



11 December 2018

Ms A Simpson

BY EMAIL: foi+request-4774-165f429a@righttoknow.org.au

In reply please quote:

FOI Request: FA 18/09/00213

File Number: ADF2018/188745

Dear Ms Simpson

Freedom of Information (FOI) request - Access Decision

On 4 September 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:

A document listing the names of Labor Ministers who used personal discretionary intervention powers (as distinct from the routine issue of visas by Departmental officers in the name of the Minister without the Minister's personal involvement) to issue visas to individuals they knew to be involved in serious criminal crimes.

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 FOI Act provides the right to seek access to a document of an agency, being a document in the possession of the agency.

The Department does not hold in its possession a document or list that is relevant to this request.

The Department does not maintain datasets regarding whether requests for Ministerial Intervention involve persons with criminal histories, nor do we have lists of intervention decisions by the Minister who made the decision.

The Department has considered whether it is be in a position to be able to retrieve the data relevant to your request under section 17 of the FOI Act, and it would not be possible to do so.

5 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 your request and that no existing discrete documents were in the possession of the Department on 4 September 2018 containing the information you are seeking, when your FOI request was received. I am also satisfied that the Department is unable to produce a written document containing the information you are seeking from its computer systems under section 17 of the FOI Act.

As such I am refusing access to the documents requested by you based on the application of section 24A of the FOI Act.

6 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.

7 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:

OR By email to: foi.reviews@homeaffairs.gov.au

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>.

8 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

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.

9 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.



Jodi Stubbs
Authorised Decision Maker
Department of Home Affairs