

E-mail Message

From: [Janelle RAINERI \[EX:/O=IMMI/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=PRJRCYE15\]](mailto:Janelle.RAINERI@EX:/O=IMMI/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=PRJRCYE15)
To: [Ben Fairless \[SMTP:foi+request-529-93665f99@righttoknow.org.au\]](mailto:Ben.Fairless@SMTP:foi+request-529-93665f99@righttoknow.org.au)
Cc:
Sent: 27/2/2014 at 6:45 PM
Received: 27/2/2014 at 6:44 PM
Subject: Your request for documents [SEC=UNCLASSIFIED]

UNCLASSIFIED

Our references: FA 14/02/01093; ADF2014/6570

Dear Ben Fairless

Thank you for your prompt response and confirmation that the department can contact you at the right to know email address: foi+request-529-93665f99@righttoknow.org.au.

All correspondence including notices under the FOI Act and a decision on your request will be forwarded to the above email address.

Yours sincerely
Janelle

Janelle Raineri
FOI Inbox Manager
FOI & Privacy Policy Section
Department of Immigration and Border Protection

Email: xxx@xxxxx.xxx.au

-----Original Message-----

From: Ben Fairless [mailto:foi+request-529-93665f99@righttoknow.org.au]
 Sent: Thursday, 27 February 2014 6:35 PM
 To: FOI
 Subject: TRIM: Re: Your request for documents [SEC=UNCLASSIFIED]

Dear Janelle,

I write in reference to your email in relation to my FOI request (Your Reference: FA 14/02/01093; ADF2014/6570). A copy of my request and responses to date can be found at https://www.righttoknow.org.au/request/directions_from_ministers_in_rel_2

I can confirm the RightToKnow email address is a valid email address to which I can be sent notices.

In case you were not aware, RightToKnow provides a way for members of the public to submit FOI requests and respond to emails from agencies in relation to FOI requests. In addition, it also publishes the request, any correspondence between the requestor and the agency, and the final decision of the agency online in a searchable, easy to read format on the internet.

I would argue that the way the Right to Know website works would be no different to posting a copy of our correspondence on a website.

Other than the DIBP, I am not aware of a single Agency or Minister listed on Right to Know that has raised concerns in relation to s15(2)(b) of the Freedom of Information Act.

I respectfully request (as a user of RightToKnow, and not on behalf of its

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Freedom of Information Act 1982

administrators or owners) that the Department cease raising concerns under s.15 (2) (b) of the Freedom of Information Act when it comes to Right to Know. It is the only agency that has done so to date.

If you have any questions, please let me know.

Yours sincerely,

Ben Fairless

-----Original Message-----

UNCLASSIFIED

Our references: FA 14/02/01093; ADF2014/6570

Dear Ben Fairless

I am writing to you in response to your email dated 22 February 2014, purportedly under the Freedom of Information Act 1982 (Cth) and asking that the Department of Immigration and Border Protection provide you with a copy of the following document:

I request, under the Freedom of Information Act, documents (including, but not limited to, emails, letters or other notes to which the department has access) which reference requests, decisions or opinions by either the minister currently responsible for the Department or any other currently serving federal minister on how the department should handle Freedom of Information (FOI) requests.

The purpose of this email is to advise you that I consider the request may be invalid under the FOI Act. I will explain my reasons in full below.

Requirements of the FOI Act

The requirements for a valid FOI request are set out in section 15(2) of the Act, which provides that:

The request must:

(a) be in writing; and

(aa) state that the request is an application for the purposes of this Act; and

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(b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and

(c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).

The Act envisages that an agency and the applicant will, where necessary and appropriate, engage in dialogue about the request. The Act also envisages that there may be instances when an agency will wish to send a formal legal notice to an applicant, for example, when the agency believes that it would be a substantial and unreasonable diversion of resources to process the request or intends to charge the applicant for processing the request. In addition, the Act provides applicants with review rights which are activated by the act of the agency 'notifying' the applicant of the decision.

In order to engage in this dialogue, the applicant must provide an address through which the applicant intends to be contactable. It should be an address through which the agency will be able to write to the applicant and receive a response to the communication. It must also be an address through which the agency can reasonably assume that legal notices will be received, read and responded to by the applicant. This requirement has been an element of a valid FOI request since the Act was first enacted in 1982.

Issues regarding your request

I am not satisfied that the email address you have provided meets the requirement of 'details of how notices under this Act may be sent to the applicant' (s.15(2) (b) of the Act). In particular, it does not appear to be an address to which the agency could send a 'notice'. The address you have provided appears to be an address for publication of correspondence on the internet.

Next steps

Please confirm by writing to [1][DIBP request email] that the email address you have provided is an address to which the Department can send you notices, by close of business Thursday 6 March 2014. The request will then be validated.

If you have not provided confirmation by that time, the request will be closed as invalid.

Yours sincerely

Janelle

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Freedom of Information Act 1982

Janelle Raineri

FOI Inbox Manager

FOI & Privacy Policy Section
Department of Immigration and Border Protection

Email: [2][DIBP request email]

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References

Visible links

1. [mailto:\[DIBP request email\]](mailto:[DIBP request email])
2. [mailto:\[DIBP request email\]](mailto:[DIBP request email])

Please use this email address for all replies to this request:
foi+request-529-93665xxx@xxxxxxxxxxxxx.xxx.xx

Write your response as plain text. Only send PDF documents as a last resort. Government guidelines make it clear that PDF is not an acceptable format for you to use in the delivery of government information.
<https://www.righttoknow.org.au/help/officers#pdf>

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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