



## Australian Government

### Department of Health and Aged Care

Reference: FOI 4400

J S

By email: [foi+request-10205-e65bf71b@righttoknow.org.au](mailto:foi+request-10205-e65bf71b@righttoknow.org.au)

Dear J S,

#### Your Freedom of Information request

I refer to your request of 8 May 2023 to the Department of Health and Aged Care ('the department'), made under the *Freedom of Information Act 1982 (Cth)* ('FOI Act'):

*Can the Minister's Office or Department of Health please advise on what dates the following three organisations were advised of 60 day dispensing being included in the budget and what, if any, consultation was undertaken with these groups and on what dates:*

- *Pharmaceutical Society of Australia (peak pharmacist body in Australia)*
- *Pharmacy Guild of Australia (employers organisation representing pharmacy owners)*
- *Royal Australian College of General Practitioners (peak body for GPs in Australia)*

*Can you also please advise any analysis, if any, that was undertaken to see financial impact to pharmacies of this policy, as well as any analysis showing benefits to the public and paying consumers.*

#### Background

The FOI Act provides a right to obtain access to a document of an agency, unless the document is exempt. The right of access under the FOI Act is to existing documents, rather than to information. Although a request may be framed by reference to a document that contains particular information, the right of access provided for under the FOI Act is to existing documents held by the agency.

The FOI Act does not require an agency to provide information in answer to questions, outside the requirements to process and respond to a request to obtain access to a document.

The right to obtain access to documents under the FOI Act also does not apply to all documents that are in the possession of the agency. The FOI Act does not apply to documents that are open to public access under other arrangements (see s 12(1) of the FOI Act and paragraph 2.60 of the guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act).

To assist you, the department can advise that the Pharmacy Guild of Australia (the Guild) was first alerted to consideration of the policy of 60 day dispensing in 2018. Consultation with the Guild commenced ahead of the 2023-24 Budget on 28 March 2023.

In relation to relevant analysis, I refer you to 'Lowering the Costs of Medicines through Changes to Maximum Dispensing Quantities' published by the Office of Impact Analysis: <https://oia.pmc.gov.au/published-impact-analyses-and-reports/lowering-costs-medicines-through-changes-maximum-dispensing>

### **Freedom of Information decision**

I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests. I am writing to notify you of my decision on your request.

I have decided to refuse your request in accordance with subsection 24A(1) of the FOI Act, as the department does not hold the documents you have requested.

The reasons for my decision are set out in **ATTACHMENT A**.

### **Legislative provisions**

The FOI Act, including the provisions referred to in my decision, are available on the Federal Register of Legislation website: [www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562).

### **Your review rights**

I have set out your review rights at **ATTACHMENT B**.

### **Contacts**

If you require clarification of any matters discussed in this letter you can contact the FOI Section on (02) 6289 1666 or at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Yours sincerely,



### **Jerome Boland**

Acting Assistant Secretary  
Technology Assessment and Access Division

13 July 2023

REASONS FOR DECISION  
FO 4400

**1. Material taken into account**

In making my decision, I had regard to the following:

- the FOI Act
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines)
- the terms of your FOI request as outlined above
- the content of the documents sought, and
- advice from departmental officers with responsibility for matters relating to the documents sought.

**2. Reasons for decision**

In making my decision, I have had regard to the following:

- the FOI Act
- Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines)
- the terms of your FOI request as outlined above, and
- advice from departmental officers with responsibility for matters relating to the documents sought.

The right to request access to a document in accordance with the FOI Act relates to documents in the possession of the department (see definition of 'document of an agency' in s 4 of the FOI Act).

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document if:
  - (a) all reasonable steps have been taken to find the document, and
  - (b) the agency or Minister is satisfied that the document:
    - (i) is in the agency's or Minister's possession but cannot be found, or
    - (ii) does not exist.

The relevant business area within the department has conducted searches of the department's information holdings. No discrete documents matching the description in your request were identified as being in the possession of the department. Based on these searches, I am satisfied that all reasonable steps have been taken to find the documents and the documents cannot be located or do not exist in the possession of the department.

I am refusing your request in accordance with subsection 24A(1) of the FOI Act as the department does not hold the documents you have requested.

## ATTACHMENT B.

### YOUR REVIEW RIGHTS

If you are dissatisfied with my decision, you may apply for a review.

#### **Internal review**

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision-maker.

No particular form is required to apply for review although it will assist your case to set out the grounds on which you believe that the original decision should be changed.

Applications for internal review can be made by:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)  
Mail: FOI Unit (MDP 516)  
Department of Health  
GPO Box 9848  
CANBERRA ACT 2601

If you choose to seek an internal review, you will also have a right to apply for Information Commissioner review (IC review) of the internal review decision once it has been provided to you.

#### **Information Commissioner review or complaint**

You also have the right to seek Information Commissioner (IC) review of this decision. For FOI applicants, an application for IC review must be made in writing within 60 days of the decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify the Department of Health and Aged Care as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at [www.oaic.gov.au/freedom-of-information/reviews-and-complaints/](http://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/)
- via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.

More information about the Information Commissioner reviews and complaints is available on the OAIC website here: [www.oaic.gov.au/freedom-of-information/foi-review-process](http://www.oaic.gov.au/freedom-of-information/foi-review-process).

## **Complaint**

If you are dissatisfied with action taken by the department, you may also make a complaint directly to the department.

Complaints to the department are covered by the department's privacy policy. A form for lodging a complaint directly to the department is available on the department's website here: [www.health.gov.au/about-us/contact-us/complaints](http://www.health.gov.au/about-us/contact-us/complaints)