



Australian Government

Department of Health

Department Reference: FOI 198-1718

Mr Antony Scholefield

By email : foi+request-4352-c0201aff@righttoknow.org.au

Dear Mr Scholefield

NOTICE OF DECISION

I refer to your request of 1 February 2018 to the Minister for Health seeking access under the *Freedom of Information Act 1982* (FOI Act) to:

'the final report of the 'Review of Pharmacy Remuneration and Regulation', colloquially known as 'the King Review.'

Your request was transferred to the Department of Health (the Department) under section 16 of the FOI Act.

I am writing to advise you of my decision.

Decision

I am authorised under section 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 identified one document falling within the terms of your request. This document is set out in the schedule at Attachment A.

I have decided to refuse access to the document.

My reasons for this decision are set out at Attachment B.

Review rights

If you are dissatisfied with my decision, you may apply for an internal review or Australian Information Commissioner (Information Commissioner) review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this notice (or such further period as the Department allows). Where possible please provide reasons why you consider review of the decision is necessary. The internal review will be carried out by another officer of this Department within 30 days. An application for an internal review should be addressed to:

Email: FOI@health.gov.au

OR

Mail: FOI Unit (MDP 41)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Information Commissioner Review

Under section 54L of the FOI Act, you may apply to the Information Commissioner to review my decision. An application for review must be made in writing within 60 days of this notice (if you do not request an internal review).

The Australian Information Commissioner can be contacted by:

Email: enquiries@oaic.gov.au

Phone: 1300 363 992

More about the Information Commissioner review is available on the Office of the Australian Information Commissioner (OAIC) website at <http://www.oaic.gov.au/freedom-of-information/requesting-a-review>

You may also make a complaint to the Information Commissioner about action taken by the Department in relation to your application. Further information can be obtained from the OAIC website.

Relevant provisions

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:
<https://www.legislation.gov.au/Details/C2018C00016>

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the Freedom of Information team on (02) 6289 1666.

Yours sincerely



Natasha Ploenges
Acting Assistant Secretary
Private Health Insurance and Pharmacy Branch

01 March 2018

SCHEDULE OF DOCUMENTS - FOI 198-1718

ATTACHMENT A

Doc. No.	No. of Pages	Date	Author	Addressee	Description of Document	Decision ¹	Portion Exempt
1	142	September 2017	Department of Health	Department of Health	Final Report - Review of Pharmacy Remuneration and Regulation	E	s47C Whole document

¹ E = Exempt in Full

ATTACHMENT B

REASONS FOR DECISION

Material taken into account

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

- the terms of your request;
- the content of the documents to which you sought access;
- advice from departmental officers with responsibility for matters relating to the documents to which you sought access;
- submissions from third parties
- the relevant provisions of the FOI Act; and
- guidelines issued by the Australian Information Commissioner under s93A of the FOI Act.

Finding of facts and reasons for decision

My findings of fact and reasons for deciding that the exemption in section 47C of the FOI Act applies to the document are set out below.

Section 47C – deliberative process

The FOI Act provides that *'a document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of... (a) an agency; or (b) a Minister; or (c) the Government of the Commonwealth.'* (s47C(1)).

The document contains deliberative matter in the form of opinion, advice and recommendations on future remuneration, regulation and other arrangements that apply to pharmacy and wholesalers for the dispensing of medicines and services provided under the Pharmaceutical Benefits Scheme. The final report was developed following further consultations and submissions received in response to an interim report previously published by the Department.

The Department is currently considering the advice, opinion and recommendations contained in the final report.

I am satisfied that the release of the document would disclose deliberative matter within the meaning of s47C of the FOI Act.

Section 47C is a conditional exemption. Pursuant to s11A(5) of the FOI Act, the Department is required to give access to a conditionally exempt document unless access at that time would, on balance, be contrary to the public interest.

In considering whether disclosure would be in the public interest, I considered, on the one hand, that disclosure of the document would promote the objects of the FOI Act and disclosure would provide the Australian people with access to government information.

I also considered the public interest factors against disclosure:

- Disclosure could reasonably be expected to inhibit the effectiveness of the Department's deliberations and decision-making processes
- Disclosure could prejudice the Department's advisory functions
- Disclosure prior to the completion of the Department's deliberations would inhibit the Government's future deliberation on the issue.

I am satisfied that the public interest factors against disclosure outweigh those in favour of disclosure. I have therefore determined that giving access to the information in the document at this time would, on balance, be contrary to the public interest. The document is therefore exempt under s31B(b) of the FOI Act.