



23 September 2020

Chris F

**BY EMAIL:** [foi+request-6685-7300807a@righttoknow.org.au](mailto:foi+request-6685-7300807a@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 20/09/00262

File Number: OBJ2020/28746

Dear Chris F

**Freedom of Information (FOI) request - Access Decision**

On 4 September 2020, 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:

*\* Any documents relating to the addition of "theology" or "religion" to the list of Travel exemption requirements for individuals in critical sectors or with critical skills.*

*Documents related to the changing of the website below:*

<https://covid19.homeaffairs.gov.au/critical-skills-and-sectors>

*\* Any other relevant documents.*

**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**

The Department has undertaken reasonable searches in relation to your request, and has identified one document falling within the scope of your request. This document was in the possession of the Department of 4 September 2020, when your request was received.

### **5 Decision on access**

My decision in relation to the document in the possession of the Department is to release one document in part with exempt information deleted.

#### **5.1 Section 22 of the FOI Act – deletion of exempt material**

I have decided to prepare an edited copy of the document to release to you. The grounds upon which the edited copy of this document has been prepared is set out below.

### **6 Reasons for decision**

#### **6.1 Section 34 – Cabinet documents**

Section 34(3) permits exemption of documents to the extent that disclosure would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed. Deliberation has been interpreted as active debate or weighing up of alternatives, with a view to reaching a decision on a matter.

I am satisfied that information contained in the document relevant to your request would, if disclosed, involve the disclosure of deliberations of the Cabinet.

I have sought advice from the Department of Prime Minister and Cabinet and note the status of this information remains “Cabinet-In-Confidence”.

I have also had regard to advice contained within the Cabinet Handbook. The paragraphs below detail considerations to be taken into account when handling cabinet documents, with particular focus on the ‘Confidentiality’ aspect of all Cabinet proceedings and documentation.

*28. All attendees are responsible for ensuring that what is considered by the Cabinet, when and how it does so, and the decision Cabinet reaches on particular matters remains confidential. Ministers and officials should not disclose proposals likely to be considered at forthcoming meetings outside Cabinet-approved consultation procedures. Nor should they disclose the nature or content of the discussions or the views of individual ministers expressed at the meeting itself.*

29. Obviously general information about what has been decided by the Cabinet is, on occasions, released into the public domain by persons authorised to do so. But this does not detract from the importance of allowing the Prime Minister or the Cabinet itself to decide what is disclosed publicly about any decision they have reached.

30. Effective Cabinet confidentiality requires the protection of Cabinet deliberations not only at the time an issue was current but also in the future. Ministers in successive governments have relied on the convention that their views, either written or spoken will remain confidential well into the future. It is only with the confidence in this convention that ministers can enjoy freedom to explore all policy options without the need to temper their comments or views.

A strong Cabinet system is fundamental to well-informed decision making and policy development by the Government. The convention of the collective responsibility of Ministers for government decisions is central to the Cabinet system of Government. Cabinet is a forum in which Ministers, while working towards a collective position, are able to discuss proposals, options and views with complete freedom. This requires that Cabinet deliberations are treated confidentially.

I have decided that parts of the document are exempt from disclosure under section 34(3) of 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: [xxx.xxxxxxx@xxxxxxxxxxx.xxx.xx](mailto:xxx.xxxxxxx@xxxxxxxxxxx.xxx.xx)

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](mailto: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 xxx@xxxxxxxxxxxxx.xxx.xx.



**A Smith – Position number: 60008295**  
**Authorised Decision Maker**  
**Department of Home Affairs**