



5 November 2018

Dr Anthea Vogl

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**In reply please quote:**

FOI Request: FA 18/03/00501  
File Number: ADF2018/28592

Dear Dr Vogl

**Freedom of Information (FOI) request - Access Decision**

On 7 March 2018, 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 documents:

1. *The total number of illegal maritime arrivals (IMAs) or asylum seekers holding bridging visas who have been detained or redetained under the powers outlined s 116 of the Migration Act 1958 {Cth} from and including 1 June 2014 up to and including 30 August 2016.*
2. *The total number of IMAs or asylum seekers holding bridging visas who have been detained or redetained as a consequence of a breach of the Code of Behaviour for Subclass 050 Bridging (General) visa holders ('the Code') from and including 1 June 2014 up to and including 30 August 2016.*
3. *If a bridging visa is cancelled under s116 of the Migration Act 1958 or the Code is redetention automatic? Or do some IMAs/ asylum seekers remain in the community? Any documents outlining policies, procedures or guidelines stipulating how and in what circumstances detention or re-detention occurs.*
4. *Where allegations involving criminal offences by asylum seekers or IMAs are made to the Department of Home Affairs under s 116 of the Migration Act 1958 or the Code:*
  - a. *any documents which govern how and on what basis these allegations are referred to the relevant police force.*
  - b. *details of procedures in place to manage the ongoing relationship with the police, including how and whether details are communicated in relation to charge, arrest,*

*progress of proceedings, or verdict where relevant.*

*c. Any documents outlining policies, procedures or guidelines stipulating how alleged breaches involving 'child protection issues' and domestic violence are to be dealt with by the Department of Home Affairs and/or case managers and/or service providers.*

*5. Where allegations involving criminal offences by asylum seekers or IMAs are made to State or territory police forces:*

*a. any documents which govern how and on what basis these allegations are referred to the Department of Home Affairs.*

*b. details of procedures in place to manage the Department of Home Affairs' ongoing relationship with the police, including how and whether details are communicated in relation to charge, arrest, progress of proceedings, or verdict where relevant.*

*6. Details of dates of any AAT decisions that overturned bridging visa cancellations made under s116 of the Migration Act 1958 or the Code in the period from 27 April 2014 to 30 August 2016 (as these details were not provided in the original table made under FOI request FA 16/01/01847).*

## **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 documents to which you sought access

## **4 Documents in scope of request**

The Department has undertaken reasonable searches in relation to the documents you have requested access to.

### **Searches**

The relevant business area of the Department advised that there are no current reports or systems that can be used to extract the information for the scope of Parts 1 and 2 of your request, as the data is spread across three disparate business areas of the department.

Having regard to your request and the types of documents that may fall within the scope of your request I am satisfied that the searches conducted were extremely thorough and all reasonable steps have been taken to locate any document relevant to your request.

## **5 Tranche Decisions**

I note that a decision was made on 28 September 2018 in regards to release of documents relating to Parts 3 to 6 of your request.

This is a final consolidated decision on your FOI request and concludes the staged decision making process in relation to your FOI request.

## **6 Decision**

Section 24A of the FOI Act provided that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document does not exist.

I am satisfied that the Department has undertaken reasonable searches in relation to Parts 1 and 2 of your request and that no documents were in the possession of the Department on 7 March 2018 when your FOI request was received. As such I am refusing access to the documents requested by you based on the application of section 24A of the FOI Act.

## **7 Legislation**

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. 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](mailto: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 Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

## **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](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 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](mailto:foi@homeaffairs.gov.au) .

*(signed electronically)*

Authorised Decision Maker  
Position number: 60008296  
Department of Home Affairs