



Australian Government
Department of Social Services

Mr Henare Degan

By email: FOI+request-4901-124e22a8@righttoknow.org.au

Dear Mr Degan

Freedom of Information (FOI) Request No. 18/19-036

1. I refer to your correspondence received by the Department of Social Services (the Department) on 14 October 2018, in which you requested access, under the *Freedom of Information Act 1982* (the FOI Act) to:

“...a copy of the ‘Post Implementation Review of No Jab, No Pay 2015 Budget measure’, mentioned as a project undertaken by the UNSW Social Policy Research Centre in collaboration with the Department: <https://www.sprc.unsw.edu.au/research/projects/post-implementation-review-of-no-jab-no-pay-2015-budget-measure/>”

2. On 29 October 2018, the Department advised you of an extension of 30 days in which to undertake consultation with a number of third parties as the requested document contains information relating to business affairs.
3. I am authorised to make decisions under subsection 23(1) of the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

Decision on access to documents

4. A search for documents has located one that falls within the scope of your request.
5. Having considered this document, I have decided to grant access in part to the document in accordance with section 22 of the FOI Act [access to edited copies with exempt or irrelevant matter deleted], on the grounds that the deleted material is considered exempt under section 47E [conditional exemption - certain operations of agencies] of the FOI Act.
6. In reaching my decision, I have taken the following material into account:
 - the scope of your request;
 - the document falling within the scope of your request;
 - the FOI Act;
 - submissions made by third parties;
 - consultation with other government departments;
 - consultations with departmental officers; and
 - the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Reasons for decision

Section 47E of the FOI Act – public interest conditional exemption - certain operations of agencies

7. 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...

(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

8. The document contains information about issues relating to the No Jab, No Pay measure that have been identified and addressed by the Department of Human Services. The release of this information is likely to compromise the ability of the Department of Human Services to conduct its usual operations as it could reasonably be expected to cause unwarranted concern by customers who were not affected. Additional contact from customers who were not directly affected would divert resources from the usual operations of the Department of Human Services and ultimately reduce the efficiency of the department.
9. I consider that the identified material could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
10. For the reasons set out above, I am satisfied that the material is of such a nature that it is conditionally exempt under section 47E(d) of the FOI Act.

The public interest test – section 47E

11. Section 11A(5) of the FOI Act provides that the Department must give access to conditionally exempt material unless in the circumstances, it would be, on balance, contrary to the public interest.
12. When weighing up the public interest for and against disclosure, I have taken into account the extent to which disclosure would promote the objects of the FOI Act.
13. I consider that disclosing the conditionally exempt material may be in the public interest as information held by the government is a national resource and release of the document increases scrutiny and review of the government's activities.
14. I have weighed against these factors for release, the extent to which disclosure could reasonably be expected to jeopardise the effectiveness of the methods and procedures used by the department in implementing the measure.
15. I hold the view that disclosure of the information could reasonably be expected to divert resources, restricting an agency's ability to operate effectively.
16. Based on these factors I have decided that, in the circumstances of this particular matter, the public interest in disclosing the information in the above-mentioned document is outweighed by the public interest against disclosure.
17. I have not taken into account any of the irrelevant factors set out under subsection 11B(4) of the FOI Act in making this decision.

18. As a result, I find the material exempt under section 47E(d) of the FOI Act.

Release of documents

19. One document for release is enclosed.

FOI Disclosure Log

20. In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act. Documents will be published on the Disclosure Log within ten working days of receipt by you.

Rights of review

21. I have set out your rights to seek a review of my decision at **Attachment A**.

22. Should you have any enquiries concerning this matter please do not hesitate to contact me.

Yours sincerely



Dr Melanie Beacroft
Assistant Director, Freedom of Information
Government and Executive Services Branch
Department of Social Services

13 December 2018

Your rights of review

Internal review

Section 54 of the FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review in writing within 30 days of receipt of this letter.

No particular format is required but it will help the new decision-maker if you clearly state why you consider the decision should be reviewed. Please send your application by post or email as follows:

Post: Freedom of Information (FOI) Team
Government and Executive Services Branch
Department of Social Services
GPO Box 9820
CANBERRA ACT 2601

Email: foi@dss.gov.au

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218
SYDNEY NSW 2001

Phone: 1300 262 992 or +61 2 9284 9749 (international)

Email: enquiries@oaic.gov.au

In person: Level 3
175 Pitt Street
SYDNEY NSW 2000