sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in Services Australia (the Agency), and/or
2. the Australian Information Commissioner.

Note 1: There are no fees for these reviews.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the Agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter, and
- sent to the address at the top of the first page of this letter.

Note 2: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

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

If you do not receive a decision from an Internal Review Officer in the Agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI 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

Note 3: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

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.