



Australian Government

Department of Health

Department Reference: FOI 3149/3172

Mr Matthew Peos

via email: foi+request-7914-5cb003d1@righttoknow.org.au

Dear Mr Peos

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

Thank you for your request of 2 October 2021 to the Department of Health (the department) seeking access under the *Freedom of Information Act 1982* (Cth) (the FOI Act) to documents related to COVID-19. Your request is in the following terms:

1. *Any official documents presenting the official information of the Sars 2/ Covid 19 virus. I specifically request the documents relating to the isolation of the Covid 19 virus and sub strains as presented to medical bodies for assessment in relation to any supposed vaccine and their benefits and/or side effects.*
2. *I specifically wish to see the Department of Health's or any other Departments records of independent research into an isolated form of Sars2 and/or Covid 19 and sub strains.*
3. *I specifically wish to see the Department of Healths or any other Departments independent documentation relating to the isolation of the Sars 2 / Covid 19 biological viral entity and the captured vision via electron microscope and/or any other method of capturing vision of the Covid 19 virus at molecular level.*
4. *I specifically wish to see documentation related to the assessment of the Covid 19 Viral biological entity in relation to the mandate of Covid 19 vaccines as recommended to Business and/or advice given to business seeking to mandate vaccines for workers.*

I also note that your similar request to the Department of Education, Skills and Employment was received on transfer and accepted by the Department of Health on 6 October 2021. Due to the identical wording of both requests, I will respond to both requests in this letter.

Information about COVID-19

SARS-CoV-2, the virus which causes COVID-19, is real. Multiple scientific studies across the world demonstrate that highly reputable laboratory medicine experts have isolated and sequenced the virus that causes COVID-19, demonstrating that the virus exists, that it exists in variant forms, that it is different from the influenza virus,

and that it causes a disease that has resulted in over 5.1 million deaths worldwide in just over 22 months.

While the department is not the custodian of the scientific studies establishing the existence of SARS-CoV-2, this research has informed the Australian Government's response to the pandemic. You can find those scientific studies in the public domain.

The department is a government agency and does not conduct scientific studies or laboratory testing for the SARS-CoV-2 in a laboratory. 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 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>

In Australia, scientists at the Victorian Infectious Diseases Reference Laboratory at The Peter Doherty Institute for Infection and Immunity were the first to isolate SARS-CoV-2 outside of China, winning the 2020 MJA/MDA National Prize for Excellence in Medical Research. This critical information was immediately shared with local and overseas reference laboratories and major North American and European virus culture collections. These peer-reviewed, evidence-based publications provide scientific evidence for the existence of this deadly virus.

All viruses, including SARS-CoV-2, change over time as part of their natural evolution. A change may or may not give the virus a biological advantage. Existing and emerging variants are constantly monitored using genomic surveillance to detect those that pose or may pose an increased risk to human health.

In Australia, whole genome sequencing of the SARS-CoV-2 genome is the preferred way to determine the variant and mutation patterns of the virus, e.g. Alpha, Delta, and Kappa variants. Some RT-PCR tests have been designed to detect specific SARS-CoV-2 variants of concern. These tests can only identify the specific variants they have been designed for.

Attached to this email is an article published in the Daily Telegraph on 13 August 2021 that may be of interest to you.

Information about vaccine mandates in Australia

As the COVID-19 pandemic is a public health emergency, states and territories, who have primary responsibility for public health, are managing the pandemic in their respective jurisdictions based on health advice. In line with this, some states and territories have now issued public health orders which require COVID-19 vaccination for people in high-risk workplaces and sectors, and for some community activities. Further information about public health orders may be found on state or territory government websites.

Some employers have also started to mandate vaccinations for their employees. For individual businesses not covered by a public health order, whether to require COVID-19 vaccinations for employees needs careful consideration, taking into account the relevant employment, work health and safety, privacy laws, and the circumstances of the particular workplace. The Government encourages employers and employees to work together on workplace vaccination for COVID-19.

The Government understands that some businesses are considering whether to require vaccination as a condition of service or entry. Businesses do have the right to make any service they provide subject to conditions, and can impose restrictions on who can enter their premises. In each case, businesses need to consider their legal obligations, and determine what is right for their business.

Information about the effectiveness of the COVID-19 vaccines used in Australia

Ongoing research continues to demonstrate the effectiveness of the COVID-19 vaccines in reducing disease severity and transmission. Large studies conducted in real-life situations have shown a marked reduction on the transmission following vaccination. For example, Public Health England reported the results of a large study of household transmission using a linked data set:

- Effect of Vaccination on Household Transmission of SARS-CoV-2 in England
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8262621/>

Emerging international evidence also demonstrates that the COVID-19 vaccines generate durable protection against hospitalisation due to severe COVID-19:

- Duration of protection of COVID-19 vaccines against clinical disease published on 9 September 2021 by Public Health England.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1017309/S1362_PHE_duration_of_protection_of_COVID-19_vaccines_against_clinical_disease.pdf
- Comparative Effectiveness of Moderna, Pfizer-BioNTech, and Janssen (Johnson & Johnson) Vaccines in Preventing COVID-19 Hospitalizations Among Adults Without Immunocompromising Conditions – United States, March–August 2021 published 24 September 2021 by the US Department of Health and Human Services/Centers for Disease Control and Prevention.
<https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7038e1-H.pdf>
- Six-Month Effectiveness of BNT162B2 mRNA COVID-19 Vaccine in a Large US Integrated Health System: A Retrospective Cohort Study pre-print published 23 August 2021 by the Lancet.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3909743

Further information relating to the safety and efficacy of the COVID-19 vaccines available in Australia, including the Pfizer, AstraZeneca and Moderna vaccine candidates, is publicly available on the TGA website:

<https://www.tga.gov.au/covid-19-vaccine-safety-monitoring-and-reporting>

The TGA has published documents relating to COVID-19 vaccines provisionally approved in Australia. These documents provide detailed information about the evaluation process and the data considered. These include the Australian Public Assessment Report, the Product Information and the Consumer Medicine Information, which are available here:

www.tga.gov.au/covid-19-vaccines.

The TGA has also published several documents in response to previous FOI requests on the TGA's Disclosure Log at www.tga.gov.au/foi-disclosure-log. These documents offer a useful summary and analysis of the data submitted to the TGA for the purposes of making a regulatory decision regarding the provisional approval of the COVID-19 vaccines. Please note, some commercially confidential information and personal information has been redacted from these documents.

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 asking questions or 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.

I am satisfied, based on 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 which is not already in the public domain as described above

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/C2021C00382>

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



Stephen Bouwhuis
General Counsel
Legal & Advice Branch
1 December 2021