



Administrative Appeals Tribunal

FOI ref: 2023/0104

19 June 2022

Siobhan

Via email: foi+request-10214-6a8c693e@righttoknow.org.au

Dear Siobhan

Notice of Decision for Freedom of Information Request no. 2023/0104

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

You lodged an FOI request on 2 May 2023 for access to:

“Decisions made by Ms Kira Raif:

1. *Category 1: The total number of cases finalised by Ms Kira Raif in the Migration and Refugee Division of the Administrative Appeals Tribunal, for each calendar year starting from the year when her first case was finalised.*
 - a. *Subcategory of Category 1: Out of the number in Category 1, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*
2. *Category 2: The total number of cases finalised by Ms Kira Raif in the General Division of the Administrative Appeals Tribunal where what was reviewed were decisions made under Part 9 of the Migration Act 1958 (Cth), for each calendar year starting from the year when her first case was finalised.*
 - a. *Subcategory of Category 2: Out of the number in Category 2, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*
3. *Category 3: The total number of cases finalised by Ms Kira Raif in the Migration Review Tribunal, for each calendar year starting from the year when her first case was finalised.*
 - a. *Subcategory of Category 3: Out of the number in Category 3, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*

4. *Category 4: The total number of cases finalised by Ms Kira Raif in the Refugee Review Tribunal, for each calendar year starting from the year when her first case was finalised.*

a. *Subcategory of Category 4: Out of the number in Category 4, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*

Decisions made by decision-makers other than Ms Kira Raif:

5. *Category 5: The total number of cases finalised by decision-makers other than Ms Kira Raif in the Migration and Refugee Division of the Administrative Appeals Tribunal, for each calendar year contemplated by Category 1.*

a. *Subcategory of Category 5: Out of the number in Category 5, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*

6. *Category 6: The total number of cases finalised by decision-makers other than Ms Kira Raif in the General Division of the Administrative Appeals Tribunal where what was reviewed were decisions made under Part 9 of the Migration Act 1958 (Cth), for each calendar year contemplated by Category 2.*

a. *Subcategory of Category 6: Out of the number in Category 6, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*

7. *Category 7: The total number of cases finalised by decision-makers other than Ms Kira Raif in the Migration Review Tribunal, for each calendar year contemplated by Category 3.*

a. *Subcategory of Category 7: Out of the number in Category 7, the total number of cases where the decisions under review were not affirmed, for each such calendar year.*

8. *Category 8: The total number of cases finalised by decision-makers other than Ms Kira Raif in the Refugee Review Tribunal, for each calendar year contemplated by Category 4.*

a. *Subcategory of Category 8: Out of the number in Category 8, the total number of cases where the decisions under review were not affirmed, for each such calendar year”*

Though the Tribunal possesses computer programs which create reports and allow for statistics to be drawn from operation systems and configured into a data report, it does not specifically possess a document which contains all of the information you have requested in a discrete form. That is, Tribunal computer systems hold this information, but it is not held on a document. Therefore, your request was processed under s. 17 of the FOI Act which states that:

(1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and

- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
- (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;
- the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

In order to produce the requested information into a discrete form I have liaised with the Tribunal's Reporting team and requested that they collate the data into single document.

On 22 May 2023 I wrote to you to clarify that your request relates to data pertaining to each individual member other than Kira Raif or data relating to the membership group as a whole. You responded on 23 May 2023 confirming that you are "seeking numbers for all other members collectively (rather than individual averages for each individual member)". Given the clarification, the Reporting team confirmed that they were able to produce the document containing the information without substantially and unreasonably diverting resources from normal operations.

Decision

I have decided to release these document containing the requested information, produced under s. 17 of the FOI Act, to you in full.

I have taken the following into account in making my decision:

- your requested received by us on 2 May 2023
- the FOI Act, specifically section 17
- the guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me at foi@aat.gov.au.

Yours sincerely,

Marta M

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.