



11 October 2023

Mr J Sebastian

BY EMAIL: foi+request-10719-5985c639@righttoknow.org.au

In reply please quote:

FOI Request: FA 23/10/00061

File Number: FA 23/10/00061

Dear Mr Sebastian

Freedom of Information (FOI) request – Access Decision

On 29 September 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:

Any policy, procedure, guidelines and/or ministerial directives in the year 2023 regarding the general processing (i.e. non-case specific) and decision making of Subclass 309 Partner (Provisional) visa at New Delhi Processing Office.

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 to which you sought access

4 Documents in scope of request

The documents relevant to your request are publicly available on LEGENDcom and to the wider public via libraries that subscribe to LEGENDcom, through the Commonwealth Library deposit and free issue scheme (LDS).

The information you seek can be found on the following Department's web page, at the following link, on a subscription basis including a payment fee:

<https://immi.homeaffairs.gov.au/help-support/tools/legendcom>

If you do not have a subscription to LEGEND, there are a number of State or Territory libraries that subscribe to LEGENDcom through the LDS. The Department provides information about the participating libraries and the LDS at the link above.

5 Decision

My decision in relation to your request is to refuse access to the document you have requested on the basis that it is publicly available on LEGEND.

6 Reasons for decision

Section 12(1)(b) of the FOI Act provides that a person is not entitled to access a document that is open to public access, as part of a public register or otherwise, in accordance with another enactment, where that access is subject to a fee or other charge.

As the documents you have requested access to are available on LEGEND, I consider that you are not entitled to access to the document under 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

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: foi.reviews@homeaffairs.gov.au

OR

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

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/your-freedom-of-information-rights/freedom-of-information-reviews/internal-review>

9 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

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.

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.

[signed electronically]

Louise

Position number 60081621

Authorised FOI Officer - Freedom of Information

Privacy, FOI and Records Management Branch | Legal Group

Department of Home Affairs | www.homeaffairs.gov.au

Email foi@homeaffairs.gov.au