

From: [Angela O'NEIL](#) on behalf of [FOI](#)
To: [Janelle RAINERI](#)
Subject: Validate some requests for me please :) [DLM=For-Official-Use-Only]
Date: Wednesday, 14 August 2013 11:15:00 AM

For-Official-Use-Only

Hi Janelle

We're trialling a different way to proceed with the Detention Log requests – which is to treat them as invalid under s.15(2) unless they confirm the address by responding to an email from me testing the address. As part of the process, I prematurely marked these ones as 'invalid' instead of leaving them at the validation stage. I was wondering if you could take these ones back to the 'validation' stage.

- FA 13/08/00262 – s. 22(1)(a)
- FA 13/08/00267 – s. 22(1)(a)
- FA 13/08/00301 – s. 22(1)(a)(ii)
- FA 13/08/00260 – s. 22(1)(a)(ii)
- FA 13/08/00254 – s. 22(1)(a)(ii)

Thanks – I won't let it happen again.

Cheers

Angie

Angela O'Neil
Assistant Director
FOI & Privacy Policy
Department of Immigration and Citizenship
Telephone: (02) 6264 1382
Email: foi@immi.gov.au

For-Official-Use-Only

E-mail Message

From: [Angela O'NEIL \[EX:/O=IMMI/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=EXBTAB99\]](mailto:Angela.O'NEIL [EX:/O=IMMI/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EXBTAB99]@righttoknow.org.au)
To: foi+request-326-c769057b@righttoknow.org.au [SMTP:foi+request-326-c769057b@righttoknow.org.au]
Cc:
Sent: 14/8/2013 at 1:32 PM
Received: 14/8/2013 at 1:32 PM
Subject: Your request FA 13/08/00260 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Our references: FA 13/08/00260; ADF2013/25003

Dear [s. 22\(1\)\(a\)\(ii\)](#)

Thank you for confirming that you wish to wish to receive notices from DIAC via this email address and that DIAC can anticipate that you will respond to communications that are sent to you at this address. I am satisfied that the requirement in s.15(2)(c) of the Act is met and will progress your request accordingly.

Yours sincerely

Angela O'Neil
 Assistant Director

FOI & Privacy Policy
 Department of Immigration and Citizenship
 Telephone: (02) 6264 1382
 Email: [HYPERLINK "mailto:xxx@xxxxx.xxx.xx" xxx@xxxxx.xxx.xx](mailto:xxx@xxxxx.xxx.xx)

UNCLASSIFIED

From: [s. 22\(1\)\(a\)\(ii\)](#) [mailto:[s. 22\(1\)\(a\)\(ii\)](#)]
Sent: Saturday, 10 August 2013 6:03 PM
To: FOI NSW
Subject: Your references: FA 13/08/00260; ADF2013/25003

I refer to your correspondence dated 9 August 2013 in response to my email of 24 July 2013 (the FOI request), under the Freedom of Information Act 1982 (Cth,) and asking that the Department of Immigration and Citizenship provide me with a copy of the following document:

- Incident Detail Report 1-2SOSIL from the Department's Compliance Case Management, Detention and Settlement Portal. I also requested any documents attached to the detailed report.

I would like to resolve any doubt you might have that the request was not made under the Freedom of Information Act 1982 (Cth). It was made under the Freedom of Information Act 1982 (Cth) ("the FOI Act").

In particular, I confirm that the email address provided in the request (the email address) is an address to which the Department can send notices.

You state you are not satisfied that the email address meets the requirement of 'details of how notices under this Act may be sent to the applicant', referencing section15(2)(c).

I have noted the paradox that you have sent your notice to an email address which you say is not sufficient for the purposes of your considering the FOI request.

By sending your notice to the email address, I take it you are now satisfied that the email address meets the requirements of the FOI Act.

Further, subsection 15(2)(c) makes it clear that an electronic address meets this requirement. The full text reads:

"(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 term "electronic communication" has the same meaning as in the Electronic Transactions Act 1999 (see FOI Act s4(1)).

That Act defines an "electronic communication" as follows:

"(a) a communication of information in the form of data, text or images by means of guided and/or unguided electromagnetic energy;

(b) a communication of information in the form of speech by means of guided and/or unguided electromagnetic energy, where the speech is processed at its destination by an automated voice recognition system."

It is clear enough that my request "provided details of how notices under the Act may be sent to [me]".

The email address provided in my request is an electronic address to which the Department may send notices by communication of information in the form of data, text or images by means of guided electromagnetic energy.

In the same way that Section 15(2A) authorised me to make my request by sending the application to an electronic address specified by the department, I designate this address as the detail required by Section 15(2)(c) of how a notice may be sent to me.

Please note that sending notices to that email address is the only address to which notices may be sent in relation to the FOI request.

It is of no relevance that any notice sent to me at this electronic address subsequently may be published, on the internet or anywhere else by me or anybody else.

Yours sincerely

s. 22(1)(a)(ii)

Released by DIBP under the
Freedom of Information Act 1982

E-mail Message

From: [Angela O'NEIL \[EX:/O=IMMI/OU=EXCHANGE ADMINISTRATIVE GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=EXBTAZBB9\]](mailto:Angela.O'NEIL@EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EXBTAZBB9)
To: [s.22\(1\)\(a\)\(ii\) \[SMTP:foi+request-319-3906f687@righttoknow.org.au\]](mailto:s.22(1)(a)(ii)@SMTP:foi+request-319-3906f687@righttoknow.org.au)
Cc:
Sent: 14/8/2013 at 1:37 PM
Received: 14/8/2013 at 1:37 PM
Subject: RE: Your request for an incident report [SEC=UNCLASSIFIED]

UNCLASSIFIED

Our references: FA 13/08/00254; ADF2013/24998

Dear s. 22(1)(a)(ii)

Thank you for confirming that you wish to wish to receive notices from DIAC via this email address and that DIAC can anticipate that you will respond to communications that are sent to you via this address. I am satisfied that the requirement in s.15(2)(c) of the Act is met and will progress your request accordingly.

Yours sincerely

Angela O'Neil
Assistant Director
FOI & Privacy Policy
Department of Immigration and Citizenship
Telephone: (02) 6264 1382
Email: xxx@xxxx.xxx.au

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

From: s. 22(1)(a)(ii) [mailto:xxx@xxxxxxxxxxxxx.xxx.au]
Sent: Saturday, 10 August 2013 5:17 PM
To: FOI
Subject: Re: Your request for an incident report [SEC=UNCLASSIFIED]

Dear Angela,

This is to confirm that the email address provided is an address to which the Department can send notices.
You state you are not satisfied that the address meets the requirement of 'details of how notices under this Act may be sent to the applicant', referencing Section15 (2)(c).

The subsection however makes it clear that an electronic address meets this requirement. The full text reads:

(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. "electronic communication" has the same meaning as in the Electronic Transactions Act 1999 .

In the same way that Section 15(2A) authorised me to make my request by sending the application to an electronic address specified by the department, I designate this address as the detail required by Section 15(2)(c) of how a notice may be sent to me.

It is of no relevance that any notice sent to me at this electronic address subsequently may be published on the internet.

Yours sincerely,

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Attachment D

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s. 22(1)(a)(ii)

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Freedom of Information Act 1982

From: [Angela O'NEIL](#) on behalf of [FOI](#)
To: [Linda ROSSITER](#); [Janelle RAINERI](#); [Rowan PATTERSON](#); [Steven HOCKING](#); [Ashley SMITH](#)
Subject: Cases to be allocated and new processes for RTK detention log requests [DLM=For-Official-Use-Only]
Date: Thursday, 15 August 2013 12:10:00 PM
Importance: High

For-Official-Use-Only

Hi All

Linda and I had a chat about the way to progress the 'Right to Know' detention incident requests while they are dribbling in as they are.

The current process is:

- Ashley registers to the point of 'validation' and then assigns to me.
- I write to the applicant to confirm the email address, giving 3 working days.
- If no response, then I close as Invalid.
- If a response, I mark as valid and reassign to Ashley for further registration to the stage of 'move to access team' and then assigns them to me.
- I allocate to the decision maker. If I'm not here Ashley will allocate.
- The decision maker [assesses the request for charges](#).

s. 22(1)(a)(ii)

I should also mention that for consistency, any requests from the RTK website will be sent an email prior to validation seeking confirmation that they will correspond with DIAC using the address – not just the detention log requests.

Cases to be allocated

Currently have the following cases to be allocated with at least 3 more RTK detention incident reports currently being validated:

s. 22(1)(a)(ii)	Policy documents relating to 'managed accommodation' in detention facilities
s. 22(1)(a)(ii)	Review of decision on a detention incident report (Amy's)
s. 22(1)(a)(ii)	Incident report via RTK
s. 22(1)(a)(ii)	Incident report via RTK
s. 22(1)(a)(ii)	Labour agreement via RTK – 1 document in Trim
s. 22(1)(a)(ii)	Incident report via RTK
s. 22(1)(a)(ii)	Incident report via RTK
s. 22(1)(a)(ii)	Meeting minutes from the 'expert panel' meetings –

	possibly no documents in scope
s. 22(1)(a)(ii)	5 incident reports – NOT via RTK – 7 Aug received
s. 22(1)(a)(ii)	Another 3 incident reports – NOT via RTK – 13 Aug

Any takers? The s. 22(1)(a)(ii) really needs to be allocated asap as does the first s. 22(1)(a)(ii) one. We have a rather complex one in the pipeline from s. 22(1)(a)(ii) as well.

Cheers

Angie

Angela O'Neil
Assistant Director
FOI & Privacy Policy
Department of Immigration and Citizenship
Telephone: (02) 6264 1382
Email: xxx@xxxx.xxx.xx

For-Official-Use-Only

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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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]

UNCLASSIFIED

References

Visible links

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

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<https://www.righttoknow.org.au/help/officers>

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