



27 June 2016

In reply please quote:

FOI Request: FA 15/12/01765

File Number: ADF2015/70046

Mr Ben Fairless

Email: foi+request-1454-79473357@righttoknow.org.au

Dear Mr Fairless

Freedom of Information request – Release of documents

I am writing to you in relation to your request under the *Freedom of Information Act 1982* (FOI Act) received by the Department of Immigration and Border Protection (DIBP) on 25 December 2015, seeking access to:

Original scope

Can you please provide all emails that relate to the processing of requests from applicants via Right to Know?

Can you also provide any documents that relate to the use of the below quote in emails:

"I am not satisfied that the web address you have provided meets the requirement of 'details of how notices under the FOI Act may be sent to the applicant' (s.15(2)(c) of the FOI Act). Rather, the address you have provided appears to be an address for publication of correspondence on the internet."

I limit the timeframe of the request to the last 6 months, and specifically exclude duplicates.

It would be appreciated if the Department could consider processing this request under Administrative Access, as the Department has been warned by the OAIC for using this reason to unreasonably delay applicants making requests via Right to Know.

Revised scope

On 6 January 2016 you clarified the scope of your request as below:

Part 1 Clarification

- *The request is for internal documents, including documents between the department and it's contractors, agents or solicitors that relate to how the Department handles FOI requests via the Right to Know website.*
- *The request specifically excludes documents that I have been provided in the past.*

Part 2 Clarification

I have performed a search using the Right to Know website using the search term "I am not satisfied that the web address you have provided" (the first part of the statement mentioned in Part 2. The search can be run by clicking this link:

<<https://www.righttoknow.org.au/search/%22I%20am%20not%20satisfied%20that%20the%20web%20address%20you%20have%20provided%22/all>>

5 of these responses were sent on the 15th of June 2015. Of these, none of the applications relate to personal information:

*<https://www.righttoknow.org.au/request/mental_health_of_child_asylum_se>
<https://www.righttoknow.org.au/request/detainee_suicides_in_australian>
<https://www.righttoknow.org.au/request/use_of_observation_rooms_at_vill>
<https://www.righttoknow.org.au/request/death_threats_made_against_villa>
<https://www.righttoknow.org.au/request/correspondence_between_the_depar>*

The above emails, sent by the Department, are in direct contradiction to a letter sent by Abigail Bradshaw, National Manager, Parliamentary and Executive Coordination Branch to the Office of the Australian Information Commissioner on 25 July 2014 in response to a complaint that I made regarding this behaviour. In that letter, she states that "FOI officers have been instructed that RTK email addresses are to be treated as valid addresses for notice, as required by s.15(2)(c) of the FOI Act".

If it assists me in revising Part 2, I seek:

2a) - Documents which relate to the decision to send emails to FOI applicants via Right to Know with the below statement:

"I am not satisfied that the web address you have provided meets the requirement of 'details of how notices under the FOI Act may be sent to the applicant' (s.15(2)(c) of the FOI Act). Rather, the address you have provided appears to be an address for publication of correspondence on the internet."

2b) - A copy of the template(s) used to respond to requests that are not for personal information via Right to Know

2c)- A copy of the template(s) used to respond to requests only for personal information via Right to Know

2d)- A copy of any internal documents created which relate to the alteration of the instructions mentioned by Abigail Bradshaw in her letter of 25 July 2014.

I limit the timeframe of the request to the last 6 months, and specifically exclude duplicates.

Further I note that as part of your request you advised that you would be happy to provide a 14 day extension of processing time as provided for under section 15AA [Extension of time with agreement] of the FOI Act.

Background

On 5 January 2016, Ms Janelle Raineri, FOI Officer, wrote to you seeking clarification of your FOI request. On 6 January 2016, you responded to Ms Raineri by providing detailed clarification in regard to the documents you were seeking.

On 14 January 2016, Ms Raineri wrote to you to confirm that it was likely that there would be a delay in the processing of your FOI request, as the Department has seen a significant increase in the number of FOI requests received. Ms Raineri also advised that the statutory due date for you to receive your decision would be 7 February 2016.

I apologise for the delay in responding to your request, noting that your statutory due date has now expired.

On 6 February 2016, you wrote to the FOI Section asking how the request was progressing, to which Ms Raineri responded on 12 February 2016 advising that *we had identified 9 FOI requests that would be subject to the scope of the request and that each of these requests has an FOI file*. Ms Raineri advised that she *was awaiting an available officer to conduct a search of each of these files to identify the specific documents subject to your request*.

Interpretation of scope

Your case was allocated to me on Tuesday 21 June 2016. I have now reviewed your request and also your clarification about the scope of the documents in which you were seeking.

My interpretation of your request is that you are specifically seeking copies of any documents, relating to any processing guidelines, policy guidance, material, templates or instructions, including emails about how the Department manages or processes any requests received from applicants through the Right to Know website, for a six month period prior to 25 December 2015; being the date in which your request was received.

Having regard to the nature of the documents saved on an FOI request file, which include the processing or operational emails of a specific case, I also conducted searches of the Department's record keeping systems, known as HP TRIM, the Group Drive within the FOI Section, and the FOI Director's record holdings, to identify any potential emails, communications, policy guidance, material, templates or instructions, which may provide detail as to the management of FOI requests received from applicants through the Right to Know website.

As a result of those searches I only found one relevant document, falling within the scope of your request, along with a further document, which I will release to you administratively.

Decision

This letter is to provide you with my decision, which is to release the identified relevant document to you in full. Further as mentioned above, I have identified an additional document which while I find that the document does not fall within the scope of your request, it may provide you with some context. Therefore I will release that document to you administratively, (IE: outside the provisions of the FOI Act). My decision is set out in the attached Decision Record. The relevant documents are attached to this letter. Read together, these attachments form my reasons for the decision.

Review rights

Internal review

If you disagree with my decision, you have the right to apply for an internal review of my decision. If you wish to make a request for internal review this must be sent within 30 days of being notified of the decision. Where possible please attach reasons why you believe 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:

Freedom of Information
Department of Immigration and Border Protection
PO Box 25
BELCONNEN ACT 2617

Or by email to: foi@border.gov.au

Review by the Office of the Australian Information Commissioner (OAIC)

You may apply directly to the Australian Information Commissioner for a review of my decision. You must apply in writing within 60 days of this notice. For further information about review rights under the FOI Act please see FOI fact sheet 12 'Freedom of information – Your review rights', available online at www.oaic.gov.au

How to make a complaint about the handling of your FOI request

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. Information about how to submit a complaint is also available at www.oaic.gov.au

Contact by the Office of the Australian Information Commissioner

The Department has been contacted by the OAIC, following your contact with them in relation to this request. As such, I have forwarded a copy of this decision to the OAIC for their records.

FOI Disclosure Log

Section 11C of the FOI Act requires that information in *accessed documents* must be published to members of the public on a website as outlined in section 11C(3) of the FOI Act. The FOI Act requires that the information be published, at the latest, *within 10 working days after the day on which* access has been given to the documents (section 11C(6)). Certain classes of documents/information such as personal and business information are exempt from this requirement.

The process is that, in any given week, documents released to applicants in the period Thursday through to the following Wednesday are placed on the disclosure log that Friday.

Contacting the FOI section

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely

Signed electronically

Karen Tulloch
FOI Officer | Freedom of Information Section
Department of Immigration and Border Protection

Email: [FOI @border.gov.au](mailto:FOI@border.gov.au)

Attachment(s)

- Attachment A – Decision Record
- Attachment B – Document released – within scope
- Attachment C – Document released administratively – outside scope



Attachment A

DECISION RECORD

Request Details

FOI Request: FA 15/12/01765
File Number: ADF2015/70046

Scope of request

Please refer to pages one and two in the attached cover decision letter.

My interpretation of your request is that you are seeking copies of any documents relating to any processing guidelines, guidance material or instructions about how the Department manages or processes any requests received from applicants, through the Right to Know website, for a six month period prior to 25 December 2015, being the date in which your request was received.

Documents in scope

1. Personal Requests via Right to Know – invalid.oft

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above); and
- The Australian Information Commissioner's Guidelines relating to access to documents held by government.

Reasons for decision

I am satisfied that I have located all the relevant documents to consider in my decision. I have considered the documents and am satisfied that no exemptions apply. Therefore, I am releasing the relevant document in full. A copy of this document is at Attachment B.

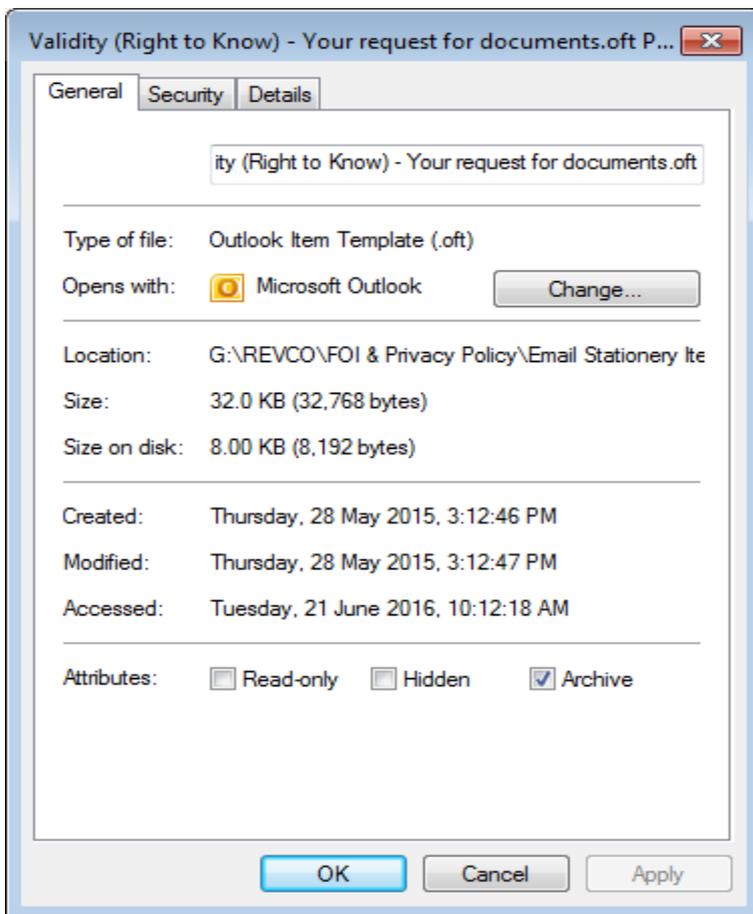
Further, I note that this template is only used in the case of where a request may be received through the Right to Know website, in which the applicant is seeking documents containing personal information, and to ensure they are aware that any documents may be published.

Administrative documents

As indicated above, I also found one further document. I consider that this document does not fall within the scope of the request, given that the document is no longer used by the Department, and has not been used since 28 May 2015, however given the close proximity in the date range, and the document's relevance to your topic interest, I decided that releasing the document to you, may provide you with further context.

I conducted a search of the metadata for this document, and have determined that the document has not been used nor accessed by any person for over 12 months. As you will see from the screen print below, the metadata provides a history of the date in which the document was last modified. The metadata now shows the date in which I personally accessed the document, on 21 June 2016, while drafting this letter. However prior to this date, the document had not been used for some time. Even if someone was to create another copy or version of this document, it will show the date in which the document was accessed.

I have provided a copy of the document to you at Attachment C.



Signed electronically

Karen Tulloch
Authorised decision maker
Department of Immigration and Border Protection

Email foi@border.gov.au

27 June 2016