



Australian Government
Department of Immigration and Citizenship

9 August 2013

Mr Sam Bungey

Sent by email to: foi+request-300-c4834669@righttoknow.org.au

In reply please quote:

FOI Request FA 13/07/01064

File Number ADF2013/23381

Dear Mr Bungey

Freedom of Information request – Release of documents

This letter refers to your request received on 11 July 2013 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

Incident Detail Report 1-696ZJI from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Decision

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

My decision is to partially release a copy of the documents requested. A statement of reasons for my decision is in the attached Decision Record.

The documents considered in my decision are listed in the Schedule of Documents, which should be read with the attached Decision Record.

Review rights

Internal review

If you disagree with my decision, you have the right to apply for an internal review by the department of a primary decision to refuse access to documents you have requested.

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.

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Applications for review should be sent to:

Freedom of Information
Department of Immigration and Citizenship
PO Box 25
BELCONNEN ACT 2616

Or email: foi@immi.gov.au

Review by the Office of the Australian Information Commissioner

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. You can lodge your application in one of the following ways:

Post	GPO Box 2999 CANBERRA ACT 2601
or	GPO Box 5218 SYDNEY NSW 2001
Online	www.oaic.gov.au
Email	enquiries@oaic.gov.au
Fax	+61 2 9284 9666
In person	4 National Circuit BARTON ACT
or	Level 3, 175 Pitt Street SYDNEY NSW

An application form is available on the website at www.oaic.gov.au. Your application should include a copy of the notice of the decision to which you are seeking review and your contact details. You should also set out why you are seeking a review of the decision.

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.

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to the Australian Information Commissioner using the details above. A complaint form is also available at www.oaic.gov.au.

If you are unhappy with the department's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process which has been outlined in the previous section.

Contacting the FOI section

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

Client service information

Information about our Client Service Charter and how to make a compliment, complaint or suggestion, is included in the Client Service Information attachment.

Contacting the department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.immi.gov.au.

Yours sincerely



Amy Thompson

Position number: 60001861

FOI Officer

FOI and Privacy Policy Section

Department of Immigration and Citizenship

Email foi@immi.gov.au

Attachments

Client Service Information

Decision Record

Schedule of Documents

Documents released under the FOI Act as listed in the decision record

CLIENT SERVICE INFORMATION

Client Service Charter

Our Client Service Charter explains our service commitment to you. We are committed to service delivery that is timely, open and accountable, and responsive to your needs. The Charter explains how you can help us and how you can provide feedback or make a complaint. You can read our Client Service Charter on our website, or in a printed copy available from any of our offices.

Service satisfaction

The department remains committed to ensuring that all clients, both in Australia and overseas, receive not only fair and reasonable treatment, but also an efficient standard of service that is sensitive to each client's needs.

To provide a compliment, complaint or suggestion you can:

- telephone the Global Feedback Unit on 13 31 77 during business hours
- complete a feedback form online at www.immi.gov.au
- write to:
The Manager
Global Feedback Unit
GPO Box 241
Melbourne VIC 3001
Australia
- contact us directly through any of our offices.



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DECISION RECORD

Request Details

FOI Request FA 13/07/01064

File Number ADF2013/23381

Scope

Incident Detail Report 1-696ZJI from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Documents in scope

1. Incident Report related to Incident 1-696ZJI – containing 17 pages.

Information considered

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. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- The FOI Guidelines issued by the Australian Information Commissioner
- Departmental documents (identified above);
- Consultation with relevant business area; and
- Publically available material.

Reasons for decision

I have considered the document within the scope of your request and applied exemptions in part as detailed in the Schedule of Documents. You should read the Schedule in conjunction with the exemptions below.

FREEDOM OF INFORMATION ACT 1982 - SECT 47F(1)

Public interest conditional exemptions—personal privacy

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents exempt in part, under section 47F(1) of the FOI Act contain personal information relating to third parties. I believe that disclosure of this information would lead to the third parties being identified and the information says something about the individual that is not already publically known.

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In my view it is not reasonable to assume that the third parties would expect their personal information to be disclosed to you. I am satisfied the disclosure of this information would be unreasonable.

Having formed the view that the information is of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the information would be contrary to the public interest, I have considered:

Arguments in favour of release

- Applicants exercising their rights under FOI;
- Accountability of departmental procedures; and
- Advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies

Arguments against disclosure

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy. The department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information; and
- that to release the documents would involve unreasonable disclosure of an individual's personal information.

I give the greatest weight to an individual's right to maintain the privacy of personal information held by the department I find it outweighs any public interest that could arguably be served in claiming that disclosure of this information is in the public interest.

I am satisfied that the documents I have exempt in part under section 47F(1) contain personal information and the disclosure would be contrary to the public interest.

FREEDOM OF INFORMATION ACT 1982 - SECT 22 **Deletion of exempt matter or irrelevant material**

- (1) *This section applies if:*
- an agency or Minister decides:*
 - to refuse to give access to an exempt document; or*
 - that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
 - it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - the nature and extent of the modification; and*
 - the resources available to modify the document; and*
 - it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

The information deleted under section 22(1) of the FOI Act is considered exempt or irrelevant to your request. While the FOI Act extends a legally enforceable right of any person to seek access to documents held by an agency, section 22(1) allows a decision maker to remove exempt material or information that is reasonably regarded as irrelevant to the request.

The information identified as being 'reasonably regarded as irrelevant' to your request is the metadata attached to the 'Detailed Incident Report' at the time it is printed from the electronic system. The department considers that this material is outside the scope of your request and is therefore reasonably regarded as irrelevant for the following reasons:

- The data is attached to the document after the date your request is received.
- This metadata does not appear on the reports when viewed in the electronic system and as such it is not considered to be a part of the report.

In accordance with section 22 I have prepared an edited copy of the documents for release.

FREEDOM OF INFORMATION ACT 1982 - Section 47E(d)
Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and

- The need for openness and accountability of the department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Reveal covert operating procedures, the release of which would require the department to change the way it operates.

Releasing information about the way the department operates may enable applicants to circumvent certain processes in the future. This would result in the department having to continually change its processes at a cost to the department. I have given this the most weight. I therefore believe that releasing this information would be contrary to the public interest.

SCHEDULE OF DOCUMENTS TO DECISION RECORD

Request Details

FOI Request FA 13/07/01064

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Folio	Description	Decision	Legislation
1 - 17	Incident Detail Report – 1-696ZJI	Refused and exempt in part	s.47F(1) s.22(1)(a)(ii) s.47E(d)