



Australian Government
Department of Social Services

Ms Karren Hazledine

By email: foi+request-5647-f58b93ac@righttoknow.org.au

Dear Ms Hazledine

Freedom of Information (FOI) Request No. 19/20-039

1. I refer to your correspondence received by the Minister for Families and Social Services on 23 September 2019, in which you requested access, under the *Freedom of Information Act 1982* (the FOI Act) to:

...documentation which was used to establish the above scheme.

In particular the recommendations and reports from consultants who recommend the payment amounts of \$10k to \$150k as being sufficient to provide an individual who was sexually assaulted whilst in care as a child.

I would like to know why their families are not included in the compensation.

The scheme appears to be designed to protect the perpetrators balance sheet.

2. On 23 September 2019, the Department of Social Services (the department) accepted the transfer of your request from the Minister for Families and Social Services.
3. On 24 September 2019, I informed you that the department had interpreted the scope of your request as:

Any reports from consultants who recommended the payment amounts for the National Redress Scheme.

4. I have decided that there is no charge for processing your request.
5. 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

6. A search for documents has located one document that falls within the scope of your request.
7. 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.

8. In reaching my decision, I have taken the following material into account:

- the scope of your request;
- documents falling within the scope of your request;
- the FOI Act;
- the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (National Redress Act);
- 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

9. 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.*

10. 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 matrix is an important component of providing justice for the survivors of that abuse.
11. The identified document contains discussion of the development of the assessment matrix. Disclosure of the document 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.
12. I consider that if the department were to disclose this document then the ability of the department to use the 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.
13. In contrast, protecting the document 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.
14. The document addresses redress scenarios, including Royal Commission private sessions data in order to model the outcomes of proposed assessment matrices and contains information that may

be taken into account when applying the assessment framework. Some of the information contains 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 document therefore undermines the operation of the National Redress Scheme.

15. I therefore consider the document conditionally exempt under both subsections 47E(a) and 47E(d) of the FOI Act.

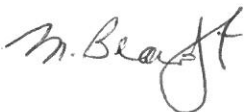
The public interest test – section 47E

16. 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.
17. 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.
18. 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.
19. 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 documents increases scrutiny and review of the government's activities.
20. 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.
21. 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

22. I have set out your rights to seek a review of my decision at **Attachment A**.
23. 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

23 October 2019

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