



27 September 2021

Our reference: LEX 64118

VERIFYSP

Only by email: [foi+request-7776-3068a96f@righttoknow.org.au](mailto:foi+request-7776-3068a96f@righttoknow.org.au)

Dear VERIFYSP

### **Decision on your Freedom of Information Request**

I refer to your request to Services Australia (the agency) dated 28 August 2021 for access under the *Freedom of Information Act 1982* (the FOI Act). Your request was made in the following terms:

I am requesting documents under the Freedom of Information Act that are containing: 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.

### **My decision**

Following consultations with the relevant business area within the agency, I have decided to refuse your request for access under section 24A of the FOI Act on the basis all reasonable steps have been taken to locate the documents you have requested and I am satisfied they do not exist in the agency. Please see **Attachment A** for the reasons for my decision.

### **You can ask for a review of our decision**

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the agency, or an external review by the Office of the Australian Information Commissioner. See **Attachment B** for more information about how to request a review.

### **Further assistance**

The agency follows public directions issued by relevant State/Territory Governments regarding the use of face masks at its sites. These documents are publically available and can be found at the following hyperlinks:

#### *Australian Capital Territory*

- COVID-19: <https://www.covid19.act.gov.au/>
- Public health directions: <https://www.covid19.act.gov.au/act-status-and-response/act-public-health-directions>
- Masks page: <https://www.covid19.act.gov.au/act-status-and-response/face-masks>

#### *New South Wales*

- COVID-19: <https://www.nsw.gov.au/covid-19>
- Public health orders: <https://legislation.nsw.gov.au/information/covid19-legislation/temporary-movement-gathering-restrictions>
- Masks for Greater Sydney page: <https://www.nsw.gov.au/covid-19/rules/affected-area#face-masks>

- Masks for LGAs of concern page: <https://www.nsw.gov.au/covid-19/rules/greater-sydney#face-masks>
- Masks for rural and regional page: <https://www.nsw.gov.au/covid-19/rules/affected-regions#face-masks>

#### *Northern Territory*

- COVID-19: <https://coronavirus.nt.gov.au/updates>
- Chief Health Officer directions: <https://coronavirus.nt.gov.au/chief-health-officer-directions>
- Masks page: <https://coronavirus.nt.gov.au/stay-safe/slow-spread/information-about-face-masks>

#### *Queensland*

- COVID-19: <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19>
- Chief Health Officer public health directions: <https://www.health.qld.gov.au/system-governance/legislation/cho-public-health-directions-under-expanded-public-health-act-powers>
- Masks page: <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19/protect-yourself-others/face-masks>

#### *South Australia*

- COVID-19: <https://www.covid-19.sa.gov.au/>
- Emergency declaration and directions: <https://www.covid-19.sa.gov.au/emergency-declarations>
- Masks page: <https://www.covid-19.sa.gov.au/restrictions-and-responsibilities/activities-and-gatherings/current-activity-restrictions>

#### *Tasmania*

- COVID-19: <https://www.coronavirus.tas.gov.au/>
- Directions: <https://www.coronavirus.tas.gov.au/resources>
- Masks page: <https://www.coronavirus.tas.gov.au/keeping-yourself-safe/face-masks>

#### *Victoria*

- COVID-19: <https://www.coronavirus.vic.gov.au/>
- Directions issued by Victoria's Chief Health Officer: <https://www.dhhs.vic.gov.au/victorias-restriction-levels-covid-19>
- Masks page: <https://www.coronavirus.vic.gov.au/face-masks>

#### *Western Australia*

- COVID-19: <https://www.wa.gov.au/government/covid-19-coronavirus>
- State of Emergency Declarations and Directions: <https://www.wa.gov.au/government/document-collections/covid-19-coronavirus-state-of-emergency-declarations>
- Masks page: <https://www.wa.gov.au/government/publications/face-covering-directions>

If you have any FOI questions please email [FOI.Legal.Team@servicesaustralia.gov.au](mailto:FOI.Legal.Team@servicesaustralia.gov.au).

Yours sincerely

Reshma  
 Authorised FOI Decision Maker  
 Freedom of Information Team  
 Information Access Branch | Legal Services Division  
 Services Australia

## REASONS FOR DECISION

### What you requested

I am requesting documents under the Freedom of Information Act that are containing: 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.

### What I took into account

In reaching my decision I took into account:

- your original request dated 28 August 2021
- documents which may fall within the scope of your request
- consultations with agency officers about:
  - the nature of the documents
  - the agency's operating environment and functions
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act, and
- the FOI Act.

### Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

#### Documents do not exist

Section 24A of the FOI Act permits an agency to refuse a request for access to documents if all reasonable steps have been taken to find the document, and the agency is satisfied that the document cannot be found, or does not exist.

The People Division (Division) are the business area with the appropriate subject matter expertise to conduct searches for documents relevant to your request. The Division is responsible for workforce strategy, performance, workplace safety, risk controls and complex workplace relations matters.

Following a search of the agency's files, the Division did not identify any documents relevant to the scope of your request and advised the agency follows public directions issued by relevant State/Territory Governments regarding the use of face masks at our sites.

On the basis of the searches conducted, I am satisfied all reasonable steps have been taken to find the requested documents and the documents do not exist.

## **INFORMATION ON RIGHTS OF REVIEW**

### ***FREEDOM OF INFORMATION ACT 1982***

#### **Asking for a full explanation of a freedom of information (FOI) decision**

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

#### **Asking for a formal review of a FOI decision**

If you still believe a decision is incorrect, the FOI Act gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in the agency, and/or
2. the Australian Information Commissioner.

**Note 1:** There are no fees for these reviews.

#### **Applying for an internal review by an Internal Review Officer**

If you apply for internal review, a different decision maker to the agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

**Note 2:** You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

#### **Applying for external review by the Australian Information Commissioner**

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

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

**Note 3:** The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

**Important:**

- If you are applying online, the application form the 'Merits Review Form' is available at [www.oaic.gov.au](http://www.oaic.gov.au).
- If you have one, you should include with your application a copy of the agency decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the agency's decision.

**Complaints to the Australian Information Commissioner and Commonwealth Ombudsman**

***Australian Information Commissioner***

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992  
Website: [www.oaic.gov.au](http://www.oaic.gov.au)

***Commonwealth Ombudsman***

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.