



11 June 2019

Ms K Hepworth

BY EMAIL: foi+request-5419-38da18eb@righttoknow.org.au

In reply please quote:

FOI Request: FA 19/05/01346

File Number: OBJ2019/30641

Dear Ms Hepworth

Freedom of Information (FOI) request - Access Decision

On 17 May 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:

A log of all requests for services from the Department to Qantas Airways Ltd. (and their subsidiaries) and/or Virgin Australia Holdings Ltd. (and their subsidiaries) regarding a) deportations/removals b) returns and c) transfers by air between immigration detention facilities, including onshore detention, Manus and Nauru via air since the 1st July 2017, where the person being moved had previously made a claim for asylum.

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)

4 Documents in scope of request

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

The Department does not hold an existing discrete written document that is a log the information you are seeking to access.

I have also considered whether the Department can extract the data in accordance with section 17(1) of the FOI Act. The obligation for retrieving or collating information stored in a computer system arises if:

- the agency could produce a written document containing the information using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (s17(2))

The information you are seeking to access, consists of:

- the specific airline that provided a service that related to:
 - a) deportations/removals
 - b) returns and/or
 - c) transfers
- between immigration detention facilities, including onshore detention, Manus and Nauru
- since the 1st July 2017
- where the person being moved had previously made a claim for asylum.

The Department's computer systems does not hold the level of data in a form that can be reported on, and as such, I am satisfied that the Department could not produce a written document from its computer systems that contains the information you are seeking to access.

Having regard to your request and the types of documents that may fall within the scope of your request I am satisfied that all reasonable steps have been taken to locate any document relevant to your request.

5 Decision

Section 24A of the FOI Act provides 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 documents were in the possession of the Department on 17 May 2019 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.

6 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.

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:

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>.

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.



Brenton Murphy
Authorised Decision Maker
Department of Home Affairs