



Australian Government

Office of the Australian Information Commissioner

Our reference: FOIREQ24/00247

By email: foi+request-11346-ec5e8e9e@righttoknow.org.au

Dear Tareq

Freedom of Information Request – FOIREQ24/00247

I refer to your request for access to documents made under the *Freedom of Information Act 1982* (Cth) (the FOI Act). Your Freedom of Information (FOI request) was received by the Office of the Australian Commissioner (OAIC) on Sunday 21 April 2024.

I am writing to inform you of my decision.

I have identified 1 document within the scope of your request. I have made a decision to grant full access to 1 document.

In accordance with section 26(1)(a) of the FOI Act, the reasons for my decision and findings on material questions of fact are provided below.

Background

Scope of your request

Your FOI request sought access to the following information:

Dear Office of the Australian Information Commissioner, 1. Are general practitioners legally obligated to share, upon request, a copy of medical records to the patient (to which they [medical records] are in regard to), including all progress notes, clinical notes, visit summaries, and all other information the general practitioner has created about, or received in regards to, the patient?

2. Would it be unlawful for the general practitioner to unreasonably deny this request, given that it is deemed that no exceptions apply (e.g., the release of information would cause harm to the patient).

Request timeframe

Your request was made on Sunday 21 April 2024.

This means that you are required to be notified of a decision on your request by Tuesday 21 May 2024.

Decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests on behalf of the OAIC.

Subject to the following provisions of the FOI Act, I have made a decision to grant full access to 1 document.

Searches undertaken

The FOI Act requires that all reasonable steps have been taken to locate documents within scope of an FOI request.

In response to your request, the following line area of the OAIC conducted reasonable searches for documents:

- Legal Services.

Searches were conducted of an OAIC document storage system being:

- the OAIC's website.

The following search terms were used when undertaking electronic records searches:

- 'Access your health information OAIC'.

Having consulted with the relevant line area and undertaken a review of the record of search and retrieval efforts, I am satisfied that a reasonable search has been undertaken in response to your request and that all relevant documents have been found.

Link

The electronic document, which provides information surrounding access to access your health information, can be found at the following link [Access your health information | OAIC](#). You may also find a copy of the link in the **attached** schedule of documents.

Reasons for decision

Material taken into account

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

- your FOI request dated Sunday 21 April 2024;
- the FOI Act, including section 3, 11, 11A, 15 and 26 of the FOI Act;
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act to which regard must be had in performing a function or exercising a power under the FOI Act (FOI Guidelines);
- Consultation with the relevant line area of the OAIC in relation to your request.

Disclosure log decision

Section 11C of the FOI Act requires the OAIC to publish documents released under the FOI Act on the OAIC's disclosure log within 10 days of release, except if they contain personal or business information that would be unreasonable to publish.

I have made a decision to publish a link to the document on the OAIC's disclosure log.

Other matters

Please kindly note that The OAIC regulates the [Privacy Act 1988](#) (Cth) (the Privacy Act) and the [Freedom of Information Act 1982](#) (Cth) (the FOI Act). The OAIC has the power to investigate [complaints about the alleged mishandling of personal information](#) by Australian and Norfolk Island government agencies and many private sector organisations, as well as the power to [review FOI decisions](#) of Australian and Norfolk Island government agencies. We are also responsible for handling privacy complaints about ACT public sector agencies.

This means, for example, if someone makes a complaint about another Commonwealth agency or private organisation under the Privacy Act that it breached their privacy, the OAIC will then open up a file. That person who made the complaint can then ask OAIC to provide that file to them. Or if someone makes a complaint about the FOI decision made by another Commonwealth government agency, the OAIC will then open up a file for that FOI review, which is on our record.

Each Australian state and territory also have separate FOI legislation that governs information held by state government agencies.

The OAIC is not a central repository for all information and **does not:**

- have the function to provide information on matters not covered by the Privacy Act or the FOI Act.
- hold records of other Commonwealth and State Government agencies or private organisations.
- hold medical records.

If you are seeking your medical records, please kindly contact the relevant healthcare provider for a copy of their records in relation to you. The OAIC would not have access to this information. If you are seeking more information on how to access your medical records, I encourage you to contact our Enquiries Team by submitting the following form [Enquiry Form \(business.gov.au\)](https://business.gov.au).

Yours sincerely,

Emily Elliott

Senior Lawyer

9 May 2024

If you disagree with my decision

Internal review

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Applications for internal reviews can be submitted to:

Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Alternatively, you can submit your application by email to foi@oaic.gov.au, or by fax on 02 9284 9666.

Further review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, and the Information Commissioner is satisfied that in the interests of administration of the Act it is desirable that my decision be considered by the AAT, the Information Commissioner may decide not to undertake an IC review.

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for IC review can be submitted online at:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

Alternatively, you can submit your application to:

Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Or by email to foidr@oaic.gov.au, or by fax on 02 9284 9666.

Accessing your information

If you would like access to the information that we hold about you, please contact foi@oaic.gov.au. More information is available on the Access our information page on our website.