



Australian Government

Department of Health and Aged Care

FOI reference: 25-0036 LD

Ms Julie Keys

By email: foi+request-12132-92282dfa@righttoknow.org.au

Dear Ms Keys

Decision on your Freedom of Information Request

I refer to your information access request of 2 October 2024 made to the Department of Health and Aged Care (the department) under the *Freedom of Information Act 1982* (Cth) (FOI Act). In your request, you sought access to:

A copy of guidelines/information sheets/correspondence containing a list of evidence-based drugs for treating the neurological condition Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS).

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 access request.

Reasonable searches

The department has conducted reasonable searches for documents in scope of your request. As per the FOI Guidelines [at 3.89], these searches were undertaken with reference to:

- the subject matter of your request
- the department's current and past file management systems
- the department's record management systems
- the individuals within the department with knowledge of the subject matter of the documents, or who could assist with location of documents
- the age of the documents.

I am satisfied that the searches undertaken were both thorough and reasonable in the context of the scope of your request, the resources of the department, and the requirements of the FOI Act and FOI Guidelines.

Decision on access

Section 24A of the FOI Act provides that:

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document, and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found, or
 - (ii) does not exist.

As outlined above, relevant business areas within the department have conducted searches of the department's holdings as per the FOI Guidelines [at 3.89].

The department has not identified any documents matching the description in your request. I am satisfied that all reasonable steps have been taken to find any other relevant documents in the possession of the department and that such documents do not exist.

I therefore refuse your access request in accordance with section 24A of the FOI Act on the basis that the documents do not exist in the possession of the department.

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.

Your review rights

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

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.

Yours sincerely

[signed electronically]

Rebecca Cowen
Director - Freedom of Information Section
Legal Division - Advice and Legislation Branch

30 October 2024

ATTACHMENT A.

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

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 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/
- via email to 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.

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