



Verifysp

By email: verifysp [foi+request-7751-38aa8f6b@righttoknow.org.au](mailto:foi+request-7751-38aa8f6b@righttoknow.org.au)

27 September 2021

Dear Sir/Madam,

### ACCESS TO DOCUMENTS UNDER THE FREEDOM OF INFORMATION ACT

I refer to your email dated 28 August 2021, seeking access to the following documents under the *Freedom of Information Act 1982* (Cth) (the Act);

- Documents circulated to staff of the Australian Institute of Health and Welfare (the Institute) in response to instructions issued by State and Federal authorities during the period 1 January 2021 to 27 August 2021, regarding the requirement to wear masks in relation to the Delta Variant of the COVID-19 outbreak; and
- Documents issued by State and Federal authorities during the period 1 January 2021 to 27 August 2021, regarding the requirement to wear masks in relation to the Delta Variant of the COVID-19 outbreak.

### Decision

I am an officer authorised under s.23(1) of the Act to make decisions in relation to requests under the Act, and have been authorised to make this decision.

I have identified 9 documents totalling 15 pages within the scope of your request, as detailed in the attached Schedule.

In relation to the first part of your request, I have decided to release the documents to you with redactions. Those redactions fall within two categories, namely:

- staff names under s.47 of the Act; and
- parts of the documents under s.22 of the Act, on the basis they are not within the scope of your request.



In relation to the second part of your request, I refuse to give access to the documents in accordance with s.24A of the Act, on the basis that:

- (a) All reasonable steps have been taken to find the documents; and
- (b) I am satisfied that the documents do not exist.

### ***Conditional exemption – personal information***

Section 47F of the Act provides that material is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.

Documents 1 to 9 inclusive, contains the personal information of officers of the Institute, namely their names or contact details. I have decided that the disclosure of the individual's personal details would be an unreasonable disclosure of personal information about those persons and consider this information to be conditionally exempt under s.47F of the Act.

### **The Public Interest**

Even though I have decided that all documents are conditionally exempt under s.47F of the Act, I am also required to consider whether disclosing this information would, on balance, be contrary to the public interest. If I am not satisfied that the disclosure of this information would be contrary to public interest, then access must be granted.

Section 31B of the Act provides that material is exempt if it is conditionally exempt under Division 3 of Part IV of the Act, and access to the material would also, on balance, be contrary to the public interest for the purposes of s.11A(5) of the Act. In applying this test, I have weighed the factors in favour of disclosure against those against it.

I have identified the following factor for disclosure:

- It would promote the objects of the Act, as described in s.3 of the Act; and

I have identified the following factor against disclosure:

- It could reasonably be expected to prejudice the protection of the right to privacy of individuals other than you.

In weighing the public interest factors for the purposes of this exemption, I have determined that access to this information would not be characterised as a matter of public importance, in favour of disclosure.

On the other hand, disclosure of the personal information would intrude on the right to privacy of the individuals concerned by providing personal information which is not available from publicly accessible sources.

On balance, I consider that the public interest favours the protection of this personal information and would be contrary to the public interest to release this information to you for this reason.

### ***Application for internal review of decision***

Section 54 of the Act gives you the right to apply for an internal review of my decision. An application for internal review of my decision must be made in writing within 30 days of receipt of this letter.

No particular form is required, but it is advisable to set out in the application the grounds on which you consider that the decision should be reviewed. An application for review should be addressed to Freedom of Information at the following address:

Email: [foi@aihw.gov.au](mailto:foi@aihw.gov.au)

Post: Freedom of Information  
Ethics, Privacy & Legal Unit  
Data Governance Group  
Australian Institute of Health & Welfare  
GPO Box 570, Canberra ACT 2601

### ***Review by the Australian Information Commission***

Alternatively, under s.54L of the Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

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

Post: Director of FOI Dispute Resolution,  
GPO Box 5218, Sydney NSW 2001

Phone: 1300 363 992

Yours sincerely

*A. Anastasi*

Anne Anastasi  
General Counsel  
Data Governance Group

## **Schedule**

| <b>No.</b> | <b>Date of Document</b> | <b>Description of Document</b>                                | <b>Decision</b>                |
|------------|-------------------------|---|--------------------------------|
| 1          | 28 June 2021            | COVID-19 Health Directions – How these apply in the workplace | Part exempt:<br>s.47F:         |
| 2          | 29 June 2021            | Face masks  | Part exempt:<br>s.47F          |
| 3          | 2 July 2021             | Matthew's Update  | Part exempt:<br>s.47F;<br>s.22 |
| 4          | 5 July 2021             | AIHW Birthday – THIS THURSDAY!                                | Part exempt:<br>s.47F;<br>s.22 |
| 5          | 7 July 2021             | HAPPY BIRTHDAY AIHW!  | Part exempt:<br>s.47F;<br>s.22 |
| 6          | 8 July 2021             | Face masks no longer mandatory as of Friday, 9 July, 11.59pm  | Part exempt:<br>s.47F          |
| 7          | 13 August 2021          | Update from CEO   | Part exempt:<br>s.47F;<br>s.22 |
| 8          | 16 August 2021          | CEO Update  | Part exempt:<br>s.47F;<br>s.22 |
| 9          | 25 August 2021          | Changes to Canberra based meeting/training room capacity      | Part exempt:<br>s.47F          |