



13 November 2023

Mr Oliver Smith

BY EMAIL: foi+request-10480-a4ce2a43@righttoknow.org.au

In reply please quote:

FOI Request: FA 23/07/01095

File Number: FA23/07/01095

Dear Mr Smith

Freedom of Information (FOI) request – Access Decision

On 19 July 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:

Under the Freedom of Information Act, I seek access to the advice provided by the Department of Home Affairs to the Government as part of the 2023-24 Budget Process in relation to the impact of the Uplift of Visa Application Charges budget measure that is referred to in Senate Estimates Question on Notice BE23-250 from the "SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS BUDGET ESTIMATES MAY 2023".

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 documents relevant to the 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 the Department of Prime Minister and Cabinet FOI team

4 Documents in scope of request

The Department has identified three documents as falling within the scope of your request. These documents were in the possession of the Department on 19 July 2023 when your request was received.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Exempt three documents in full from disclosure.

6 Reasons for Decision

Detailed reasons for my decision are set out below.

My findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 34 – Cabinet documents

Section 34(1)(a) of the FOI Act permits exemption of a document if both of the following are satisfied:

- (i) the document has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted, and
- (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet

The documents exempt under section 34(1)(a) were submitted to the Department of Prime Minister and Cabinet (PM&C) for its consideration. Having consulted with PM&C on the documents, PM&C advise that the documents were brought into existence for the dominant purpose of briefing a Minister on a submission to Cabinet.

Therefore, the documents exempt under section 34(1)(a) contains information which if disclosed, would reveal Cabinet deliberations and information that has not, to date, been officially disclosed. Accordingly, I have decided that the documents marked 's34' are exempt under section 34(1)(a) of the FOI Act.

7 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.

8 Your Review Rights

Information Commissioner review

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for an Information Commissioner 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/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>.

9 Making a complaint

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

Your enquiries to the Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the 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.

10 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.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B Tegg', written in a cursive style.

Brendan Tegg
Assistant Secretary
Migration Reform Taskforce