



**Australian Government**  
**Department of Immigration and Citizenship**

16 September 2013

To Lawrence Bull  
Email: [foi+request-348-3dad817b@righttoknow.org.au](mailto:foi+request-348-3dad817b@righttoknow.org.au)

**In reply please quote:**

Client Name Lawrence Bull  
FOI Request FA 13/08/00700  
File Number ADF2013/26414

Dear Mr Bull,

**Freedom of Information request – Release of documents**

This letter refers to your request received on 15 August 2013 seeking access to documents under the *Freedom of Information Act 1982* (the FOI Act).

Following a telephone conversation and referenced in the follow up email dated 20 August 2013, the scope of your request was revised to the following document:

*“Under the Freedom of Information Act 1982 (Cth) I request a document in your database listing all briefings for the Immigration Minister since 1 July 2013 not including Ministerial Intervention requests that relate to individuals”*

**Decision**

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

My decision is to exempt in part the document which falls within the scope of your request. Please refer to the attached Decision Record and Schedule of Documents which will explain the reasons for material being exempt.

**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.

**people** our business

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](mailto:foi@immi.gov.au)

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

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online	<a href="https://forms.business.gov.au/aba/oaic/foi-review/">https://forms.business.gov.au/aba/oaic/foi-review/</a>
Email	<a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
Post	GPO Box 2999, Canberra ACT 2601
In person	Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at [www.oaic.gov.au](http://www.oaic.gov.au).

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](http://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. More information is available online at [www.oaic.gov.au](http://www.oaic.gov.au).

If you are unhappy with the department's decision on your access request you should ask for the decision to be reviewed. This is a separate process and you should follow the advice outlined above to lodge a valid Information Commissioner review request.

**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](http://www.immi.gov.au).

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

Yours sincerely



Janelle Raineri  
60008304  
FOI Officer  
FOI and Privacy Policy Section  
Department of Immigration and Citizenship

Telephone 02 6264 1580  
Email FOI@immi.gov.au

**Attachments**

**Client Service Information**

**Decision Record**

**Schedule of Documents**

**Documents released:**

- List of briefings for the Immigration Minister since 1 July 2013



**Australian Government**  
**Department of Immigration and Citizenship**

**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](http://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.

**people** our business

# DECISION RECORD

## Request Details

FOI Request FA 13/08/00700

File Number ADF2013/26414

## Scope

*“Under the Freedom of Information Act 1982 (Cth) I request a document in your database listing all briefings for the Immigration Minister since 1 July 2013 not including Ministerial Intervention requests that relate to individuals.”*

## Documents in scope

1. List of briefings for the Immigration Minister since 1 July 2013 – containing 3 folios.

## Decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

My decision is to exempt in part the documents which fall within the scope of your request. A statement of reasons for my decision is below.

You should read the documents in conjunction with the Schedule of Documents and the statement of reasons.

## Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the *FOI guidelines* issued by the Australian Information Commissioner;
- the *FOI Guidance Notes* issued by the Department of Prime Minister and Cabinet;
- Departmental document (identified above); and
- Consultation with relevant business areas.

## 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.

## FREEDOM OF INFORMATION ACT 1982 (FOI Act)

### Section 22 Deletion of exempt matter or irrelevant material

(1) *This section applies if:*

- (a) *an agency or Minister decides:*
  - (i) *to refuse to give access to an exempt document; or*
  - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
- (b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*
  - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
  - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
  - (i) *the nature and extent of the modification; and*
  - (ii) *the resources available to modify the document; and*
- (d) *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 an authorised FOI officer to remove information that is exempt material or material that is reasonably regarded as irrelevant to the request.

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

### **Section 33 – Documents affecting national security, defence and international relations.**

*A document is an exempt document if disclosure of the document under this Act:*

- (a) *would or could reasonably be expected to, cause damage to:*
  - (i) *the security of the Commonwealth;*
  - (ii) *the defence of the Commonwealth; or*
  - (iii) *the international relations of the Commonwealth.*

*(b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organisation to the Government of the Commonwealth, to an authority of the Commonwealth, to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth.*

#### **Section 33(a)(iii)**

I am satisfied the information identified as exempt under section 33(a)(iii) is information concerning international relations between Australia and foreign governments, the disclosure of which could reasonably be expected to cause damage to Australia's relations with those governments.

In my opinion the expectation of damage that would be caused is a reasonable one, having regard to:

- current relations;
- the nature of the information; and
- information available to the public.

I am of the view that releasing the exempted material would contribute to a lessening of confidence that foreign governments place on the Australian government, and would reduce the willingness of foreign governments to cooperate with Australia in the future.

### **Section 47F - 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).*

- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
- (a) *the extent to which the information is well known;*
  - (b) *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
  - (c) *the availability of the information from publicly accessible sources;*
  - (d) *any other matters that the agency or Minister considers relevant.*
- (3) *Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

*Access given to qualified person instead*

- (4) *Subsection (5) applies if:*
- (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and*
  - (b) *it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.*
- (5) *The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:*
- (a) *carries on the same occupation, of a kind mentioned in the definition of **qualified person** in subsection (7), as the first-mentioned qualified person; and*
  - (b) *is to be nominated by the applicant.*
- (6) *The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.*

(7) *In this section:*

**qualified person** *means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:*

- (a) *a medical practitioner;*
- (b) *a psychiatrist;*
- (c) *a psychologist;*
- (d) *a counsellor;*
- (e) *a social worker.*

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

The information exempt under section 47F(1) of the FOI Act contains the personal information of third parties.

Having formed the view that the information is of a kind to which section 47F does apply, I am required to consider whether disclosure of the information would be unreasonable.

I took the following information into consideration:

- The information is not your personal information, this weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the department, this weighs against the release being reasonable.
- The information does not appear to be in the public forum, this weighs against the release being reasonable.

On balance I believe it would be unreasonable to release the information identified as third party personal information.

Having formed the view that the third party personal information is conditional exempt under section 47F(1), I am now required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure include:

- promote the objects of the FOI Act
- provide access to government held information in relation to its dealings with members of the community

Arguments against the disclosure include:

- prejudice the protection of an individual's right to privacy
- prejudice the fair treatment of individuals

Having considered the factors for and against disclosure I have given the greatest weight to the right an individual has to maintain their privacy and the department's commitment to take action to prevent the unreasonable disclosure of an individual's personal information.

I am satisfied the disclosure of third party personal information identified as conditionally exempt would on balance be contrary to the public interest.

I find the information is conditionally exempt under section 47F(1) of the FOI Act.



## Section 47C Public interest conditional exemptions—deliberative processes

### *General rule*

(1) *A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:*

- (a) *an agency; or*
- (b) *Minister; or*
- (c) *the Government of the Commonwealth; or*
- (d) *the Government of Norfolk Island.*

### *Exceptions*

(2) *Deliberative matter does not include either of the following:*

- (a) *operational information (see section 8A);*
- (b) *purely factual material.*

*Note: An agency must publish its operational information (see section 8).*

(3) *This section does not apply to any of the following:*

- (a) *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;*
- (b) *reports of a body or organisation, prescribed by the regulations, that is established within an agency;*
- (c) *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*

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

The information exempt under section 47C(1) of the FOI Act contains deliberative material. The information contains advice and recommendation regarding consultations and was prepared for the deliberative processes of this department.

Having formed the view that the release of the information would reveal deliberative material, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure include:

- promote the objects of the FOI Act;
- there is a general public interest in making information held by the Government accessible to the public; and
- inform debate on a matter of public importance.

Arguments against the disclosure include:

- The information is closely connected to cabinet material and could impair the confidentiality of cabinet processes.
- The information forms part of the 'thinking space' being presented to the Minister for consideration, the release of this information, at this time may inhibit the full canvassing of issues in the development of cabinet material.

Having considered the factors for and against disclosure I have given the greatest weight to the connection this information has to cabinet material and the impact the disclosure could have to the confidentiality of the cabinet process and the full canvassing of issues.

I am satisfied the disclosure of the deliberative material identified as conditionally exempt would on balance be contrary to the public interest.

I find the information is conditionally exempt under section 47C(1) of the FOI Act.



Janelle Raineri  
60008304  
FOI Officer  
FOI and Privacy Policy Section  
Department of Immigration and Citizenship

16 September 2013

## SCHEDULE OF DOCUMENTS TO DECISION RECORD

### Request Details

FOI Request FA 13/08/00700

File Number ADF2013/26414

1. List of briefings for the Immigration Minister since 1 July 2013 – containing 3 folios

<b>Folio</b>	<b>Description</b>	<b>Decision</b>	<b>Legislation</b>
1	Information concerning foreign governments and third party personal information identified within the list of briefings.	Exempt in Part	s. 33(a)(iii) s.47F(1)
2	Deliberative material and third party personal information identified within the list of briefings.	Exempt in Part	s. 47C(1) s.47F(1)
3	List of briefings continued - Action type: Event/Meeting Brief	Released in full	