



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI 2022/064

To: JS

Email: foi+request-8273-19ff5046@righttoknow.org.au

Dear JS

I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 19 February 2022.

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

Scope of request

You set out your request in the following terms:

I request copies of any electronic correspondence between Pharmacy Guild email addresses (@guild.org.au) and Department of Prime Minister & Cabinet and Department of Health email addresses (@pmc.gov.au, @pm.gov.au and @health.gov.au) between 1 November 2021 and 1 January 2022.

If the contents of these emails cannot be shared then I request a spreadsheet of all emails with recipient, sender, subject lines and date/time.

On 2 March 2022 the Department advised you that the part of your request for correspondence between Pharmacy Guild and the Department of Health should be directed to the Department of Health as a separate request.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Material taken into account

In reaching my decision I referred to the following:

- the terms of your request
- searches undertaken by the Department
- the documents relevant to your request
- the FOI Act
- the Guidelines issued by the Information Commissioner¹ (the FOI Guidelines)
- the views of a third party consulted by the Department under section 27A

Documents in scope of request

The Department has identified 21 documents that fall within the scope of your request.

These documents are set out in the Schedule of Documents at **Attachment A**.

Decision

I have decided to grant access in part, with exempt and irrelevant material deleted, on the basis that the documents contain information exempt under section 47F (personal privacy) and section 47G (business affairs) of the FOI Act.

Reason for decision

My findings of fact and reasons for deciding that certain information is exempt or irrelevant is set out below.

1. Section 47F - personal privacy

Section 47F(1) of the FOI Act provides a conditional exemption for material that would involve the unreasonable disclosure of personal information about any person (including a deceased person).

'Personal information' under the FOI Act has the same meaning as set out in section 6 of the *Privacy Act 1988* and means:

... information or an opinion about an identified individual, or an individual who is reasonably identifiable:

(a) whether the information or opinion is true or not; and

(b) whether the information or opinion is recorded in a material form or not.

Parts of the documents contain the personal information of third party individuals including names, employment and contact information. One third party has objected to the disclosure of their personal information contained in the documents.

¹ s 93A of the FOI Act

An agency or minister must have regard to the following matters in determining whether disclosure of the document would involve an unreasonable disclosure of personal information:

- a. the extent to which the information is well known
- b. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document
- c. the availability of the information from publicly accessible sources
- d. any other matters that the agency or minister considers relevant (s 47F(2))

I have reviewed the personal information, and the views of the relevant third parties, and I am satisfied that material identified as personal information within the documents are conditionally exempt from release, under subsection 47F(1) of the FOI Act, as their release would involve the unreasonable disclosure of personal information.

2. Section 47G - business

Paragraph 47G(1)(a) of the FOI Act provides:

(1) *A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:*

(a) *would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs;*

In relation to the term 'business or professional affairs' the FOI Guidelines relevantly discuss the following:

The use of the term 'business or professional affairs' distinguishes an individual's personal or private affairs and an organisation's internal affairs. The term 'business affairs' has been interpreted to mean 'the totality of the money-making affairs of an organisation or undertaking as distinct from its private or internal affairs'.

The internal affairs of an organisation include its governance processes, the processes by which organisations are directed and controlled. For example, documents relating to member voting processes are not exempt under s 47G, because member voting forms part of the governance affairs of an organisation.²

Parts of documents 6-9, 14 and 16 would disclose the business affairs of an organisation and that disclosure would, or could reasonably be expected to, unreasonably affect that organisation adversely in respect of its lawful business, commercial or financial affairs.

The information consists of an email address used for a specific purpose of managing events coordinated by the organisation and this email address is not listed publicly. The disclosure of the

² FOI Guidelines, [6.192] – [6.193] (footnotes omitted).

email address would adversely affect the way the organisation manages public enquiries and the coordination of future events.

I am satisfied that this information is conditionally exempt from release under subsection 47G(1)(a) of the FOI Act.

3. Public interest

The FOI Act provides that a conditionally exempt document must nevertheless be disclosed unless its disclosure would, on balance, be contrary to the public interest³. In determining whether its disclosure would be contrary to the public interest, the FOI Act requires a decision-maker to balance the public interest factors.

As I have decided that parts of the documents are conditionally exempt, I am now required to consider the public interest factors, in doing so I have not taken into account the irrelevant factors as set out in subsection 11B(4) of the FOI Act, this includes:

- a) *access to the document could result in embarrassment to the Commonwealth Government, or cause a loss in confidence in the Commonwealth Government*
- b) *access to the document could result in any person misinterpreting or misunderstanding the document*
- c) *the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made*
- d) *access to the document could result in confusion or unnecessary debate*

In applying the public interest, I have noted the objects of the FOI Act⁴ and the factors favouring access as listed in subsection 11B(3) of the FOI Act. Having regard to the material before me and the circumstances of the documents found to be conditionally exempt I am satisfied of the following:

- access would promote the objects of the FOI Act⁵

The FOI Act does not set out any public interest factors against disclosure and require that agencies are to have regard to the FOI Guidelines in order to work out if disclosure would, on balance, be contrary to the public interest⁶. The FOI Guidelines contain a non-exhaustive list of factors that, depending on the circumstances of the documents found to be conditionally exempt, may weigh against disclosure.

In relation to the material I found to be conditionally exempt under s 47F of the FOI Act, I consider that the following factor weighs against disclosure:

Disclosure could reasonably be expected to prejudice the right to personal privacy. In relation to the material I found to be conditionally exempt under s 47G of the FOI Act, I consider that the following factor weighs against disclosure:

- Disclosure could reasonably be expected to prejudice the business affairs and efficient service delivery of the third party organisation

³ s 11A(5) of the FOI Act

⁴ s 3 of the FOI Act

⁵ s 11B(3)(a) of the FOI Act

⁶ s11B(5) of the FOI Act

After careful consideration of all relevant factors, I have decided that on balance, the factors against disclosure outweigh those favouring disclosure. Accordingly, I am of the view that disclosure of the requested document would be contrary to the public interest.

For these reasons, I have decided that the material identified above is exempt under sections 47F and 47G of the FOI Act.

Deletion of irrelevant matter

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would be reasonably regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonable be regarded as irrelevant to the request.

On 2 March 2022, the Department advised you of its policy to exclude the personal and direct contact details of officers not in the Senior Executive Service (SES) and any Ministerial staff, as well as any person's signature, and the mobile or direct numbers of SES officers, which are contained in documents that fall within the terms of an FOI request. This category of information is identified as irrelevant and documents can be modified by the Department to delete the irrelevant material.

Accordingly, I am satisfied that parts of the document are irrelevant under subparagraph 22(1)(a)(ii) of the FOI Act. The remainder of the document has been released to you as it is relevant to your request.

Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after 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 officer within 30 days from the date it is received.

Applications for review should be sent to foi@pmc.gov.au.

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 after the date of this letter.

More information about Information Commissioner review is available [here](#).⁷

⁷ <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review>

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. More information about complaints is available [here](#).⁸

If you wish to discuss any aspect of your request, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely



Autumn Field
Assistant Secretary
Legal Policy Branch
Department of the Prime Minister and Cabinet
10 August 2022

⁸ <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint>



Attachment A

Freedom of Information (FOI) request

Schedule of Documents

Reference: FOI-2022-064

	Date	No. of pages	Description (document reference)	Decision on release	
1.	03/11/2021	2	Job Application – Senior Advisers, Social Policy Division VN-0696552	Exempt in part	s 22(1)(a)(ii) s 47F
1.1	03/11/2021	1	Att. 1 - Statement of reasons	Exempt in full	s 47F
1.2	03/11/2021	4	Att 2 - CV	Exempt in full	s 47F
2.	3/11/2021	1	Automatic reply – Application - Senior Advisers, Social Policy Division VN-0696552	Exempt in part	s 22(1)(a)(ii) s 47F
3.	24/11/2021	1	Automatic reply - Application	Exempt in part	s 22(1)(a)(ii) s 47F
4.	04/11/2021	3	Job Application and Outcome – Senior Advisers, Social Policy Division VN-0696552	Exempt in part	s 22(1)(a)(ii) s 47F
5.	25/11/2021	2	Job Application	Exempt in part	s 22(1)(a)(ii) s 47F
6.	05/11/2021	2	Invitation - Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii) s 47G(1)(a) s 47F
7.	05/11/2021	2	Invitation - Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii) s 47G(1)(a) s 47F
8.	01/12/2021	3	Response to Invitation - Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii)

					s 47G(1)(a) s 47F
9.	22/11/2021	2	Invitation to Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii) s 47G(1)(a) s 47F
10.	24/11/2021	1	Job Application Follow-up	Exempt in part	s 22(1)(a)(ii) s 47F
11.	01/12/2021	1	Response to Invitation	Exempt in part	s 22(1)(a)(ii) s 47F
12.	04/11/2021	4	Job Application - -- Senior Advisers, Social Policy Division VN-0696552	Exempt in part	s 22(1)(a)(ii) s 47F
13.	04/11/2021	5	Job Application - -- Senior Advisers, Social Policy Division VN-0696552	Exempt in part	s 22(1)(a)(ii) s 47F
14.	01.12.2021	3	Response to RSVP - Invitation to Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii) s47 G(1)(a) s 47F
15.	25/11/2021	2	Job Application	Exempt in part	s 22(1)(a)(ii) s 47F
16.	05/11/2021	2	Response to Invitation - Pharmacy Guild Cocktail Function	Exempt in part	s 22(1)(a)(ii) s 47G(1)(a) s 47F
17.	20/12/2021	2	Thank you email from Pharmacy Guild	Exempt in part	s 22(1)(a)(ii) s 47F
18.	03/11/2021	1	Read receipt	Exempt in part	s 22(1)(a)(ii) s 47F
19.	23/12/2021	2	Pharmacy Guild to PMC - Christmas Card	Exempt in part	s 22(1)(a)(ii) s 47F
20.	21/12/2021	2	Pharmacy Guild to PMC - Christmas Card	Exempt in part	s 22(1)(a)(ii) s 47F
21.	17/12/2021	1	Thank you from APS Reform Office to Pharmacy Guild	Exempt in part	s 22(1)(a)(ii) s 47F