



12 September 2019

Mr Michael Green

BY EMAIL: foi+request-5326-bc1fbb55@righttoknow.org.au

In reply please quote:

FOI Request: FA 19/03/01223

File Number: OBJ2019/20315

Dear Mr Green,

Freedom of Information (FOI) request - Access Decision

On 22 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 in relation to the eligibility of persons applying for the Community Support Program, according to nationality, ethnicity, religion or place of residence.

Please limit this to briefing papers, reports, guidance notes, policy documents and advice the senior officials and the Minister.

Please limit this request to only documents since 2013.

On 05 September 2019, following the Department entering into a consultation process with you under Section 24 of the FOI Act, you agreed to revise the scope of your request. The Department understands that your revised scope is to seek "*full, un-redacted access to the Community Support Program (CSP) specific Guidelines prepared for Approved Proposing Organisations (APO's)*". We wrote to you on 06 September 2019 to confirm our understanding and have not been responded with any further enquiry from you. I am therefore of the view that the scope of your request is as follows:

Full, un-redacted access to the Community Support Program's specific Guidelines prepared for Approved Proposing Organisations (APO's)

For the purposes of my assessment and this decision, I have taken the view that you seek the most recent version of the above Guidelines, which are dated 22 January 2019.

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 one document as falling within the scope of your request. This document was in the possession of the Department on 22 March 2019 when your request was received.

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 1 document in part with deletions

6 Reasons for Decision

Detailed reasons for my decision are set out below.

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

I find that parts of the document contain information that can reasonably be regarded as irrelevant to your request for access.

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. These details, along with other information so marked as 's.22(1)(a)(ii)', I find can reasonably be regarded as irrelevant to your request.

I have, therefore decided that those 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 33 of the FOI Act – Documents affecting National Security, Defence or International Relations

Section 33(a)(iii) of the FOI Act permits the exemption of a document if disclosure of the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

The FOI Guidelines provide that the phrase “international relations” has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of information between them. The expectation of damage to international relations must be reasonable in the circumstances, having regard to the nature of the information; the circumstances in which it was communicated; and the nature and extent of the relationship. There must be real and substantial grounds for the conclusion that are supported by evidence.

Taking the preceding guidance into account in a review of the document, I find that parts of the document contain the Department’s priority caseloads for the 2018 / 2019 offshore Humanitarian Program as applicable to the Community Support Program. These priorities are informed by international stakeholders, which include the United Nations High Commissioner for Refugees (UNHCR), State and Territory governments and Non-Government Organisations (NGOs). I consider that there is an ongoing requirement for the input of these, and other, international stakeholders to frame priority caseloads of the Humanitarian Program in future program years.

I consider that the relationship between the Australian Government and the international stakeholders is a long and enduring relationship that must maintain a solid foundation into the future for the successful delivery of the Humanitarian Program. I consider that the Australian Government has relied on a flow of information from international stakeholders in framing its priority caseloads in the 2018 / 2019 program year, and will continue to do so in future program years. I find, therefore, that the release of the information marked ‘s.33(a)(iii)’ in the document would, or could reasonably be expected to, cause damage to the Australian Government’s relationship with these stakeholders were this information to be released into the public sphere.

6.3 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 release of parts of the document marked ‘s.47E(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.

The intention of the document is to assist APOs meet their obligations under a Deed of Agreement with the Department of Home Affairs. The document contains information that is integral to the operations of an approved APO and to the contractual relationship that exists between an APO and the Department.

I find that the release of some information within the document, were it to be used in any unintended ways in the public domain, could have a substantial adverse effect on the Department's operations which are given effect via the operations of an APO.

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 find 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.

6.4 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 intended, and strategic outcomes and that these outcomes stand to be undermined by the release of certain information contained within the document.

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:

OR 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