



Australian Government

Department of Health

Department Reference: FOI <XX-XXXX>

<Title> < Name>

<Position>

< Organisation>

<Address>

<SUBURB> < STATE> < Postcode>

Via email : < >

Dear <Title> < Surname>

**NOTICE OF [INTERNAL REVIEW] DECISION - THRD PARTY
CONSULTATION**

I refer to the Department of Health's (department) email dated <date of consultation email/ letter>, consulting you in relation to a Freedom of Information (FOI) request, and to your response of <date>. [*For internal review:* I refer to your request for internal review in relation to a Freedom of Information (FOI) request, received by the department on <date>]. This FOI request relates to < insert general description, e.g. 'amendments to medicare levy' or 'a person's workers compensation claim'>. This letter informs you of my [internal review] decision in relation to that FOI request.

Consultation

You were consulted in relation to <number of> documents within the scope of the request which contain <information that originated with or was received from your agency/ information about your business/your personal information>.

Under <s 26A, 27 or 27A> you were provided an opportunity to contend the documents, or parts of them, are exempt under section <47B / 47F / 47 or 47G> of the FOI Act.

You contended that [insert summary of contentions].

<For internal review :>

<Original decision maker> advised you on <insert date> of the department's decision to <outline original decision>.

On <date> you requested internal review of the decision. In your request you outlined the following reasons why the documents should be exempt:

- <outline reasons provided by third party in request for review>.
- <also outline any correspondence/communication/background between the agency and the third party which is relevant to the review>

Authority and materials considered

I am authorised under section 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests.

In reaching my decision, I have taken into consideration:

- the relevant provisions of the FOI Act;
- the contents of the relevant documents;
- your response dated <insert date> to my consultation letter dated <insert date>;
- the Guidelines produced by the Office of the Australian Information Commissioner; and
- <insert any other relevant considerations>.

Decision

<Where decision is to uphold all objections, include only this paragraph and then contact details :>

I have decided the documents are exempt under section <47B / 47F / 47 or 47G>. This means the documents will not be released to the FOI Applicant. I have notified the FOI Applicant of my decision. The department will inform you if the FOI Applicant exercises their rights of review.

<Where decision is to release some material contrary to the third party's objection:>

I have considered carefully your contentions objecting to the release of material contained in the documents on which you were consulted, together with other relevant information, including the nature of the information, the relevant provisions of the FOI Act and the Guidelines produced by the Office of the Australian Information Commissioner. I have determined <the documents are not conditionally exempt under <insert relevant section> of the FOI Act **OR** while the documents fall within the conditional exemption under <relevant section> I do not believe that release of the documents would be contrary to the public interest>.

Attachment A is a schedule setting out my decision and indicating which parts of which documents I have decided to release. Enclosed at Attachment B are copies of the relevant document[s] showing the material which I have decided to release.

Although I have decided to release these documents to the FOI applicant, they will not be released until you have had an opportunity to exercise your appeal rights,

which are outlined below. If you do not inform the department of your intention to exercise your review rights within the statutory timeframes, the documents will be released to the applicant without further notice to you.

Summary of reasons for decision

<Outline reasons linking them to contentions made>.

For example:

As advised in our letter dated <insert date>, the mere assertion that release of the documents <would damage Commonwealth-State relations or disclose confidentially communicated material/ would be an unreasonable disclosure of personal information/would harm your business or disclose 'commercial in confidence' material> is not sufficient to sustain exemption of the documents from disclosure under the FOI Act. Evidence is needed to support the claim. Your assertion that <insert contention> is insufficient to suggest in the present case that the information would be exempt under <insert section>.

the information is not 'personal information' about you for the purposes of the FOI Act. To be your personal information it must tell the reader something about you - see the definition of personal information in section 4 of the FOI Act. (**Personal information** means information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.)

while the information is your personal information, I do not believe disclosure would be unreasonable. The information merely describes your occupation and work contact details, and this information is publicly available from the White Pages telephone directory / your department's website.

while it is information concerning your business affairs, I am not satisfied that disclosure would adversely affect your business. There is no evidence before me to show that there would be any negative impact on your commercial activities if the information in the documents were to be disclosed.

while it is information communicated from your State government to the Commonwealth, there is no evidence to suggest it was communicated on a confidential basis.

in relation to s47B, s47F or s47G, even if a document is found to be conditionally exempt, it is still not exempt from release unless access to the document would be, on balance, contrary to the public interest.

I have considered the following public interest factors (see s11B FOI Act) and any guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act [weigh up public

interest factors]. I have decided that it would not, on balance, be contrary to the public interest to grant access to the documents **[give reasons in relation to each conditional exemption ground]**.

Your review rights

Please note your review rights are restricted to arguing the documents are exempt on the basis of the exemption provision on which you were consulted (that is, section <47B / 47F / 47 or 47G>).

[<Include these paragraphs for original decision only, for internal review just include IC review> If you are dissatisfied with my decision, you may apply for an internal review or Australian Information Commissioner (Information Commissioner) review of the decision.

Internal review

Under section 54A 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 of the date of this notice (or such further period as the department allows). Where possible please provide reasons why you consider review of the decision is necessary. The internal review will be carried out by another officer of this department within 30 days. An application for an internal review should be addressed to:

Email: FOI@health.gov.au

OR

Mail: FOI Unit (MDP 516)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Information Commissioner Review

Under section 54M of the FOI Act, you may apply to the Information Commissioner to review my decision. An application for review must be made in writing 60 days of this notice.

The Australian Information Commissioner can be contacted by:

Email: enquiries@oaic.gov.au

Phone: 1300 363 992

More about the Information Commissioner review is available on the Office of the Australian Information Commissioner (OAIC) website at

<http://www.oaic.gov.au/freedom-of-information/requesting-a-review>

You may also make a complaint to the Information Commissioner about action taken by the department in relation to your application. Further information can be obtained from the OAIC website.

Relevant provisions

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/C2019C00288>

Publication

You should be aware where I have decided to release documents to the FOI Applicant, the department may also publish the released material on its Disclosure Log. The department will however, not publish information (such as personal or business information) where it would be unreasonable to do so.

For your reference the department's Disclosure Log can be found at:

<https://www.health.gov.au/resources/foi-disclosure-log>

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the FOI team by phone on (02) 6289 1666 or by email at FOI@health.gov.au.

Yours sincerely

<Name>
Director
Freedom of Information

<Month> 2019