



24 July 2019

Mr Frank Kew

BY EMAIL: foi+request-5302-a6d56384@righttoknow.org.au

In reply please quote:

FOI Request: FA 19/03/00642

File Number: OBJ2019/18591

Dear Mr Kew,

Freedom of Information (FOI) request - Access Decision

On 12 March 2019, 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:

Documents showing any advice and any directive(s) that has been communicated to Posts regarding the general processing (i.e. non-case specific) of 309 and 820 visas in the period 01/01/2018 to present

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 documents relevant to the 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 identified seven documents as falling within the scope of your request. These documents were in the possession of the Department on 12 March 2019 when your request was received.

Attachment A is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release all documents in part with deletions

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – deletion of exempt material

I have decided to prepare an edited copy of the documents. The grounds upon which the edited copies of these documents have been prepared are set out in the Schedule of Documents.

The document contains information which can reasonably be regarded as not relevant to the scope of your request as well as personal and contact details of Departmental officers.

In acknowledging your application we advised you of Departmental policy, which is that the personal details of officers who are not in the Senior Executive Service (SES), as well as the mobile and work contact details of SES staff which are contained in documents that fall within scope will be deleted.

I have therefore decided that parts of the documents, which are marked 's.22(1)(a)(ii)', would disclose information that could reasonably be regarded as irrelevant to your request, and have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

6.2 Section 47E of the FOI Act – Operations of Agencies

Section 47E(d) of the FOI Act provides that documents are conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider that the disclosure of parts of the document marked 's47E(d)' would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department in respect to management of one or more visa programs within the Department.

I consider that parts of the documents, which are intended as guidance for operational visa processing areas given by the senior leadership of the visa programs, is potentially open to being used in unintended ways were it to be released into the public domain. Any misuse of the information within the documents is likely to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency by potentially undermining the intended outcomes, or increasing the risk that the intended outcomes are not achieved in the visa programs.

Further, some information marked 's47E(d)' consists of operational email addresses and telephone contact details used internally by this Department. These contact details are not otherwise publicly available and disclosure of this information could reasonably be expected to result in potentially unsolicited and/or vexatious communications or public inquiries which these operational areas are not resourced to manage. The Department has established channels of communication that are provided for the purpose of members of the public to contact the Department. I consider there is no public interest in disclosing these operational contact details. Such a diversion of the resources of that business area could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of this Department.

Any disclosure resulting in the prejudice of the effectiveness of the Department's operational methods and procedures would result in the need for this Department, and potentially its law enforcement partners, to change those methods and/or procedures to avoid jeopardising their future effectiveness.

Accordingly, I have decided that the documents are conditionally exempt under section 47E(d) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

6.3 *The public interest – section 11A of the FOI Act*

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
- (b) inform debate on a matter of public importance;
- (c) promote effective oversight of public expenditure;
- (d) allow a person to access his or her own personal information.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does not seem to have the character of public importance. The matter has a very limited scope and, in my view, would be of interest to a very narrow section of the public.
- I consider that no insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- I consider that the disclosure of internal departmental contact details in the document is information that is conditionally exempt under section 47E(d) as it would have a substantial adverse effect on the operations of the Department. The Department has established channels of communication for members of the public into the Department, and I consider there is no public interest in disclosing these operational contact details.
- I consider there to be a strong public interest in the Department being able to manage its programs effectively towards the attainment of strategic outcomes and that these outcomes stand to be potentially undermined by the release of certain information contained within the documents.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- b) access to the document could result in any person misinterpreting or misunderstanding the document;
- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
- d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. 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 <https://www.oaic.gov.au/freedom-of-information/foi-review-process>.

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.

Signed electronically

Position number 60081621

Authorised Decision Maker | Freedom of Information Section

FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

ATTACHMENT A

SCHEDULE OF DOCUMENTS REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982*

FOI Request: FA 19/03/00642
File Number: OBJ2019/18591

No.	Date of document	No. of pages	Description	Decision on release	
1.	various	3	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
2.	14/02/19	3	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
3.	06/02/19	2	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
4.	21/01/19	2	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
5.	Various	3	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
6.	29/06/18	4	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)
6.1	-	2	Proposed Annualised Immigration Program Levels (AIPL) for the Family visa streams for the 2018/2019 Migration Program year	Partial	47E(d)
7.	29/01/18	3	Email correspondence between senior leadership of the Family Migration Program Management and operational visa processing areas	Partial	22(1)(a)(ii) 47E(d)