



25 October 2018

JS

BY EMAIL: foi+request-4834-174f8426@righttoknow.org.au

In reply please quote:

FOI Request: FA 18/10/01368

File Number: ADF2018/216299

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 set out the basis for the Department's claim, published on its website, that a valid FOI request requires the FOI applicant complete an online form, Access to information.

[including] a document that set out the basis for the Department's claim that a valid FOI request requires the applicant to:

- (a) have read and understood the Department's Privacy statement*
- (b) have read and understood the Department's Security statement*
- (c) establish that the applicant is not a robot using the reCAPTCHA process.*

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 the Department is committed to delivering digital services and the online 'Access to Information' form has been launched to enable applicants to request access to or amend information through online services.

We also advised you that the requirement for users to read and understand the privacy and security statements and identify themselves as a person rather than robot is a minimum standard web design and online data collection. This is not for the purpose of determining if a request to access information is valid.

While completing the 'Access to Information' online form is a method for a person to make a valid FOI request, an applicant can make a valid FOI request to the Department through other channels, including the Right to Know website, direct to the FOI email address that is listed on the website, or by writing to the Department and addressing their request to the Freedom of Information Section.

We provided you with a link to more information about the Digital transformation agenda and Digital Service Standards at the Digital Transformation Agency website at www.dta.gov.au.

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

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

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.



A Smith
Authorised Decision Maker
Department of Home Affairs