



23 May 2022

Our reference: LEX 67553

OpenWelfare

Only by email: [foi+request-8780-37302565@righttoknow.org.au](mailto:foi+request-8780-37302565@righttoknow.org.au)

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

I refer to your request, received by Services Australia (the agency) on 21 April 2022 for access under the *Freedom of Information Act 1982* (the FOI Act) to the following document:

I request, under the Freedom of Information Act 1982, copies of the following documents:

Ending Cashless Debit Card (CDC) participation 103-03150030 from your Operational Blueprint.

I request that it be posted to your operational blueprint site for all to see if unredacted, or if unable to be done a PDF to this right to know request'.

#### **My decision**

The agency holds one document (totalling 15 pages) that relates to your request.

I have decided to grant you **part access** to the document (Document 1) with some of the content removed.

I have decided that parts of Document 1 are exempt under the FOI Act, as they contain information that, if released, could be expected to have a substantial adverse effect on the proper and efficient conduct of the agency (section 47E(d)).

Please see the schedule at **Attachment A** to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

#### **How we will send the documents to you**

The document is attached.

#### **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**

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

Yours sincerely

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



**SCHEDULE OF DOCUMENTS FOR RELEASE**  
**OpenWelfare (Right to Know) - LEX 67553**

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
1.	1-15	01/02/2022	Operational Blueprint Ending Cashless Debit Card (CDC) participation 103-03150030	Release in part	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency deleted under section 47E(d)



## **REASONS FOR DECISION**

### **What you requested**

'I request, under the Freedom of Information Act 1982, copies of the following documents:

Ending Cashless Debit Card (CDC) participation 103-03150030 from your Operational Blueprint.

I request that it be posted to your operational blueprint site for all to see if unredacted, or if unable to be done a PDF to this right to know request'.

### **What I took into account**

In reaching my decision I took into account:

- your request dated 21 April 2022
- the document falling within the scope of your request
- whether the release of material is in the public interest
- 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 (the Guidelines), and
- the FOI Act.

### **Reasons for my decisions**

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

I have decided that parts of the document you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that the exemption applies to the document are discussed below.

#### **Section 47E(d) of the FOI Act – Operations of the agency**

I have applied the conditional exemption in section 47E(d) to parts of Document 1.

Section 47E(d) of the FOI Act provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

*Proper and efficient conduct of the operations of an agency*

In *Re James and Australian National University* (1984) 6 ALD 687 (Re James) the phrase 'conduct of operations' was interpreted to extend 'to the way in which an agency discharges or performs any of its functions.'

The document contains the current details of procedures and guidance relating to the Cashless Debit Card program administered by the agency, and is clearly related to the conduct of the agency's operations.

*Would disclosure of the information reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of operations of Services Australia?*

Paragraph 5.20 of the Guidelines provides:

The term 'substantial adverse effect' broadly means 'an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person'. The word 'substantial', taken in the context of substantial loss or damage, has been interpreted as 'loss or damage that is, in the circumstances, real or of substance and not insubstantial or nominal'.

In *Re James* it was held the term 'substantial adverse effect' meant the effect had to be 'serious' or 'significant'.

Further, paragraph 6.101 of the Guidelines provides:

...there must be more than merely an assumption or allegation that damage may occur if the document were to be released.

The information to which this conditional exemption has been applied includes information relating to:

- exiting the program;
- program triggers; and
- considerations for discretionary decisions.

I consider that disclosure of the exempted material, which is not publicly available, has the potential to enable individuals to circumvent the application of the procedures and instructions to be followed by officers of the agency in determining whether a participant is eligible to end their participation in the Cashless Debit Card (CDC) program.

As the FOI Act does not control or restrict subsequent use or dissemination of the information once disclosed in response to an FOI request, I consider the release of the exempted material could reasonably be expected to facilitate and/or promote broad circumvention of the procedures for ending CDC participation, which would compromise the administration of the CDC program.

For the reasons detailed above, I am satisfied certain operational information relating to the CDC program is conditionally exempt under section 47E(d) of the FOI Act.

*Public interest considerations*

Section 11A(5) of the FOI Act provides:

The agency or Minister 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 at that time would, on balance, be contrary to the public interest.

When weighing up the public interest factors for and against disclosure under section 11A(5) of the FOI Act, I have taken into account that disclosure may promote the objects of the FOI Act.

I have also considered the relevant factors indicating access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- increase the likelihood that customers could use the information to circumvent requirements of the CDC program;
- prejudice Services Australia's ability to properly and efficiently administer the CDC program; and
- prejudice the integrity of the CDC program.

Based on the above public interest factors, I find that any public interest in disclosing the exempted parts of Document 1 is outweighed by the public interest against disclosure of the exempted material. This is because I consider there is a persuasive public interest in ensuring the agency is able to properly administer the CDC program to the Australian public.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

### *Conclusion*

In summary, I am satisfied that parts of Document 1 are conditionally exempt under section 47E(1) of the FOI Act. Furthermore, I have decided that on balance it would be contrary to the public interest to release this information.

I have redacted the exempt information in the document and released the remaining material in accordance with section 22(1) of the FOI Act. As identified in the Schedule, I have redacted the exempt information in the document and released the remaining material in accordance with section 22(1) of the FOI Act.



## INFORMATION ON RIGHTS OF REVIEW

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

#### **Asking for a full explanation of a Freedom of Information 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 an Freedom of Information decision**

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (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 Services Australia (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 Services Australia 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.