



Australian Government
Department of Social Services

Our ref: FOI 2122-027

Decision date: 21/10/2021

Andrew Brewster

By email: foi+request-7883-7dd12e3f@righttoknow.org.au

Dear Mr Brewster,

Freedom of Information Request: FOI 2122-027

I refer to your correspondence received by the Department of Social Services ('the Department') on 22 September 2021, in which you requested access to documents in possession of the Department, as follows:

"An evaluation of the TTL projects was conducted by UQ and delivered to the department in mid 2021, however the report is not available. I would like a copy of the report."

On 23 September 2021 you confirmed that "TTL" referred to the Try, Test and Learn Fund and that "UQ" referred to the University of Queensland.

Authority to make decision

I am an officer authorised to make decisions under subsection 23(1) of the *Freedom of Information Act 1982* ('FOI Act'). My decision and the reasons for that decision are set out below.

Decision

The Department has undertaken a reasonable search of its records and has identified one (1) document relevant to your request.

Having considered this document, I have made a decision to:

- Wholly refuse access to the document, on the grounds that the material is exempt.

The document that I have chosen to refuse access to is set out in **Appendix 1**, together with applicable exemption provisions.



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Reasons for decision

I have decided to **refuse access** to the document within the scope of your request in accordance with the following exemptions in the FOI Act:

Section 47C of the FOI Act - deliberative processes

Section 47C of the FOI Act provides that:

a document is conditionally exempt if its disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth.

The document requested is currently under consideration by the Australian Government. Release of an evaluation prior to approval is therefore likely to disrupt the deliberative processes being undertaken by the agency. Further, the requested document is an evaluation of Try, Test, Learn Fund (TTL Fund) programs and therefore contains a detailed deliberation of the TTL Fund's effectiveness.

Disclosure of this document would disclose matter in the nature of an opinion, advice or recommendation by the University of Queensland. This opinion, advice or recommendation was issued for the precise purpose of assisting the Australian Government and the Department during the deliberative process of assessing the efficacy of the TTL Fund.

Accordingly, I have decided that the document which is listed as exempt in accordance with this provision in **Appendix 1**, meets the criteria for conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5).

Application of the public interest test:

Section 11A(5) provides that an agency must give the person access to the document if it is conditionally exempt at a particular time unless (in the



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circumstances) access to the document would, on balance, be contrary to the public interest.

In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) *disclosure would promote the objects of the FOI Act, including:*
 - (i) *inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;*
- (b) *disclosure would inform debate on a matter of public importance; and*
- (c) *disclosure would promote effective oversight of public expenditure.*

I also considered the following factors which do not favour disclosure:

- (a) *disclosure would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency, a Minister or the Government of the Commonwealth; and*
- (b) *disclosure could reasonably be expected to harm the interests of an individual or group of individuals.*

I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Section 47E - certain operations of agencies

Section 47E of the FOI Act provides that

a document is conditionally exempt if its disclosure would, or could reasonably be expected to, do any of the following:



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- (a) *prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) *prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) *have a substantial adverse effect on the management or assessment of personnel by the Commonwealth, by Norfolk Island or by an agency;*
- (d) *have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

The appropriate business area within the Department has identified that the release of the document prior to formal approval and without the support of contextual information would undermine the standard operating procedures of the Department regarding the release of an evaluation of one of its programs.

Further, as the TTL Fund concluded on 30 June 2021, it is likely that some service providers are currently exploring other sources of revenue to continue their businesses or may be in the process of applying for a grant opportunity. As the report identifies the project and evaluates their performance, the early release of the report may compromise some service providers' chances of sourcing other funding options.

A release before formal approval would therefore have significant negative consequences for those providers including their ability to continue to provide their services to the public, in addition to having an adverse effect on the proper and efficient conduct of the operations of the Department.

Accordingly, I have decided that the document listed as exempt in accordance with this provision in **Appendix 1**, meet the criteria for this conditional exemption. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A(5) of the FOI Act.

Application of the public interest test:

Section 11A(5) provides that an agency must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document would, on balance, be contrary to the public interest.



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In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors which favour disclosure:

- (a) *disclosure would promote the objects of the FOI Act, including:*
 - (i) *inform the community of the Government's operations, including, in particular, the policies, rules, guidelines, practices and codes of conduct followed by the Government in its dealings with members of the community;*
- (b) *disclosure would inform debate on a matter of public importance; and*
- (c) *disclosure would promote effective oversight of public expenditure.*

I also considered the following factors which do not favour disclosure:

- (a) *disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency;*
- (b) *disclosure could reasonably be expected to prejudice an agency's ability to obtain similar information in the future;*
- (c) *disclosure could reasonably be expected to prejudice the competitive commercial activities of an agency; and*
- (d) *disclosure could reasonably be expected to harm the interests of an individual or group of individuals.*

I am satisfied that no irrelevant factor has been considered, as set out in section 11B(4) of the FOI Act.

On balance, I consider the public interest factors against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to withhold the exempt material.

Release of documents

As detailed above, the document that is the subject of your request was found to be exempt in full under sections 47C and 47E of the FOI Act and therefore will not be released at this time.



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Additional comments

The document you have requested is currently under consideration by the Australian Government, with additional consultations ongoing.

Your rights of review

Information about your rights to seek a review of this decision are at **Attachment A**.

Should you have any enquiries concerning this matter please do not hesitate to contact the FOI team by email at FOI@dss.gov.au

Yours sincerely,

M. Blair
Assistant Director
FOI and Cabinet Section
Government and Executive Services Branch

25 October 2021



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Appendix 1

Schedule of documents

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Document reference	Date of document	Document description	Pages	Decision	Applicable Exemptions
1	17 June 2021	Try, Test and Learn Evaluation	240	Exempt in full	ss 47C, 47E