



Australian Government

Department of Health

Department Reference: FOI 2624

Ms Emma Abhijeeta Saraswati

Via email: foi+request-7671-834eeb2a@righttoknow.org.au

Dear Ms Abhijeeta Saraswati

NOTICE OF DECISION UNDER SECTION 24A OF THE FREEDOM OF INFORMATION ACT 1982

I refer to your request of 8 August 2021 to the Department of Health (department), seeking access under the *Freedom of Information Act 1982* (Cth) (FOI Act) in the following terms:

documents held within the Department of Health that show the evidence of the isolation of the SARS-Cov-2 virus. To eliminate the possibility of contamination, I ask that these documents show the virus has been isolated from only the sample of a symptomatic patient of COVID 19, where it was not first combined with any other source of genetic material (not limited to but by way of example; monkey kidney cells/vero cells or liver cancer cells).

FOI decision

I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests. I am writing to notify you of my decision in response to your request.

The FOI Act provides a mechanism for individuals to request access to documents held by relevant entities. It is not a mechanism for seeking information that the entity does not hold in documents.

Appropriate steps have been taken to find documents you have requested including consultation with relevant departmental officers and searches of departmental file management systems.

The department is a government agency and does not conduct laboratory testing for SARS-CoV-2, the virus that causes COVID-19. Diagnostic assays using reverse transcriptase polymerase chain reaction (RT-PCR) are conducted by testing laboratories throughout Australia. For more information, please see the Public Health Laboratory Network (PHLN) guidance on laboratory testing for SARS-CoV-2, which is available online: <https://www.health.gov.au/resources/publications/phln-guidance-on-laboratory-testing-for-sars-cov-2-the-virus-that-causes-covid-19>.

SARS-CoV-2, the virus which causes COVID-19, is real. Multiple scientific studies across the world demonstrate that highly reputable expert laboratories have isolated and sequenced

the virus that causes COVID-19, demonstrating that the virus exists, that it is different from the influenza virus, and that it causes a disease that has resulted in more than four million deaths worldwide in just over 18 months. While the department is not the custodian of the scientific studies proving the existence of SARS-CoV-2, this research has informed the Australian Government's response to the pandemic, and available in the public domain.

I am satisfied, on the basis of the consultation undertaken and the searches conducted, that the department, including the Therapeutic Goods Administration, does not hold any documents referred to in your request. While the department is not the custodian of the information you refer, you can find much of this information in the public domain and this research and information has informed the Australian Government's response to the pandemic.

As a consequence, relying on section 24A of the FOI Act, I cannot provide access to the documents you requested.

FOI review rights

If you are dissatisfied with my decision, you may apply for a review.

Internal review

Under section 54 of the FOI Act, you may apply for internal review of this decision. In accordance with section 54B of the FOI Act, an application for internal review must be made in writing within 30 days after the day you are notified of this decision (or such further period as the department allows). To assist in the internal review process, please provide reasons you consider the review of my decision is necessary.

The internal review will be carried out by another officer of this department within 30 days of receipt of your application.

An application for an internal review should be addressed to:

Email: FOI@health.gov.au
Mail: FOI Unit (MDP 516)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Information Commissioner review

Alternatively, 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 (IC).

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 IC review is available on the OAIC website at:

<https://www.oaic.gov.au/freedom-of-information/reviews/>

The OAIC can be contacted by:

Phone: 1300 363 992

Email: enquiries@oaic.gov.au

Complaints

If you are dissatisfied with action 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 IC

Information about making a complaint to the IC 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 of 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/Details/C2021C00311>

Contacts

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

Yours sincerely



Dr Marcelle Noja
Acting Assistant Secretary
Public Health and Surveillance Branch

01 September 2021