



25 October 2018

JS

BY EMAIL: [foi+request-4834-174f8426@righttoknow.org.au](mailto:foi+request-4834-174f8426@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 18/10/01348

File Number: ADF2018/216186

Dear JS

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

On 27 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 that contains the reason or reasons why the release of documents by the Dept on the 29 August 2018 was not reflected in the disclosure log.*

**2 Background**

On 8 October 2018, the Department provided you with a response to your email indicating that it had accepted your enquiry as a complaint. We advised you that we were working on uploading a number of documents to the disclosure log in accordance with the FOI Act and that the request that you specifically referenced in your correspondence was awaiting publication.

I note that the documents released in that matter are now on the Department's disclosure log.

On 23 October 2018, you responded indicating that you wished to proceed with your request for access to documents, as submitted on 27 September 2018.

### **3 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.

### **4 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

### **5 Documents in scope of request**

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

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. A report for this purpose does not currently exist.

### **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 no documents were in the possession of the Department on 27 September 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).



**A Smith**  
**Authorised Decision Maker**  
**Department of Home Affairs**