



FOI Reference: LEX2118
File No: 20/15967

3 February 2021

Mr Peter Timmins
By email: foi+request-6414-0fd2e118@righttoknow.org.au

Dear Mr Timmins

Re. Freedom of Information Request

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act) requested on 18 June 2020 (and revised on 2 July 2020) in relation to instructions or reports on reform proposals put to the World Health Organization since 2018. I regret the delay in the finalisation of this decision and thank you for your patience.

I have identified documents relevant to the scope of your request and, after careful consideration of them, I have decided to exempt them in full as they contain deliberative matter of the department that I do not consider it is in the public interest to release.

Request

On 18 June 2020 (revised 20 July 2020) you requested:

"Documents including briefs and emails sent to or received from Australian officials that are instructions or reports on proposals for reform and initiatives to promote independence and transparency, put formally and informally to the WHO and secretariat since Australia became a member of the executive board in 2018."

Reasons

I am an officer authorised under section 23 of the FOI Act to make decisions in relation to FOI requests.

In making my decision I have taken into account your request and the documents that fall within its scope, the FOI Act, and the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Deliberative matter

The documents captured by your request are exempt as they contain deliberative matter (section 47C of the FOI Act) obtained/created in the course of, and for the purposes of, the Department's deliberative process. That is, the formulation of Australia's approach to and policies about the reform of and promotion of independence and transparency at the World Health Organization (the WHO). Access to government deliberations on these issues should be restricted because

they need to be held frankly, without risk that the process of weighing up competing arguments or considerations including different opinions are aired publicly.

In this case, the exempt material comprises the department's input into draft briefing papers and agenda items that are prepared for consultation with and further input by the Department of Health.

As section 47C is a conditional exemption, I have also considered whether providing access to the material in question would, on balance, be contrary to the public interest (section 11A of the FOI Act).

Section 11A of the FOI Act requires that access to conditionally exempt material must be provided unless that access would, on balance, be contrary to the public interest. The FOI Guidelines provide a set of public interest factors favouring disclosure and factors against disclosure in such circumstances. In assessing the public interest, I have considered these guidelines and the public interest factors.

In this particular case, the public interest factors in favour of release, such as the promotion of the objects of the FOI Act and informing debate on matters of public importance, are outweighed by the operational requirements of the Department.

Accordingly, I have concluded that public interest is weighed against the disclosure of this information.

Other avenues to access this information

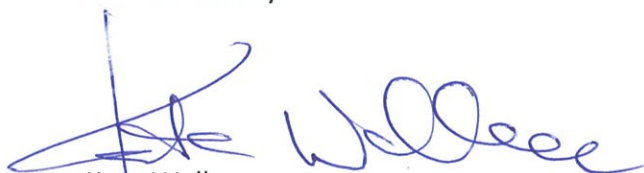
Some of the information that you seek about Australia's proposals for reform and initiatives to promote independence and transparency at the WHO since Australia became a member of the Executive Board, may be available online at the Governance section of the WHO website at <https://apps.who.int/gb/index.html>.

In addition, the Department of Health has principle responsibility for Australia's engagement and representation on the WHO's Executive Board and requests input from this Department and other agencies as appropriate to develop briefing material, interventions and positions. You may wish to consider direct engagement with the Department of Health to request documents that set out the final positions advanced by Australia's representatives at Executive Board meetings.

Your review rights are set out in the Attachment for your reference.

Should you have any queries regarding this matter please contact the FOI and Privacy Law Section by email to foi@dfat.gov.au

Yours sincerely



Kate Wallace
Assistant Secretary
Global Health Policy Branch

Your review rights

Internal review

You may apply for internal review of the decision within 30 days of the date of this letter (section 54 of the FOI Act).

Where possible, please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days.

Any request for internal review should be directed via email to foi@dfat.gov.au or addressed to:

Freedom of Information and Privacy Law Section
Department of Foreign Affairs and Trade
R G Casey Building
John McEwen Crescent
Barton ACT 0221
Australia

Australian Information Commissioner

You may apply to the Australian Information Commissioner to review my decision within 60 days of the date of this letter (section 54L of the FOI Act).

You may also make a complaint to the Australian Information Commissioner about the Department's actions in relation to this decision (section 70 of the FOI Act). Making such a complaint about the way the Department has handled your FOI request is a separate process to seeking review of my decision. Further information on applying for an Australian Information Commissioner review is available at: <https://www.oaic.gov.au/freedom-of-information/foi-review-process> and further information about how to make a complaint is available at: <http://www.oaic.gov.au/freedom-of-information/foi-complaints>