



13 September 2021

Our reference: LEX 63435

Mr Fraser Tweedale

Only by email: [foi+request-7566-b23082df@righttoknow.org.au](mailto:foi+request-7566-b23082df@righttoknow.org.au)

Dear Mr Tweedale

### **Decision on your Freedom of Information Request**

I refer to your request to Services Australia (the agency) dated 13 July 2021 for access under the *Freedom of Information Act 1982* (FOI Act) to the following documents:

- (1). Source code of the myGov Code Generator iOS and Android apps, including build scripts, manifests, software license terms, and media assets (icons, audio files, etc).
- (2). Technical documentation describing the operation of the myGov Code Generator app, such as design documents, architecture diagrams, API documentation, security assessments, technical presentation slides, and similar documents.

If it assists in the expeditious processing of my request, source code may be delivered as a "snapshot" or export of source repositories, in ZIP, "tarball" or similar format. However, the full development history is preferred.

### **My decision**

The agency holds 12 documents that relate to your request.

I have decided to **refuse access** to these documents (documents 1 - 12).

I have decided the documents you have requested are exempt in their entirety under the FOI Act on the basis disclosure of the documents would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the agency and release is contrary to the public interest (section 47E(d) of the FOI Act).

Please see the schedule at Attachment A to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

### **You can ask for a review of our decision**

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the agency, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for a review of the decision. See Attachment B for more information about how to request a review.

**Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@servicesaustralia.gov.au](mailto:FOI.LEGAL.TEAM@servicesaustralia.gov.au).

Yours sincerely

**Philippa**

Authorised FOI Decision Maker  
Freedom of Information Team  
Information Access Branch | Legal Services Division  
Services Australia

## SCHEDULE OF DOCUMENTS

**TWEEDALE, Fraser (Right to Know) - LEX 63435**

<b>Doc No.</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
1.	Source Code	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
2.	Source Code	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
3.	Proposed Solution Brief	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
4.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
5.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
6.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
7.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).

<b>Doc No.</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
8.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
9.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
10.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
11.	Use Case Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).
12.	API Documentation	Exempt in full	s 47E(d)	Information that would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency (section 47E(d)).

# REASONS FOR DECISION

## What you requested

(1). Source code of the myGov Code Generator iOS and Android apps, including build scripts, manifests, software license terms, and media assets (icons, audio files, etc).

(2). Technical documentation describing the operation of the myGov Code Generator app, such as design documents, architecture diagrams, API documentation, security assessments, technical presentation slides, and similar documents.

If it assists in the expeditious processing of my request, source code may be delivered as a "snapshot" or export of source repositories, in ZIP, "tarball" or similar format. However, the full development history is preferred.

## What I took into account

In reaching my decision I took into account:

- your request dated 13 July 2021
- the documents that fall within the scope of your request
- whether the release of material is in the public interest
- consultations with agency officers about:
  - the nature of the documents
  - the agency's operating environment and functions
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines), and
- the FOI Act.

## Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

### Section 47E(d) of the FOI Act – operations of the agency

I have applied the conditional exemption in section 47E(d) of the FOI Act to documents 1 – 12.

Section 47E(d) of the FOI Act provides:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

### ***Proper and efficient conduct of the operations of an agency***

In *Re James and Australian National University* (1984) 6 ALD 687 (Re James) the phrase 'conduct of operations' was interpreted to extend 'to the way in which an agency discharges or performs any of its functions.'

The agency is responsible for the delivery of advice and high-quality, accessible social, health and child support services and payments through the Medicare, Centrelink and Child Support programs. In order to undertake its core functions, the agency uses myGov, which is a simple, secure way for customers to access government online services. This includes linking and accessing government services, accessing letters and messages, and updating personal information while being confident their personal information is secure.

Relevant to the above, the myGov Code Generator app creates a one-time access code customers can use to sign into their myGov account, instead of using secret questions and answers or SMS codes. This app gives myGov customers a secure option to sign into their myGov account, especially for customers who are not able to receive an SMS code.

I am satisfied the information contained in the documents is relevant to the implementation, delivery and management of the myGov Code Generator app created by the agency, and therefore is relevant to the conduct of the agency's operations.

### ***Could reasonably be expected to have a substantial adverse effect***

Paragraph 5.20 of the Guidelines provides:

The term 'substantial adverse effect' broadly means 'an adverse effect which is sufficiently serious or significant to cause concern to a properly concerned reasonable person'. The word 'substantial', taken in the context of substantial loss or damage, has been interpreted as 'loss or damage that is, in the circumstances, real or of substance and not insubstantial or nominal'.

In *Re James* it was held the term 'substantial adverse effect' meant the effect had to be 'serious' or 'significant'. Further, in *Re Thies and the Department of Aviation* (1986) 9 ALD 454, the plurality held the term 'connotes an adverse effect which is sufficiently serious or significant to cause concern to a properly informed reasonable person'.<sup>1</sup>

Further, paragraph 6.101 of the Guidelines provides:

... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

Chief Justice Bowen and Beaumont J in *Attorney-General's Department v Cockcroft* (1986) 64 ALR 97 held the words 'could reasonably be expected to' should hold their ordinary meaning, that is, the decision maker should make a judgement as to whether it is reasonable, 'as distinct from something that is irrational, absurd or ridiculous'.<sup>2</sup>

The myGov Code Generator app is critical to the proper and efficient delivery of government services through myGov. The information within the documents, to which the conditional exemption has been applied, includes source codes, API documentation, solution brief and use case documentation. Release of this information could allow for duplication of the app

---

<sup>1</sup> (1986) 9 ALD 545 at 463.

<sup>2</sup> (1986) 64 ALR 97 at 107.

design, lead to an increase in phishing attacks, be reused and processed and ultimately threaten the security of government information systems. I am satisfied release of the information could reasonably be expected to increase the risk of unauthorised access to the agency's computer systems and customer records.

As the FOI Act does not control or restrict any subsequent use or dissemination of information, disclosure is considered to be to the world at large. Disclosing the documents to the world at large under the FOI process could reasonably be expected to increase the risk of duplication of the design of the app, and further, result in this information being used by nefarious actors to circumvent security features and allow access to personal information of third parties. This in turn would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency by compromising myGov system security and integrity, as well as the confidentiality of customers' information and record keeping systems.

### ***Public interest considerations***

Section 11A(5) of the FOI Act provides:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act.

I have also considered the relevant factors indicating access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- increase the likelihood that the information will be used by nefarious actors, to circumvent security features
- increase the risk that the myGov Code Generator app could be duplicated, leading to a phishing attack on the agency or individuals.
- prejudice the agency's ability to properly and efficiently deliver services to the public
- prejudice the agency's ability to meet its obligations under the *Privacy Act 1988* (Cth) (specifically, Australian Privacy Principal 11)
- prejudice the myGov Code Generator app's integrity, and
- prejudice the security of the agency's computer systems.

Based on these factors, I have decided in this instance, the public interest in disclosing documents 1 – 12 in their entirety is outweighed by the public interest against disclosure of the exempted material. This is because I considered there is a persuasive public interest in ensuring the agency is able to efficiently provide services to the Australian public.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

*Conclusion*

In summary, I am satisfied documents 1 – 12 in their entirety, as set out in the Schedule, are conditionally exempt under section 47E(d) of the FOI Act. Furthermore, I have decided on balance it would be contrary to the public interest to release this information.

## **INFORMATION ON RIGHTS OF REVIEW**

### ***FREEDOM OF INFORMATION ACT 1982***

#### **Asking for a full explanation of a Freedom of Information decision**

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

#### **Asking for a formal review of an Freedom of Information decision**

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in Services Australia (the agency), and/or
2. the Australian Information Commissioner.

**Note 1:** There are no fees for these reviews.

#### **Applying for an internal review by an Internal Review Officer**

If you apply for internal review, a different decision maker to the agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

**Note 2:** You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

#### **Applying for external review by the Australian Information Commissioner**

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**Note 3:** The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

**Important:**

- If you are applying online, the application form the 'Merits Review Form' is available at [www.oaic.gov.au](http://www.oaic.gov.au)
- If you have one, you should include with your application a copy of the Services Australia decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the agency's decision.

**Complaints to the Australian Information Commissioner and Commonwealth Ombudsman**

***Australian Information Commissioner***

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: [www.oaic.gov.au](http://www.oaic.gov.au)

***Commonwealth Ombudsman***

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.