



Phoebe Autumn

Via email to: [foi+request-12030-01609eec@righttoknow.org.au](mailto:foi+request-12030-01609eec@righttoknow.org.au)

Dear Phoebe,

### **Freedom of Information Request LEX 51720 – Decision on access**

I refer to the *Freedom of Information Act 1982 (FOI Act)* request to Services Australia on 9 September 2024 and subsequently transferred to the Department of Social Services (**Department**) on 19 September 2024. The request seeks access to:

*rates of and internal documents of or related to incidents of customer aggression since 2005 to present at the Department of Social Services, especially where they may relate to government policies, such as debt collections and denials of claims*

I am authorised to make decisions in respect of FOI requests under subsection 23(1) of the FOI Act.

### **Decision**

I have decided to refuse access to the documents sought by the request in full as they consist entirely of material that is:

- exempt under sections 38 (secrecy provision) of the FOI Act; or
- conditionally exempt under section 47F (personal privacy) of the FOI Act and access to that material would be contrary to the public interest.

The documents and my decision in relation to each are set out in the Schedule of Documents at **Attachment A (Schedule)**.

The reasons for my decision are set out in the Statement of Reasons at **Attachment B**.

### **Additional Information**

I have interpreted the scope of your request to be seeking incident reports or documents related to acts of customer aggression directed at departmental staff in the course of their duties within the Department's offices.

### **Review rights and complaints**

Information concerning how you may seek a review of this decision or make a complaint about the handling of this request is at **Attachment C**.

**Contact**

If you would like to discuss any aspect of my decision, please contact me at [foi@dss.gov.au](mailto:foi@dss.gov.au).

Yours sincerely



Sarah B

Authorised FOI Decision Maker

9 October 2024

**Attachments**

A – Schedule of Documents

B – Statement of Reasons

C – Review rights

## SCHEDULE OF DOCUMENTS

Doc No	Description of document	Decision
1.	<i>e-form Incident Report</i> Reference: 15477	<i>Exempt in full</i> Section 38 – secrecy provisions Section 47F – names, direct contact details and work location of departmental staff; personal information of a member of the public
2.	<i>Form</i> Workplace Hazard and/or Incident Report Form Date of Incident: 22 September 2021	<i>Exempt in full</i> Section 38 – secrecy provisions Section 47F – names and direct contact details of departmental staff

## STATEMENT OF REASONS

### Material on which the decision is based

1. I relied on the following material in coming to this decision:
  - the terms of the FOI request;
  - the documents subject to the FOI request;
  - advice from subject matter experts within the Department regarding the nature and sensitivity of the documents subject to the request;
  - the FOI Act; and
  - the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

### Section 38 – material subject to a secrecy provision

2. Section 38 of the FOI Act provides in part that a document is an exempt document if its disclosure (or the disclosure of information contained within that document) is prohibited under a provision that is specified in Schedule 3 of the FOI Act. One such provision is section 99(1) of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Redress Act)*, the effect of which is discussed below. The section 38 exemption does not extend to the personal information of the applicant, except where disclosure of the personal information would also reveal personal information about another individual.
3. Section 99(1) of the Redress Act in part prohibits the disclosure of *protected information* to another person where they are not authorised to do so. Protected information is information about a person or an institution that was provided to or obtained by an officer of the Scheme for the purposes of the Scheme and is or was held in the records of the Department or the Human Services Department (aka Services Australia).
4. Certain documents subject to the request (as identified in the Schedule) consist of material generated in the work of officers of the National Redress Scheme. I am satisfied that this information is protected information for the purposes of the Redress Act, being information that was provided to or obtained by an officer of and for the purposes of the Scheme and is or was held in the records of the Department. I am also satisfied that the protected information does not contain the personal information of the applicant. Accordingly the disclosure of this material would be prohibited under section 99(1) of the Redress Act (and therefore exempt under section 38 of the FOI Act).
5. While there are authorisations to disclose protected information under the Redress Act in specified circumstances, consistent with the decision in *Illawarra Retirement Trust v Secretary, Department of Health and Ageing [2005] FCA 170*, a request made under the FOI Act does not oblige the Department to authorise disclosure under the Redress Act, or otherwise create a right of access to documents under the FOI Act. As a result, I have not considered disclosure under these provisions as part of this decision.

### Section 47F – Personal Information

6. Section 47F of the FOI Act relevantly provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person). Access to the conditionally exempt document may only be withheld where it is contrary to the public interest.

7. Certain documents subject to the request (as identified in the Schedule) contain personal information, including the names, direct contact details and work locations of Departmental and NDIS staff and the personal information of member of the public. I am satisfied that this personal information is not publicly available, nor are the individuals concerned well known to be involved in the matters described in the documents.
8. For the reasons above I am satisfied that disclosure of this personal information would be unreasonable and therefore is conditionally exempt under section 47F(1) of the FOI Act.
9. When considering whether access to this personal information is contrary to the public interest I acknowledge that access would inherently promote the objects of the FOI Act, demonstrating full transparency of government. However, providing access to this personal information would also intrude on the privacy of the individuals to whom the personal information relates whilst also not providing great insight into the decision making processes of the Department. This adverse effect outweighs any benefit that could flow from disclosing that personal information.
10. As a result, I am satisfied that access to the personal information would be contrary to the public interest, and have decided to withhold access to it.

## INFORMATION ON REVIEW RIGHTS

You may seek review of this decision via:

- (a) an internal review; or
- (b) the Australian Information Commissioner (**Information Commissioner**).

### Internal review

If you apply for internal review, a fresh decision will be made by a different decision-maker within the Department. An application for internal review must be:

- (a) made in writing;
- (b) made within 30 days of receiving this letter; and
- (c) sent to [foi@dss.gov.au](mailto:foi@dss.gov.au).

The application should also include the reasons why you think this decision should be reviewed.

If the internal review decision results in you not being provided access to all of the documents to which you have requested access, you have the right to seek a further review by the Information Commissioner.

### Information Commissioner review

You can apply for the Information Commissioner to review this decision either immediately or following an internal review decision. You must apply to the Information Commissioner within 60 days of the receipt of this decision letter.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.

## COMPLAINTS TO THE INFORMATION COMMISSIONER

You may also make a complaint to the Information Commissioner concerning actions taken by the Department while exercising its powers or performing its functions under the FOI Act.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.