



23 September 2021

Verifysp
Right to Know

Via email: foi+request-7762-406c78db@righttoknow.org.au

To whom it may concern

FREEDOM OF INFORMATION REQUEST No. 2021/22-004
ACCESS DECISION

I refer to your request to the National Health and Medical Research Council (NHMRC) on 28 August 2021, made under the *Freedom of Information Act 1982* (FOI Act), seeking:

Instructions, notices, evidence to support, in regards to the wearing of face masks by your internal staff and public that was sent to you from either the State or Federal Authorities in 2021.

You have limited the scope to communications i.e. emails, memos, minutes of decision meeting, guides, Q&A sent due to virus outbreak and covering the 2021 delta variant covid19 outbreak. You have also stated that such documents may also include any exceptions to the wearing of face masks, and legal liability issues.

This letter sets out my decision on your request for access to documents.

Timeframe for processing your request

The statutory period for processing your request is 30 days and commenced on 28 August 2021. Accordingly, the timeframe for providing you with my decision is by 27 September 2021.

Decision

I am an authorised decision-maker under subsection 23(1) of the FOI Act.

I have decided to refuse access to documents falling within the scope of your request on the basis that the documents do not exist - see section 24A(1) [https://www.legislation.gov.au/Details/C2021C00311/Html/Text#_Toc80263635].

More information, including reasons for my decision, is set out below.

Findings of fact and reasons for decision

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

- the terms of your request
- advice from NHMRC officers with responsibility for the matters relating to the documents to which you sought access
- the relevant provisions of the FOI Act. The FOI Act can be accessed via: www.legislation.gov.au, and



- the Office of the Australian Information Commissioner's guidelines published under section 93 A of the FOI Act.

Access refused under section 24A:

You have requested documents that contain Instructions, notices, evidence to support, in regards to the wearing of face masks by NHMRC internal staff and public that was sent to NHMRC from either the State or Federal Authorities in 2021 in relation to the Delta variant.

Section 24A of the FOI Act states that a request for access to a document may be refused if all reasonable steps have been made to find the documents and the agency is satisfied that the documents, *inter alia*, do not exist.

NHMRC conducted a search of all electronic files and relevant email mailboxes within the Agency in line with the scope of the request. As any documents falling within the scope of your request would necessarily be within the Human Resources and Business Services' files and emails (to consider for potential implementation and discussion with NHMRC's Executive), those section's files and emails were given particular focus. No such documents were found.

Accordingly, I am refusing access to your request under section 24A.

Documents publically available:

Internal NHMRC advice provided to NHMRC staff, relevant to the wearing of masks, was to act in accordance with the applicable health directions. This internal advice has remained consistent with any changes to the State and Territory government public directions. For example, the Comcare website has the following link:

<https://www.comcare.gov.au/safe-healthy-work/current-workplace-hazards/coronavirus#face-masks>

Charges

I have decided not to impose any charges for processing this FOI request.

Review rights

You are entitled to seek review of this decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to NHMRC for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another authorised officer within 30 days.

Information Commissioner review

Under section 54L of the FOI 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://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10
email: foidr@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001

More information about Information Commissioner Reviews is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>

Questions about this notice

If you have any questions or wish to discuss my decision, please contact me at foi@nhmrc.gov.au.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Tony Krizan', written over a horizontal line.

Tony Krizan
Executive Director
Corporate Operations and Information