



Australian Government

Department of Health

Department Reference: FOI 1958 IR

J M

Via email : foi+request-6701-960556fd@righttoknow.org.au

Dear J M

NOTICE OF DECISION - INTERNAL REVIEW

I refer to your correspondence of 6 May 2021 requesting an internal review of the decision of the Department of Health (the department) in relation to your request of 10 September 2020 for access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

Under the FOI Act I am requesting a summary report of all Covid-19 (SARS Coronavirus nCoV-2) deaths with ANY co-morbidities listed on death certificates and what those co-morbidities were, and additional summary of those where covid-19 was listed as the only cause.

This is for the specific reason of analytical data extrapolation to segregate those who are most at risk and subsequent help this will provide the public when making seemingly trivial but life-threatening decisions while going about their business.

I am unable to find this information online anywhere, and I believe the requested information is more than likely already available for usage, but not made public as of yet.

The decision under review

You were advised on 12 October 2020 of the decision that, pursuant to section 24A of the FOI Act, the department cannot provide access to the documents you requested as it does not hold any such documents.

You provided the following submission to support your request for the internal review:

I am writing to request an internal review of Department of Health's handling of my FOI request 'aggregate report of COVID-19 Co-morbidities'.

My request has been avoided in its entirety, furthermore, an outcome to an unrelated FOIA request was coupled along with my request - in affect rendering my request unanswered and effectively was avoided.

I am unhappy with my response on the grounds that while looking through liaising material, it's clear that not a single attempt had been made to fulfil my inquiry/gather the relevant documents and therefore believe the response given was unacceptable and the conduct of the officers pertinent to my request acted with utmost disregard to the intentions of FOIA responsibilities.

It is clear that my request was not fulfilled, nor was it in any way, shape or form investigated to the extent that the mission of the FOIA requires.

A full history of my FOI request and all correspondence is available on the Internet at this address:

[https://www.righttoknow.org.au/request/aggregate report of covid 19 co](https://www.righttoknow.org.au/request/aggregate%20report%20of%20covid%2019%20co)

Extension of time for applying for an internal review

I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to freedom of information (FOI) requests, including decisions on applications for internal review and decisions to allow further time to make such an application.

Pursuant to section 54B of the FOI Act, an application for internal review must be made within 30 days after the day the decision is notified to the applicant or such further period as the agency allows.

As you were notified in the primary decision on 12 October 2020, the statutory period for applying for an internal review expired on 11 November 2021.

The Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines) provide at paragraph 9.121:

The FOI Act does not specify any criteria that an agency must consider. Agencies are encouraged to adopt a liberal approach and grant an extension unless there is a special reason not to do so. It may, for example, be appropriate to refuse an extension if a long time has elapsed since the agency decision was made, the agency would encounter administrative difficulty or prejudice in undertaking a review after that delay, and the applicant has not satisfactorily explained the reason for the delay. There may be no benefit in extending the time for applying for review of an access grant decision, for example, if the documents in question have already been released.

According to the Guidelines at paragraph 9.24, an applicant who is refused an extension of time to make an internal review request may make a fresh FOI request for the documents that were subject to the earlier FOI request and decision.

Despite the significant delay in requesting an internal review, I have decided to extend the 30 day statutory period for making a request for an internal review of the department's initial decision, and accept your request for an internal review.

Decision

I am writing to notify you of my decision in response to your request for internal review.

I have decided to affirm the initial decision communicated to you on 6 December 2020. My findings of fact and reasons for decision are as follows.

Reasons for Decision

In making my decision, I have had regard to the following:

- the scope of your request
- the initial decision and reasons for decision
- searches of the department's documents on shared and personal drives, TRIM files and paper files
- your request for internal review and submissions
- advice from departmental officers with responsibility for matters relating to the documents sought
- the relevant provisions of the FOI Act, and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Following receipt of your internal review request, I have caused further inquiries to be made with the COVID-19 Section of the department's Health Emergency Management Branch. On the basis of those inquiries, I am satisfied that all reasonable steps have been taken to find the documents you are seeking, and that the department does not hold documents relevant to your request.

I am satisfied that the department does not hold any documents setting out the information you have requested. Nor is the department required to create a document that sets out such information.

FOI review rights

If you are dissatisfied with my decision, under section 54L of the FOI Act, you may apply to the Office of the Australian Information Commissioner (OAIC) for review of my decision by the Information Commissioner.

In accordance with subsection 54S(1) of the FOI Act, an IC review application in relation to a decision covered by subsection 54L(2) (access refusal decisions) must be made in writing within 60 days after the day you are notified of this decision (if you do not request an internal review).

More information about Information Commissioner review is available on the OAIC website at: <https://www.oaic.gov.au/freedom-of-information/reviews/>

The OAIC can be contacted by:

Email: enquiries@oaic.gov.au
Phone: 1300 363 992

Complaints

If you are dissatisfied with actions taken by the department, you may also make a complaint.

Complaint to the department

Complaints to the department are covered by the department's privacy policy. A form for lodging a complaint directly to the department is available on the department's website:

<https://www.health.gov.au/about-us/contact-us/complaints>

Complaint to the Information Commissioner

Information about making a complaint to the Information Commissioner about action taken by the department is available on the OAIC website:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>

Relevant provisions under the FOI Act

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:

<https://www.legislation.gov.au/Series/C2004A02562>.

Additional information

While the department does not hold documents providing the information you have requested, that information may be available from state and territory health departments.

National notification data on COVID-19 confirmed cases is collated in the National Notifiable Disease Surveillance System (NNDSS) based on notifications made to state and territory health authorities under the provisions of their relevant public health legislation. Accordingly, limited information on underlining comorbidities in deaths coded as COVID-19 and similar information are collected in the NNDSS and reported in the department's COVID-19 epidemiology reports which are available at:

https://www1.health.gov.au/internet/main/publishing.nsf/Content/novel_coronavirus_2019_ncov_weekly_epidemiology_reports_australia_2020.htm

Information about applying for access to data from the NNDSS can be requested from the NNDSS Data Requests inbox: nndss.datarequests@health.gov.au.

Contacts

If you require clarification of any of the matters discussed in this letter, you should contact the Freedom of Information Unit on (02) 6289 1666 or at FOI@health.gov.au.

Yours sincerely



Celia Street
First Assistant Secretary
Office of Health Protection & Response

2 June 2021