



## Australian Government

### Department of Health and Aged Care

FOI reference: FOI 4945

Ms Meryl Dorey  
By email: [admin@myinformedchoice.com.au](mailto:admin@myinformedchoice.com.au)

Dear Ms Dorey

### Decision on your Freedom of Information Request

I refer to your request of 27 January 2024, to the Therapeutic Goods Administration (TGA), seeking access under the *Freedom of Information Act 1982 (Cth)* (FOI Act) to:

*'Documents showing:*

*[1] How many doses of each of the following brands of COVID-19 vaccine were ordered by and delivered to the Australian Government or any of its Departments or subsidiaries;*

*[2] How many doses of each of the following brands of COVID-19 vaccine were administered; and*

*[3] How many doses of each of the following brands of COVID-19 vaccine were discarded as 'wastage'.*

*The brands I am interested in are: Pfizer, AstraZeneca, Moderna, Novavax.'*

The Department of Health and Aged Care (the department) took carriage of your request as the scope of your request sits more with the department than the TGA.

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 on your request.

### Additional information

On 23 February 2024, the department provided you with publicly available resources relevant to point 2 of your request. Further to this, the department would like to provide you with some additional information that may be of interest:

- the Australia National Audit Office published an audit report on Australia's COVID-19 vaccine rollout is available at [https://www.aph.gov.au/Parliamentary\\_Business/Tabled\\_Documents/148](https://www.aph.gov.au/Parliamentary_Business/Tabled_Documents/148)
- the TGA published administrative data up to 2 November 2023 is available at <https://www.tga.gov.au/news/covid-19-vaccine-safety-reports>.

## **FOI decision**

I have identified three documents that are relevant to your request. These documents were in the possession of the department when your request was received.

I have decided to give access to three documents in part, subject to the deletion of exempt and irrelevant material.

A schedule setting out the documents relevant to your request, with my decision in relation to those documents, is at **ATTACHMENT A**.

My reasons for not providing access to material that has been deleted from the documents are set out in **ATTACHMENT B**.

## **Legislative provisions**

The FOI Act, including the provisions referred to in my decision is available on the Federal Register of Legislation website: [www.legislation.gov.au/Series/C2004A02562](http://www.legislation.gov.au/Series/C2004A02562).

## **Your review rights**

I have set out your review rights at **ATTACHMENT C**.

## **Publication**

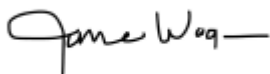
Where I have decided to release documents to you, the department may also publish the released material on its Disclosure Log. The department will not publish personal or business affairs information where it would be unreasonable to do so.

For your reference the department's Disclosure Log can be found at: [www.health.gov.au/resources/foi-disclosure-log](http://www.health.gov.au/resources/foi-disclosure-log).

## **Contacts**

If you require clarification of any matters discussed in this letter you can contact the FOI Section on (02) 6289 1666 or at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Yours sincerely



Jane Wagner  
Assistant Secretary  
Vaccine Supply Management Branch  
9 April 2024

ATTACHMENT A.

SCHEDULE OF DOCUMENTS  
FOI 4945

Document	Pages	Date	Description	Decision on access <sup>1</sup>	Relevant provisions of FOI Act
1	3	12 May 2023	Senate Committee: Community Affairs Budget Estimates	REI	s 22 s 47E(d)
2	1	22 January 2024	End of Week wastage	REI	s 22 s 47E(d)
3	1	25 January 2024	Weekly Data Sheet for Administration	REI	s 22 s 47E(d)
3a	1	25 January 2024	Explanatory Notice	R	N/A
3b	1	25 January 2024	COVID-19 Vaccine Administration Data Sheet	REI	s 22 s 47E(d)

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<sup>1</sup> R = Release in full, REI = Release with exempt and irrelevant information deleted.

**ATTACHMENT B.**

**REASONS FOR DECISION  
FOI 4945**

**1. Material taken into account**

In making my decision, I had regard to the following:

- the FOI Act
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines)
- the terms of your FOI request as outlined above
- submissions from third parties consulted about documents which contain information concerning them
- the content of the documents sought, and
- advice from departmental officers with responsibility for matters relating to the documents sought.

**2. Finding of facts and reasons for decision**

My findings of fact and reasons for deciding that the exemptions identified in the schedule of documents apply to the parts of documents are set out below.

**3. Section 47E - Documents affecting 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:

- (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 or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Paragraph 6.120 of the FOI Guidelines states:

An agency's operations may not be substantially adversely affected if the disclosure would, or could reasonably be expected to lead to a change in the agency's processes that would enable those processes to be more efficient. For example, in *Re Scholes and Australian Federal Police* [1996] AATA 347, the AAT found that the disclosure of particular documents could enhance the efficiency of the Australian Federal Police as it could lead to an improvement of its investigation process.

Paragraph 6.123 of the FOI Guidelines states that the predicted effect must bear on the department's 'proper and efficient' operations, that is, the department is undertaking its expected activities in an expected manner. Where disclosure of the documents reveals unlawful activities or inefficiencies, this element of the conditional exemption will not be met and the conditional exemption will not apply.

I am satisfied that the parts of the documents marked 's47E(d)' contains information which, if disclosed, would or could reasonably be expected to, have a substantial and an unreasonable effect on the department's proper and efficient operations in managing its ongoing commercial relationships with vaccine producers. These operations are vital to the department's ability to ensure and maintain sufficient, necessary and timely supplies of vaccines to the Australian community on behalf of the Commonwealth. I am satisfied that the impact on these operations, should this information be disclosed, would, or could reasonably be expected to, result in irreputable damage to these relationships and the management of advance purchase agreements.

In making my decision, I have consulted with the affected third parties regarding the relevant business affairs information, and I have considered any concerns. I consider that the impact of releasing the information would, or could reasonably be expected to, cause irreputable damage to the ongoing agreements the Commonwealth shares, impacting the supply of information and products.

In addition, the documents also contain internal operational email addresses of this department, which, if disclosed, would or could reasonably be expected to, have a substantial adverse effect on the department's proper and efficient operations. These email addresses support operational activities that are being undertaken in an expected and lawful manner, and their disclosure would not reveal inefficiencies in the way in which the department conducts these operational activities. The disclosure of this information would, or could reasonably be expected to, expose these communications channels to unsolicited correspondence and have a substantial adverse effect on the effectiveness and efficiency of the agency's processes in conducting their regular operations.

For the reasons outlined above, I have decided that the parts of the documents marked 's47E' are conditionally exempt from disclosure under section 47E of the FOI Act.

Where a document is found to be conditionally exempt, the department must give access to that document unless access to the document at this time would, on balance, be contrary to the public interest. I have addressed the public interest considerations below.

#### **4. Disclosure is not in the public interest**

Pursuant to subsection 11A(5) of the FOI Act, the department must give access to conditionally exempt documents unless access to the documents at that time would, on balance, be contrary to the public interest. I have therefore considered whether disclosure of the documents would be contrary to the public interest.

Paragraph 6.5 of the FOI Guidelines states:

The public interest test is considered to be:

- something that is of serious concern or benefit to the public, not merely of individual interest
- not something of interest to the public, but in the interest of the public
- not a static concept, where it lies in a particular matter will often depend on a balancing of interests
- necessarily broad and non-specific and
- relates to matters of common concern or relevance to all members of the public, or a substantial section of the public.

#### Factors favouring disclosure

Section 11B of the FOI Act provides that factors favouring access to documents in the public interest include whether access to the documents would do any of the following:

- promote the objects of the FOI Act (including all matters set out in sections 3 and 3A)
- inform debate on a matter of public importance
- promote effective oversight of public expenditure, or
- allow a person to access his or her own personal information.

Having regard to the above, I consider that disclosure of the conditionally exempt information at this time:

- would provide access to documents held by an agency of the Commonwealth which would promote the objects of the FOI Act by providing the Australian community with access to information held by the Australian Government.
- could inform debate on a matter of public importance
- would promote effective oversight of public expenditure, and
- would not allow you access to your own personal information.

#### Factors weighing against disclosure

I consider that the following public interest factors weigh against disclosure of the conditionally exempt information at this time, on the basis that disclosure:

- could reasonably be expected to prejudice the commercial activities, relationships and arrangements of the department with vaccine producers, with a likely adverse effect that would be community-wide and severe

- in relation to operational email addresses, could reasonably be expected to impede the flow of information to the department and ability to obtain similar information in the future
- the operational email addresses would not provide any additional benefit to the public, noting that the department already has existing public communications channels that are, in my view, readily available and sufficient for this purpose.

In making my decision, I have not taken into account any of the irrelevant factors set out in subsection 11B(4) of the FOI Act, which are:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of 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 document 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.

### Conclusion

For the reasons set out above, after weighing all public interest factors for and against disclosure, I have decided that, on balance, disclosure of the conditionally exemption information would be contrary to the public interest. I am satisfied that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information.

### **5. Section 22 - deletion of irrelevant material**

Section 22 of the FOI Act applies to documents containing exempt material (subparagraph (1)(a)(i)) and irrelevant information (subparagraph (1)(a)(ii)) and allows an agency to delete such material from a document.

I have deleted material in the documents which can reasonably be regarded as irrelevant to your request and prepared an edited copy for release. This information has been marked 's22' in the documents released to you.

In particular, the documents contain the names and telephone numbers of Department of Health and Aged Care employees. When your request was acknowledged on 29 January 2024, we notified you that this material would be considered irrelevant to the scope of your request unless you told us that you were seeking access to that material. On the basis that you did not notify us otherwise, this information has been deleted under section 22 of the FOI Act, as outlined above.

As I have decided that some of the information in the documents released to you is exempt from disclosure, I have prepared an edited copy of the documents by deleting the exempt information from the documents under section 22 of the FOI Act, as outlined above.

## ATTACHMENT C.

### YOUR REVIEW RIGHTS

If you are dissatisfied with my decision, you may apply for a review.

#### **Internal review**

You can request internal review within 30 days of you receiving this decision. An internal review will be conducted by a different officer from the original decision maker.

No particular form is required to apply for review although it will assist your case to set out the grounds on which you believe that the original decision should be changed.

Applications for internal review can be made by:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)

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

If you choose to seek an internal review, you will also have a right to apply for Information Commissioner review (IC review) of the internal review decision once it has been provided to you.

#### **Information Commissioner review or complaint**

You also have the right to seek Information Commissioner (IC) review of this decision. For FOI applicants, an application for IC review must be made in writing within 60 days of the decision. For third parties who object to disclosure of their information, an application for IC review must be made in writing within 30 days of the decision.

If you are not satisfied with the way we have handled your FOI request, you can lodge a complaint with the OAIC. However, the OAIC suggests that complaints are made to the agency in the first instance.

While there is no particular form required to make a complaint to the OAIC, the complaint should be in writing and set out the reasons for why you are dissatisfied with the way your request was processed. It should also identify the Department of Health and Aged Care as the agency about which you are complaining.

You can make an IC review application or make an FOI complaint in one of the following ways:

- online at [www.oaic.gov.au/freedom-of-information/reviews-and-complaints/](http://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/)
- via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)
- by mail to GPO Box 5218 Sydney NSW 2001, or
- by fax to 02 9284 9666.



More information about the Information Commissioner reviews and complaints is available on the OAIC website here: [www.oaic.gov.au/freedom-of-information/foi-review-process](http://www.oaic.gov.au/freedom-of-information/foi-review-process).

## **Complaint**

If you are dissatisfied with action taken by the department, you may also make a complaint directly 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 here: [www.health.gov.au/about-us/contact-us/complaints](http://www.health.gov.au/about-us/contact-us/complaints)