



6 June 2023

Fidel Fernando

**BY EMAIL: [foi+request-10194-f832a224@righttoknow.org.au](mailto:foi+request-10194-f832a224@righttoknow.org.au)**

**In reply please quote:**

FOI Request: FA 23/04/01265

File Number: FA23/04/01265

Dear Fidel Fernando

**Freedom of Information (FOI) request – Access Decision**

On 24 April 2023, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

**1 Scope of request**

You have requested access to the following documents:

*I am writing to request the following information under the Freedom of Information act.*

*- The Australian government's ad expenditure in Sri Lanka for the purpose of deterring illegal emigration towards Australia, in 2022.*

*- The Australian government's ad expenditure in Sri Lanka for the purpose of deterring illegal emigration towards Australia, in 2019.*

**2 Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

**3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

#### **4 Documents in scope of request**

The Department has undertaken reasonable searches for documents within the scope of your request.

In summary, the searches undertaken by the relevant business areas in relation to your request included interrogation of standard record-keeping systems.

The Department does not hold an existing discrete document that contains the data you are seeking.

The Department has considered whether it can extract the data in accordance with section 17(1) of the FOI Act.

The data you have requested is of a detail that cannot be reported on from the Department's computer systems. Either the data is not collected to that granular detail, or it is not possible to extract the data using a computer system in a manner that is ordinarily available to it.

The obligation for retrieving or collating information stored in a computer system arises if:

- the Department could produce a written document containing the information using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (s17(2))

In *Collection Point Pty Ltd v Commissioner of Taxation* the full bench of the Federal Court decided that if a new computer program is required to be written to produce the document then a computer is not being used in a manner that is ordinarily available to the agency because an extraordinary step is required to be taken.<sup>1</sup>

To compile the information you have requested into a discrete document would require a manual search of each relevant individual record. This is not what section 17 of the FOI Act requires. Section 17 only requires a new document to be created when it is possible to do so using a computer or other equipment to extract data. It is not possible to generate a document containing the information you have requested.

I am satisfied that the Department is not able to produce a written document containing the information you seek in a discrete form using a computer or other equipment ordinarily available to it.

Having regard to your request and the types of documents that may fall within the scope of your request, I am satisfied that the searches conducted were thorough and all reasonable steps have been taken to locate any document relevant to your request.

#### **5 Decision**

I am satisfied that the Department has undertaken reasonable searches in relation to your request.

---

<sup>1</sup> *Collection Point Pty Ltd v Commissioner of Taxation* [2013] FCAFC 67 [20].

As required under Section 17(1) of the FOI Act, I have considered whether the data can be extracted from computer systems ordinarily available to the Department.

To produce a written document would require the Department to write new code, which I do not consider the ordinary use of departmental computer systems. To do so would substantially and unreasonably divert the resources of the agency from its other operations as per Section 17(2).

As such, I have decided to refuse access to the documents you have requested under Section 24A of the FOI Act as I am satisfied that the documents do not exist.

- Refused in full

## **6 Legislation**

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

## **7 Your Review Rights**

### *Review by the Office of the Australian Information Commissioner*

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

## **8 Making a Complaint**

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

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

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

## **9 Contacting the FOI Section**

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).

Yours sincerely

*[signed electronically]*

### **Mark**

Position number – 60043042

Authorised Decision Maker

Department of Home Affairs