



## Australian Government

### Department of Health and Aged Care

FOI reference: FOI-3867



### Decision on your Freedom of Information Request

I refer to your request of 19 July 2022, to the Department of Health and Aged Care (the department), seeking access under the *Freedom of Information Act 1982* (Cth) (FOI Act) to:

All records in the possession, custody or control of the Australian Government Department of Health that scientifically proves the existence of SARS-COV-2 virus.

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.

### Information about COVID-19

SARS-CoV-2, the virus which causes COVID-19, is real. Multiple scientific studies across the world demonstrate that highly reputable laboratory medicine experts have isolated and sequenced the virus that causes COVID-19, demonstrating that the virus exists, that it exists in variant forms, that it is different from the influenza virus, and that it causes a disease that has resulted in over 6.3 million deaths worldwide.

While the department is not the custodian of the scientific studies establishing the existence of SARS-CoV-2 and the effectiveness of vaccines, this research has informed the Australian Government's response to the pandemic. You can find those scientific studies in the public domain.

The department is a government agency and does not conduct scientific studies or laboratory testing for the SARS-CoV-2 in a laboratory. Diagnostic assays using reverse transcriptase polymerase chain reaction (RT-PCR) are conducted by testing laboratories throughout Australia. For more information, please see the Public Health Laboratory Network guidance on laboratory testing for SARS-CoV-2, which is available online:

<https://www.health.gov.au/resources/publications/phln-guidance-on-laboratory-testing-for-sars-cov-2-the-virus-that-causes-covid-19>

In Australia, scientists at the Victorian Infectious Diseases Reference Laboratory at The Peter Doherty Institute for Infection and Immunity were the first to isolate SARS-CoV-2 outside of China, winning the 2020 MJA/MDA National Prize for Excellence in Medical Research. This critical information was immediately shared with local and overseas reference laboratories and major North American and European virus culture collections. These peer-reviewed, evidence-based publications provide scientific evidence for the existence of this deadly virus. More information can be found here:

<https://www.mja.com.au/journal/2020/212/10/isolation-and-rapid-sharing-2019-novel-coronavirus-sars-cov-2-first-patient>

## **FOI decision**

The right to request access to a document in accordance with the FOI Act relates to documents in the possession of the department (section 4 (definition of 'document of an agency') refers). Significantly, section 4 of the FOI Act also provides that a 'document' does not include material maintained for reference purposes that is otherwise publicly available.

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.

Based on these searches, I am satisfied, in accordance with section 24A of the FOI Act, that all reasonable steps have been taken to find the documents and the department does not hold any documents referred to in your request. Please note this research and information proving the existence of SARS-CoV-2 is available in the public domain as described above.

Accordingly, under section 24A of the FOI Act, I am refusing your request for access under the FOI Act.

## **Legislative provisions**

The FOI Act, including the provisions referred to in my decision, are 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 A**.

## Contacts

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Everett', with a long horizontal flourish extending to the right.

Darius Everett  
A/g Assistant Secretary  
Communicable Diseases Branch

28 July 2022

## 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  
              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).



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## Freedom of Information Request 3867 - Notice of Decision [SEC=OFFICIAL]

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Mon, Aug 1, 2022 at 3:04 PM

[REDACTED]  
To: FOI <FOI@health.gov.au>

Greetings Australia Department of Health,

I am submitting a formal complaint to the FOIA response that I have received from the Australian Department of Health. I have requested scientific proof for the existence of SARS-COV-2. The Australian Department of health admits the following:

| the department does not hold any documents referred to in your request.

Yet, in the same response the Department of Health makes the following claims:

- SARS-CoV-2, the virus which causes COVID-19, is real.
- Multiple scientific studies across the world demonstrate that highly reputable laboratory medicine experts have isolated and sequenced the virus that causes COVID-19, demonstrating that the virus exists, that it exists in variant forms, that it is different from the influenza virus, and that it causes a disease that has resulted in over 6.3 million deaths worldwide.

I expect one of the following to remedy my complaint:

1) Provide the scientific papers that proves the existence of SARS-COV-2 using the scientific method as outlined in my original request

OR

2) Retract the above claims and provide a proper response under the FOIA excluding **speculation** and information that the Department of Health does not hold.

I expect a response in accordance with the FOIA.

Kind Regards

[Quoted text hidden]

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