

**In reply please quote:**  
FOI Request: MO 16 002

2 November 2016

Mr B Fairless  
**BY EMAIL:** [foi+request-2360-f8cef0d4@righttoknow.org.au](mailto:foi+request-2360-f8cef0d4@righttoknow.org.au)

Dear Mr Fairless

I refer to your email dated 19 October 2016 in which you request access to documents held by the Minister for Immigration and Border Protection (the Minister) under the *Freedom of Information Act 1982* (the FOI Act).

## **1 Scope of Request**

You have requested access to the following documents held by the Minister:

*'a copy of all inbound and outbound chats in the 7 days prior to this request that was sent or received from the minister using any of the below applications:*

- *WhatsApp*
- *Facebook Messneger*
- *Signal*
- *Telegram*
- *Grindr*
- *Scruff*
- *Tinder*
- *Email Accounts without a .gov.au email address.'*

This letter is to notify you of the decision on access to the documents subject to your request.

## **2 Authority to make decision**

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

## **3 Relevant material**

In reaching my decision, I have considered the following:

- the terms of your request;
- the FOI Act;
- Guidelines published by the Office of the Australian Information Commissioner under s 93A of the FOI Act.

#### 4 **Decision on access**

Reasonable searches have been undertaken in relation to your request and no documents which fall within the scope of this request have been identified.

My decision is based on the application of section 24A of the FOI Act.

#### 5 **Legislation**

I have attached an extract of the relevant provision of the FOI Act for your information at **ATTACHMENT A**.

#### 6 **Your Review Rights**

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

If you disagree with this decision 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 Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

#### 7 **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 Immigration and Border Protection as the relevant agency.

#### 8 **Contact**

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



Mark Dominick  
Authorised decision maker  
Office of the Minister for Immigration and Border Protection

## ATTACHMENT A

### Section 24A - Documents cannot be found, do not exist or have not been received

#### *Document lost or non-existent*

- (1) An agency or Minister may refuse a request for access to a document if:
  - (a) all reasonable steps have been taken to find the document; and
  - (b) the agency or Minister is satisfied that the document:
    - (i) is in the agency's or Minister's possession but cannot be found; or
    - (ii) does not exist.

#### *Document not received as required by contract*

- (2) An agency may refuse a request for access to a document if:
  - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
  - (b) the agency has not received the document; and
  - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.