



Australian Government
Productivity Commission

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Ms Shelley Wilkins
Executive Director
Citizens Committee on Human Rights Inc.
PO Box 6402
NORTH SYDNEY NSW 2059

16 March 2020

Dear Ms Wilkins

Your Freedom of Information Request – FOI Decision Letter

I refer to your letter of 25 February 2020 to the Productivity Commission (the Commission) seeking access to documents under the Freedom of Information Act 1982 (Cth) (FOI Act).

Your request had three parts, comprising of:

- 1. The documents that the Productivity Commission used, obtained/ were provided, since commencement of the Mental Health Inquiry for the proposal in the Draft Report regarding the expansion of the existing physical checks for 0-3 year olds (see Productivity Commission Draft Report Overview, p.11).*
- 2. Minutes of meetings held since the Productivity Commission Inquiry into Mental Health commenced covering children aged younger than school age. This would include minutes covering the proposals in the Draft Report for 0-3 year olds and the proposals for the use of the Enhanced Healthy Kids Check and early childhood education and care services (ECEC). The time period of these minutes would also include since the Draft Report was released.*
- 3. I was advised when I phoned the Productivity Commission on 5th November 2019, that the initial Draft Report was nearly double the length of the final Draft Report. Per this phone call, the gentleman informed me that the Productivity Commission Mental Health Inquiry staffs were advised the first draft was too long and to cut it back. CCHR requests copies of any sections related to 0-3 year olds proposal, Healthy Kids Check and early child hood educational and care services that were cut out of the final report.*

The Commission acknowledged your request, by email 27 February 2020. The statutory time period for processing your request will expire on 26 March 2020. I confirm that I have made a decision regarding access to the documents you requested.

Decision

I am authorised under section 23(1) of the FOI Act to make decisions in relation to FOI applications made to the Commission.

A search of the Commission's records was conducted and inquiries made to staff likely to know and identify relevant documents.

In making my decision, I had regard to: the terms of the request; the content of the identified document in issue; relevant provisions in the FOI Act; the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

For **part (1) of your request**, the Commission identified nine (9) documents that met the scope of your request. I have decided to provide access to all 9 documents in full. Eight of the documents are publicly available (these are the same 8 documents that were identified in your earlier FOI request response dated 12 March 2020); access to the documents is provided via links so as not to impinge on third-party copyright. Links to the 8 documents are provided at **Attachment A**. The ninth document is provided at **Attachment B**.

For **part (2) of your request**, no documents were identified and no documents were found. I am satisfied the Commission is not in possession of any document which would fall within the scope of your request.

Under subsection 24A(1) of the FOI Act, if all reasonable steps have been taken to find documents that are the subject of an FOI request, and the agency is satisfied that no documents can be found or exist within the agency, then the agency may refuse the request. Accordingly, my decision under the Act is to refuse part (2) of your request.

For **part (3) of your request**, the Commission identified five (5) documents that met the scope of your request. I have decided to deny access to the documents on the grounds that the material is conditionally exempt under Division 3 of Part IV of the FOI Act, and release would be contrary to the public interest.

- **Section 47C** conditionally exempts documents containing deliberative matter. That is, a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or minister.
 - Previous drafts of Commission's draft report clearly capture the Commission's deliberative process in the formulation of its position in the published Mental Health inquiry Draft Report.
- **Section 47E(d)** conditionally exempts a document if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.
 - The earlier drafts contain comments and questions from staff and Commissioners and cross-references to other work. The Commission is the Australian Government's independent research and advisory body on microeconomic policy and regulation. To continue to operate effectively, the Commission must be able to reflect on and debate its work thoroughly and candidly. The process of drafting and refining is a key way the Commission tests and enhances the rigour and quality of its advice.

The public interest test — section 11A of the FOI Act

Subsection 11A(5) of the FOI Act provides that conditionally exempt documents must be released unless, in the circumstances, access to the document at this time would, on balance, be contrary to the public interest. To conclude that, on balance, disclosure of a document would be contrary to the public interest is to conclude that the benefit to the public resulting from disclosure is outweighed by the benefit to the public of withholding the information.

There is a public interest in disclosure of documents that would promote the objects of the FOI Act including increasing public participation in Government processes to inform better decision-making and to increase scrutiny, discussion or review of the Government's activities (s 3(2) of the FOI Act).

In balancing the public interest, I do not consider the disclosing early drafts would substantively add to informed public debate. The Commission's inquiry processes are transparent and the Commission has already published a significant amount of information in relation to the Mental Health inquiry (including over 80 pages of references in the draft report, which provide a sense on the information the Commission used in the Inquiry). The Commission's inquiries are conducted with significant consultation and public input, including through holding public hearing and inviting submissions. The submissions and transcripts of the public hearings are published on our website.

I also consider that disclosing early deliberative drafts would inhibit frank and candid advice and debate in the Commission. This would substantively and adversely affect the efficient operations of the Commission, and strongly outweighs any benefit to the public in releasing the documents.

Accordingly, I have concluded that disclosure of the 5 documents relevant to the third part of your request would, on balance, be contrary to the public interest .

Internal Review

If you are dissatisfied with this decision, you have certain rights of review available to you. Under section 54 of the FOI Act, you may apply for an internal review of the decision. You must apply in writing for an internal review of the decision within 30 days of receiving this notice. There is no fee to make a request for an internal review.

If you make an application for internal review, it will be conducted by another officer of the Commission. That person will make a fresh decision on the merits of the case. No particular form is required to apply for review although it will assist your case to set out in the application the grounds on which you believe that the original decision should be overturned.

An application for a review of the decision should be emailed to foi@pc.gov.au or mailed to:

Head of Office
Productivity Commission
Locked Bag 2, Collins Street, East
Melbourne VIC 8003
Attention: Corporate Services Branch – Office Services

Review by Information Commissioner

You have the option of seeking a merits review by the Information Commissioner. For more information, please refer to FOI Fact Sheet 12, published by the Office of the Australian Information Commissioner.

Complaints to the Australian Information Commissioner and the Commonwealth Ombudsman

If you are not satisfied with the way your request has been processed, you can complain to the Australian Information Commissioner or the Commonwealth Ombudsman. Generally, the Ombudsman will consult the Office of the Australian Information Commission to avoid the same matter being investigated twice.

Contact person

If you require clarification of any of the matters discussed in this letter, please do not hesitate to contact the Commission's FOI Coordinator 03 9653 2100 or email foi@pc.gov.au.

Yours sincerely

Mary Cavar
Executive Manager
FOI Decision maker (in accordance with s23(1) of the FOI Act)

ATTACHMENT A

1. Child mental health: building a shared language

<https://insightplus.mja.com.au/2019/36/child-mental-health-building-a-shared-language/>

2. DHS 2019c

<https://www.servicesaustralia.gov.au/individuals/services/centrelink/family-tax-benefit/what-can-affect-your-payment/healthy-start-school#healthcheck>

3. DET 2017

<https://www2.health.vic.gov.au/about/publications/researchandreports/mchs-2016-17-annual-reports>

4. Alexander, Brijnath and Mazza 2014

<https://implementationscience.biomedcentral.com/articles/10.1186/1748-5908-9-60>

5. Oberklaid 2014

<https://www.mja.com.au/journal/2014/201/7/prevention-and-early-detection-young-children-challenges-policy-and-practice>

6. Alexander and Mazza 2015

<https://www.mja.com.au/journal/2015/203/8/scrapping-healthy-kids-check-lost-opportunity>

7. Submission 191

https://www.pc.gov.au/_data/assets/pdf_file/0012/240411/sub191-mental-health.pdf

8. Daubney, Cameron and Scuffham 2013

<https://www.mja.com.au/journal/2013/198/9/changes-healthy-kids-check-will-we-get-it-right>

Attachment B

1. Infants – are maternal child health services equipped to handle mental health? do they have services to refer people on to?

	Rates of attendance	Gov framework? mentions <i>infant</i> mental health?	Workforce training?	General support service available?	Notable documents or policies
NSW		<u>Child and family health nursing</u> – includes reference to infant mental health	http://www.heti.edu.au/perinatal-and-infant	<u>Perinatal and Infant Mental Health Services</u>	
VIC		Maternal and Child Health Service (maternal mental health – PND and DV) and <u>Enhanced Maternal and Child Health Service (infant mental health)</u>		Focus on maternal mental health; tertiary hospital may assist with infant issues	
QLD		Queensland Universal Child Health Framework (maternal mental health – PND and DV)		<u>Queensland Centre for Perinatal and Infant Mental Health</u> (including Zero to four MH service)	
WA		<u>Community child health nurses</u> (focus on maternal mental health)	<u>Statewide Perinatal and Infant Mental Health Program (SPIMHP)</u>	<u>Referral pathway</u>	<u>Report of the Inquiry into the mental health and wellbeing of children and young people in Western Australia</u>
SA		<u>Health checks</u> – focus on physical development		<u>In patient services for mothers with mental illness</u>	
TAS					
ACT					
NT					

C'th?	65.8% for ages 0-1; 31.7% for ages 2-3; 12% for ages 4-5 - most common community health service ¹				
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Assessing infant mental health through AEDC domains (anxious and fearful behaviour and readiness to explore behaviour)?²

Mental health part of the MCH national standards for practice³

BUT

There remains a reluctance to acknowledge that very young children can and do experience mental health issues that may manifest as serious social, emotional or behavioural problems (for example, aggression, anxiety and depression), and a mistaken belief that issues experienced by young children will be outgrown; despite all of the research showing that early childhood experience impacts on lifelong mental health and wellbeing and that intervention at the earliest possible stage will have the most beneficial impact.⁴

General description of problems:

[https://www2.health.wa.gov.au/~media/Files/Corporate/general%20documents/Mental%20Health%20Network/Perinatal and Infant Mental Health Sub Network Establishment Report February 2016.pdf](https://www2.health.wa.gov.au/~media/Files/Corporate/general%20documents/Mental%20Health%20Network/Perinatal%20and%20Infant%20Mental%20Health%20Network%20Establishment%20Report%20February%202016.pdf)

¹ <https://growingupaustralia.gov.au/research-findings/annual-statistical-report-2017/childrens-use-health-care-services>

² <https://www.education.vic.gov.au/Documents/about/research/sovc201314.pdf> (p. 30)

³ <https://www.mcafhna.org.au/Portals/0/PositionStatement-PDF/National%20Standards%20of%20Practice%20for%20MCAFHNA.pdf>

⁴ [http://www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/resources/file-tp---our-children-cant-wait-\\$file/Our%20Children%20Can%27t%20Wait%20-%20Review%20of%20the%20Implementation%20of%20recommendations%20of%20the%202011%20Report%20of%20the%20Inquiry%20into%20the%20Mental%20Health%20and%20Wellbeing%20of%20Children%20and%20Young%20people%20in%20WA.pdf](http://www.parliament.wa.gov.au/WebCMS/WebCMS.nsf/resources/file-tp---our-children-cant-wait-$file/Our%20Children%20Can%27t%20Wait%20-%20Review%20of%20the%20Implementation%20of%20recommendations%20of%20the%202011%20Report%20of%20the%20Inquiry%20into%20the%20Mental%20Health%20and%20Wellbeing%20of%20Children%20and%20Young%20people%20in%20WA.pdf) (p. 4)