



1 February 2021

Mr E Ross
BY EMAIL: foi+request-6710-a7493e51@righttoknow.org.au

In reply please quote:

FOI Request: FA 20/09/00646
File Number: OBJ2020/29664

Dear Mr Ross

Freedom of Information (FOI) request - Access Decision

On 11 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:

Please provide copies of all communications between the Department of Home Affairs and the International Organization for Migration or the Association of Mobilizing Community Resources (AMCOR) in Sri Lanka regarding the 2016 Safe Migration Awareness campaign conducted by AMCOR in Batticaloa, Sri Lanka.

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)
- consultation responses from third parties consulted in accordance with the FOI Act
- 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 12 documents as falling within the scope of your request. These documents were in the possession of the Department on 11 September 2020 when your request was received.

Attachment A is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

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 three documents in full
- Release eight documents in part with deletions
- Exempt one document in full from disclosure.

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 16 September 2020, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. I have prepared an edited copy of the documents, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the documents have been considered for release to you as they are relevant to your request.

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

I have decided to prepare an edited copy of the documents. The grounds upon which the edited copies of these documents have been prepared are set out in the Schedule of Documents.

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 disclosure of the parts of documents marked 's47E(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.

Managing the security and integrity of Australia's borders is integral to the operations of the Department. Any prejudice to the effectiveness of the operational methods and procedures used in undertaking that role would result in a substantial adverse effect on the operations of the Department.

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.

Information marked 's47E(d)' consists of operational email addresses used by this Department. These email addresses are not otherwise publicly available, and disclosure of this information could reasonably be expected to result in potential vexatious communication and public inquiries which these operational areas are not resourced to manage. 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. Given the operational focus of those business areas, such a diversion of the resources of that business area could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of this Department and its partner agencies.

I have decided that parts of 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 at paragraph 6.5 below.

6.4 Section 47F of the FOI Act – Personal Privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties, namely employees of or contractors to AMCOR, or participants in ACMOR programs. The information within the documents would reasonably identify a person, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known;*
- *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I do not consider that the information relating specifically to the third parties would be relevant to the broader scope of your request, as you are seeking access to information relating to the Safe Migration Awareness program, rather than information that relates to other individuals as such.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F 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 at paragraph 6.5 below.

6.5 *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.
- the subject matter of the documents does not seem to have a general characteristic of public importance. The matter has a limited scope and, in my view, would be of interest to a very narrow section of the public.
- no insights into public expenditure will be provided through examination of the documents.
- 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:

- Disclosure of the operational email addresses which are conditionally exempt under section 47E(d) of the FOI Act would have a substantial adverse effect on the ability of the relevant operational areas to conduct their business as usual. The Department has established avenues in place for members of the public to contact when they have queries, complaints or comments. I consider that there is a strong public interest in ensuring public feedback is filtered through these available channels so that operational areas within the Department are able to carry out their functions in an effective matter. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure of the exempt information.
- Disclosure of the personal information which is conditionally exempt under section 47F of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy. I am mindful that participants in AMCOR programs may be particularly vulnerable on account of local social, political and/or economic conditions.
- The Department is committed to complying with its obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy and meets its obligations under the Privacy Act. I consider that non-compliance with the Department's statutory obligations concerning the protection of personal information would be contrary to the public interest and that this factor weighs strongly against disclosure.

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:

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.

Yours sincerely

[Electronically signed]

**Position no. 60029253
Authorised Decision Maker
Department of Home Affairs**

ATTACHMENT A

SCHEDULE OF DOCUMENTS REQUEST UNDER FREEDOM OF INFORMATION ACT 1982

FOI request: FA 20/09/00646

File Number: OBJ2020/29664

No.	Date of document	No. of pages	Description	Decision on release	
1.	27/07/2016	2	Email: RESUME [Reintegration to Sustain Unemployed Maritime Emigrants] - Second Interim Report, from Association of Mobilizing Community Resources (AMCOR) to the Department of Immigration and Border Protection Attachment 1 = Document 2 below Annex 11 = Document 3 below Remaining annexes do not mention Safe Migration Awareness (SMA) – <i>out of scope</i>	Exempt in part	22(1)(a)(ii) 47E(d) 47F(1)
2.	27/07/2016	7	AMCOR – RESUME – 2nd Interim Report (Jan-Jul 2016) (Attachment 1 to Document 1)	Exempt in part	47F(1)
3.	26/07/2016	1	Updated project timeframe – RESUME [July 2016] (Annex 11 to Document 1)	Release in full	
4.	29/01/2017	2	Email: RESUME - Third Interim Report – AMCOR – Sri Lanka, from AMCOR to the Department Attachment 1 = Document 5 below Annex 6.1 = Document 6 below Annex 6.2 = Document 7 below Annex 7 = Document 8 below Annex 9 = Document 9 below Annex 11 = Document 10 below Remaining annexes do not mention SMA - <i>out of scope</i>	Exempt in part	22(1)(a)(ii) 47E(d) 47F(1)
5.	29/01/2017	8	AMCOR RESUME – 3 rd Interim Report (Attachment 1 to Document 4)	Exempt in part	47F(1)
6.	[2016]	2	Safe Migration Awareness program – photographs (Annex 6.1 to Document 4)	Exempt in part	47F(1)
7.	29/01/2017	2	Case study (Annex 6.2 to Document 4)	Exempt in full	47F(1)
8.	[2016]	2	Safe migration awareness – leaflet [Tamil] (Annex 7 to Document 4)	Release in full	

No.	Date of document	No. of pages	Description	Decision on release	
9.	29/01/2017	13	Mid-term Evaluation report (Annex 9 to Document 4)	Exempt in part	22(1)(a)(ii) 47F(1)
10.	29/01/2017	1	Updated project timeframe as at December 2016 (Annex 11 to Document 4)	Release in full	
11.	4/12/2018	4	Email: RESUME – Fifth (and final) Interim Narrative Report – AMCOR – Sri Lanka, from AMCOR to the Department	Exempt in part	22(1)(a)(ii) 47F(1)
12.	11/07/2018	6	RESUME – Final Report (attachment to Document 11)	Exempt in part	47F(1)