



Australian Government  
Department of Social Services

---

ClearPseudonym

By email: [foi+request-5485-f365fd48@righttoknow.org.au](mailto:foi+request-5485-f365fd48@righttoknow.org.au)

Dear ClearPseudonym

**Freedom of Information (FOI) Request No. 18/19-115**

1. I refer to your correspondence received by the Department of Social Services (the department) on 24 June 2019, in which you requested access, under the *Freedom of Information Act 1982* (the FOI Act) to:

*It is my understanding that the assessment criterion for applicants to the National Redress Scheme have been made except under the FOI Act. I am led to believe that this is due to the extreme risk of fraud to the Commonwealth by prospective applicants. Though, under the FOI Act, I can only see one section that conditional exemption can be applied in this case: "deliberative processes relating to agencies' or ministers' functions"*

*If this is incorrect, please treat this request administratively (not a formal request) and point me in the right direction.*

*If I am correct, then please treat this request as a formal Freedom of Information request.*

*I am seeking documents relating to the FOI exemption of the National Redress Scheme criterion/rubric for evaluating applicants.*

*This may include:*

- *Briefs/options paper/written advice given to the Minister's Office/DLOs about the possible need to exempt the criterion*
- *Formal instructions given by the Minister's Office/DLOs to the Department to exempt the criterion*
- *Reasons set out to exempt the criterion (the public interest test)*

*To help limit the scope, you may exclude Instant Messaging between Departmental staff or superfluous documents, if formal/signed-off documentation is provided.*

2. On 4 July 2019, we provided you with some additional information about the assessment framework for the National Redress Scheme.
3. On 11 July 2019, you confirmed that that you were seeking access to the 'assessment framework policy guidelines specified in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*' (National Redress Act). As a result, I have interpreted the scope of your request as the following:
  - *The criterion/rubric for evaluating applicants under the National Redress Scheme; and*
  - *A copy of the assessment framework policy guidelines specified in the National Redress Scheme for Institutional Child Sexual Abuse Act 2018.*

4. 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**

5. A search for documents has located one document that falls within the scope of your request.
6. Having considered this document, I have decided to deny access to the document on the grounds that the material is exempt under section 47E [conditional exemption – certain operations of agencies] of the FOI Act.
7. In reaching my decision, I have taken the following material into account:
- the scope of your request;
  - the FOI Act;
  - the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (National Redress Act);
  - documents falling within the scope of your request;
  - consultations with departmental officers;
  - the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

#### **Reasons for decision**

##### **Section 47E – conditional exemption – certain operations of agencies**

8. Section 47E of the FOI Act provides that:

*A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to...:*

*(a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency...*

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

9. The department is responsible for the policy and implementation of the National Redress Scheme, including satisfying the objects of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (National Redress Act) to recognise and alleviate the impact of past institutional child sexual abuse and related abuse. The assessment framework policy guidelines are an important component of providing justice for the survivors of that abuse.
10. Disclosure of the guidelines would enable people to understand how payments are attributed and calculated. This could reasonably be expected to adversely affect the administration of the National Redress Scheme.
11. I consider that if the department were to disclose the assessment framework policy guidelines then the ability of the department to use these criteria to assess genuine applications for redress would be compromised as applicants would be able to tailor their responses to ensure a beneficial

outcome. This undermines the very nature of the National Redress Scheme and the work that has been done by the Australian Government and the department to provide redress to survivors of institutional child sexual abuse.

12. In contrast, protecting the assessment framework policy guidelines from unauthorised use and disclosure assists in mitigating the risk of fraudulent and enhanced applications. For these reasons, I consider that disclosing the document would have an adverse effect on the proper and efficient conduct of the operations of the department, namely, the ability to provide a reasonable assessment process for applications for redress under the National Redress Scheme.
13. The guidelines provide additional matters that may be taken into account when applying the assessment framework, which contain graphic and triggering descriptions of abuse. I consider that releasing them also undermines the general principles of the National Redress Act to avoid, as far as possible, further harming or traumatising of survivors. Disclosing the assessment framework policy guidelines therefore undermines the operation of the National Redress Scheme.
14. I therefore consider the document conditionally exempt under both subsections 47E(a) and 47E(d) of the FOI Act.

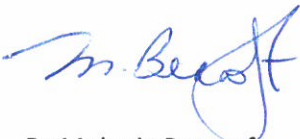
**The public interest test – section 47E**

15. Section 11A(5) of the FOI Act provides that the department must grant access to the material identified as conditionally exempt unless, in the circumstances, it would be, on balance, contrary to the public interest.
16. In assessing whether disclosure of the conditionally exempt material is, on balance, contrary to the public interest, I considered the FOI Guidelines together with a range of factors that favour access to a document set out in section 11B(3) of the FOI Act.
17. 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.
18. I considered 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 documents increases scrutiny and review of the government's activities.
19. On the other hand, I hold the view that disclosure of the information could reasonably be expected to adversely affect the efficiency of the department's operations and compromise its ability to effectively administer the National Redress Scheme.
20. Based on these factors I have decided that, in the circumstances of this particular matter, the public interest in disclosing the information is outweighed by the public interest against disclosure.

**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

12 July 2019

## Your rights of review

### Internal Review

Section 54 of the *Freedom of Information Act 1982* (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 form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

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](mailto: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](http://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](http://www.oaic.gov.au)

Post: GPO Box 5218  
SYDNEY NSW 2001

Phone: 1300 363 992 or +61 2 9284 9749 for international

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

In person: Level 3  
175 Pitt Street  
SYDNEY NSW 2000