



**Australian Government**  

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**Specialist Medical Review Council**

Thursday, 27 September 2018

Mrs Julie Anderson

By email: [cdjmanderson@bigpond.com](mailto:cdjmanderson@bigpond.com); [foi+request-4794-7dc69d92@righttoknow.org.au](mailto:foi+request-4794-7dc69d92@righttoknow.org.au)

Dear Mrs Anderson

**Decision on your Freedom of Information request 0818**

I refer to your request received by the Specialist Medical Review Council (the **SMRC**) on 7 August 2018 for access to documents under the *Freedom of Information Act 1982* (the **FOI Act**). On 13 September 2018, following a formal consultation with the SMRC, you revised your request to seek access to the following documents:

“copies of all minutes of the SMRC in relation to CWI and GWS decision.”

On 17 September 2018, you agreed to 14 days extension of time to process your request under section 15AA of the FOI Act.

**My decision**

The SMRC holds 10 documents (totalling 31 pages) that relate to your request.

I have decided to:

- grant you **full access** to one document (document 6); and
- grant you **part access** to nine documents (documents 1-5 and 7-10) with some of the content removed.

I have decided that parts of the documents that you have requested are exempt under the FOI Act as they include personal information as they contain personal information of third parties, the disclosure of which would be unreasonable and contrary to the public interest at this time (section 47F(1) conditional exemption).

Please see the schedule at **Attachment A** to this letter for the reasons for my decision, including the relevant section 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 SMRC, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for reviews of decisions. See **Attachment B** for more information about how to arrange a review.

**Further assistance**

If you have any questions please email [jan.bowman@smrc.gov.au](mailto:jan.bowman@smrc.gov.au)

Yours sincerely

A handwritten signature in blue ink that reads "Jan Bowman". The signature is written in a cursive style with a large, looping initial 'J'.

Jan Bowman  
Registrar  
Authorised FOI Decision Maker

## REASONS FOR DECISION

### What you requested

On 13 September 2018, following a formal consultation with the SMRC, you revised your request to seek access to the following documents:

“copies of all minutes of the SMRC in relation to CWI and GWS decision.”

### What I took into account

In reaching my decision I took into account:

- your original request dated 7 August 2018 and your revised request made on 13 September 2018 in response to our formal consultation letter dated 30 August 2018;
- the documents that fall within the scope of your request;
- whether the release of material is in the public interest;
- consultations with other departmental officers about:
  - the nature of the documents;
  - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**);
- the FOI Act.

### Reasons for my decisions

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

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

#### Section 47F of the FOI Act - unreasonable disclosure of personal information

I have applied the conditional exemption in section 47F(1) to parts of documents 1-5 and 7-10.

Section 47F of the FOI Act relevantly provides:

- “(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
- (a) the extent to which the information is well known;
  - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;

- (c) the availability of the information from publicly accessible sources;
- (d) any other matters that the agency or Minister considers relevant.”

### *Personal Information*

The term 'personal information' is defined as follows:

“...information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.”

Paragraph 6.130 of the Guidelines provides:

“Personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.”

I find that parts of documents 1-5 and 7-10 contain personal information of other people. This includes personal email address and signature.

### *Whether disclosure is 'unreasonable'*

In addition to the factors specified in section 47F(2) of the FOI Act, paragraph 6.138 of the Guidelines provides:

“The personal privacy exemption is designed to prevent the unreasonable invasion of third parties' privacy. The test of 'unreasonableness' implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.”

I am satisfied that the disclosure of the third party personal information would be unreasonable for the following reasons:

- it relates to aspects of an individual's personal affairs;
- you do not have the consent from this individuals for the release of their personal information;
- the information is private and not available in full or in part from publicly-accessible sources; and
- the identity of the individuals concerned is readily apparent or could be easily ascertained;

On this basis, I have decided that the personal information included in documents 1-5 and 7-10 as referred to in the Schedule is conditionally exempt under section 47F(1) 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; and
- allow a person to access his or her personal information.

I have also considered the relevant factors weighing against disclosure, 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 an individual's right to privacy; and
- adversely affect or harm the interests of an individual.

Based on these factors, I have decided that in this instance, the public interest in disclosing the personal information in the above-mentioned documents is outweighed by the public interest against disclosure.

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 certain parts of documents 1-5 and 7-10, as set out in the Schedule, are conditionally exempt under section 47F(1) 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 documents 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.



**Australian Government**  
**Specialist Medical Review Council**

**Attachment A**

**LIST OF DOCUMENTS FOR RELEASE**  
**MRS JULIE ANDERSON**

<b>Doc No.</b>	<b>Pages</b>	<b>Date</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
1.	1-2	16.12.15	Meeting minutes	Release in part	S 47F	Page 2: Third party personal information deleted under s 47F(1)
2.	3-4	03.2.16	Meeting minutes	Release in part	S 47F	Page 4: Third party personal information deleted under s 47F(1)
3.	5-6	20.04.16	Meeting minutes	Release in part	S 47F	Page 6: Third party personal information deleted under s 47F(1)
4.	7-8	17.07.16	Meeting minutes	Release in part	S 47F	Page 8: Third party personal information deleted under s 47F(1)
5.	9-10	27.07.16	Meeting minutes	Release in part	S 47F	Page 10: Third party personal information deleted under s 47F(1)
6.	11-12	06.12.16	Meeting minutes	Release in full		
7.	13-17	29.06.17	Meeting minutes	Release in part	S 47F	Page 17: Third party personal information deleted under s 47F(1)

<b>Doc No.</b>	<b>Pages</b>	<b>Date</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
8.	18-19	01.09.17	Meeting minutes	Release in part	S 47F	Page 19: Third party personal information deleted under s 47F(1)
9.	20-29	31.01.18	Meeting minutes with attachment	Release in part	S 47F	Page 21: Third party personal information deleted under s 47F(1)
10.	30-31	18.04.18	Meeting minutes (email format)	Release in part	S 47F	Page 31: Third party personal information deleted under s 47F(1)



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**Attachment B**

**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 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 the SMRC; 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 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
- 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.

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Convener: Professor Charles Guest

Address all Communications to: **The Registrar, SMRC, PO Box 965, Brisbane QLD, 4001**

Tel: (07) 3223 8420

Email: [SMRC.registrar@dva.gov.au](mailto:SMRC.registrar@dva.gov.au) Website: [www.smrc.gov.au](http://www.smrc.gov.au)



## **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 SMRC 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](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto: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](http://www.oaic.gov.au).
- If you have one, you should include with your application a copy of the decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the decision.

## **Complaints to the Information Commissioner and Commonwealth Ombudsman**

### ***Information Commissioner***

You may complain to the 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 Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: [www.oaic.gov.au](http://www.oaic.gov.au)

### ***Commonwealth Ombudsman***

You may also complain to the 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 Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

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