



11 November 2021

Our reference: LEX 64833

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 correspondence dated 12 October 2021, seeking internal review of the decision made by Services Australia (the **agency**) on 13 September 2021 in relation to your request for access to documents under the *Freedom of Information Act 1982* (the **FOI Act**) (the **original decision**).

#### **Summary of my internal review decision**

Consistent with the requirements of section 54C(2) of the FOI Act, I have made a 'fresh' decision.

I am satisfied that the documents are exempt under the FOI Act. Furthermore, I have decided on balance it would be contrary to the public interest to release this information.

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 this decision you can ask for an external review by the Office of the Australian Information Commissioner. 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

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



Attachment A

## SCHEDULE OF DOCUMENTS

TWEEDALE, Fraser (RIGHT TO KNOW) - LEX 64833

Doc No.	Description	Decision	FOI Act Exemption	Comments
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>FOI Act 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

On 13 July 2021, you made a request under the FOI Act for access to the following:

- '(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.'

On 13 September 2021, the agency provided you with the original decision, refusing access in full to 12 documents.

On 12 October 2021, you requested an internal review of the original decision.

You made extensive submissions in support of your request stating, in summary, that release of the source code would not pose significant security risks and outlining additional public interest factors in favour of disclosure of the documents.

### What I took into account

In reaching my decision I took into account:

- your original request dated 13 July 2021;
- the documents that fall within the scope of your request;
- your submissions dated 12 October 2021;
- whether release of the 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.

I have decided that the documents you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that the relevant exemption applies to those documents are discussed below.

#### Operations of the Agency

I have applied the conditional exemption in section 47E(d) to the documents.

This section of the FOI Act allows the agency to redact material from a document if its disclosure would have a serious or significant effect on the agency's ability to conduct its operations efficiently and properly.

The documents in question contain information on source code and other technical documentation relating to the myGov Code Generator application. I am satisfied this information is relevant to the operations and management of programs administered by the agency, and therefore relevant to the conduct of the agency's operations.

I have considered your submissions regarding the nature of the documents and your contentions that (in summary):

- source code and technical documentation is not a prerequisite to developing counterfeit applications or finding vulnerabilities or security risks in the software;
- distribution via 'app stores' offer a level of safeguarding against counterfeit applications and your assertion that users will largely download the app from an 'app store';
- the original decision did not provide you with sufficient information to adequately describe the predicted effect of disclosure, and the reasons given were generic to all documents rather than individual documents.

Whilst the release of source code and technical documentation is not a prerequisite for the development of counterfeit applications, or for members of the public to find vulnerabilities with the software, I consider that providing the exempt material to you would negatively affect the conduct of the operations of the agency. Having regard to the content of the documents and advice from subject matter experts from within the agency, I have found that the release of the information could have a serious and significant effect on the agency's ability to conduct its operations efficiently and properly.

This is because the information contained within the documents is not publicly available, and disclosure of the information would significantly increase the risk of others creating counterfeit applications. Disclosure would also allow nefarious actors to circumvent security features and potentially gain unauthorised access to third party information.

In my view, the fact that the applications are distributed via 'app stores' which list the publisher of the application does not mitigate the significant risks outlined above, given that the agency provides services to the most vulnerable members of the Australian community who have varying levels of technological literacy.

Having carefully reviewed all of the material falling within scope of the request I am satisfied that release of the documents would disclose information about the code and technical information for the myGOV code generator application and put the agency at risk of counterfeiting and unauthorised access, leaving the agency vulnerable to cyber-attack and privacy breaches.

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

Access to conditionally exempt material must be given unless I am satisfied it would not be in the public interest to do so.

I have considered your contentions that there are additional public interest considerations favouring disclosure of the documents.

I agree with the following public interest considerations you outlined favouring disclosure:

- promote the objects of the FOI Act, including:
  - Increase public participation in Government processes; and
  - increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- inform debate on a matter of public importance
- contribute to innovation and the facilitation of research
- ensure compliance with Digital Service Standard.

In relation to your submission that the release of the source code would promote effective oversight of public expenditure, I find that the release of the source code would not contribute to this in any significant way. I find that the published product and the expenditure used to create that product are more relevant to this point, and that much of this information is already available in the public domain.

In your submission you contend that the release of the source code would advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies. Your submission also contends that release of the source code may facilitate further accessibility of the application, allowing members of the public to more easily engage with the agency. However, given the significant security and privacy risks I have identified above, I do not find that creating any copy or imitation application would reasonable be considered to advance the fair treatment of members of the public engaging with the agency.

I also consider that release of information relating to the source code and technical information in the myGOV code generator application would more likely than not:

- prejudice the agency's ability to properly and efficiently deliver services to the public;
- prejudice the agency's ability to meet its obligations to customers under the *Privacy Act 1988 (Cth)*;
- prejudice the integrity of the myGov Code Generator application; and
- prejudice the security of the agency's computer systems.

On balance, I find the public interest factors in favour of disclosing the material are outweighed by the public interest factors against disclosure.

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.



**Attachment B**

## **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 further review of an FOI decision by the Australian Information Commissioner.

#### **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.