



19 January 2021

M/- B Vidhyapathy  
BY EMAIL: [foi+request-6978-b7ea6cef@righttoknow.org.au](mailto:foi+request-6978-b7ea6cef@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 20/12/00631  
File Number: OBJ2020/39367

Dear M/- Vidhyapathy

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

On 16 December 2020, the Department of Home Affairs (the Department) received a request for access to a document 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 document:

*Data (sorted by year) from 2008-2013 (inclusive), which includes:*

- > Total number of irregular maritime arrivals*
- Total number of*
- > deportations*
- Total number of deaths*

*In regards to the deaths: for each specific person, may I have the age of the person as well as reason of death. If it is not possible to identify the specific persons age with their reason of death, could I please get the top 10 reasons for death for these people (in both % and actual no. of people) - correlation to age groups would be very helpful.*

**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 document 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 document to which you sought access.

### **4 Document in scope of request**

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains information that falls within the scope of your request. The data produced in the document existed in the possession of the Department on 16 December 2020 when your FOI request was received.

### **5 Decision**

The decision in relation to the document in the possession of the Department which falls within the scope of your request is as follows:

- Release one document in part with deletions.

### **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

My findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

#### **6.1 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 document would disclose personal information relating to third parties. The information within the document would reasonably identify certain individuals, through descriptions of their migration status or personal circumstances.

The document produced includes figures less than five. It is departmental policy to mask figures less than five in order to protect the privacy of individuals who come into contact with the Department by reducing the possibility that specific persons can be identified. Disclosing the totals of the rows and columns that contain masked figures could enable the masked figures to be inferred or estimated.



I consider that this information could complement or be compared to other already available information relating to those designated as illegal maritime arrivals (IMAs) or placed in immigration detention and be used to identify specific individuals. Release of the exempted information could reasonably be expected to enable inferences and conclusions to be made about specific individuals' migration status and personal circumstances.

I have therefore decided that these figures should not be released, in accordance with section 47F of the FOI Act, as release of this information would constitute an unreasonable disclosure of information relating to specific individuals.

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 statistical data rather than information that wholly relates to other individuals. I consider that exempting the information marked 's47F' does not substantially reduce the value of the information provided to you in relation to your request.

I am satisfied that the disclosure of the information within the document 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 below.

## **6.2 The public interest – section 11A of the FOI Act**

As I have decided that parts of the document 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 that 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 document would promote the objects of the FOI Act.
- the subject matter of the document may have some public importance, however, the specific information exempted is limited in scope and, in my view, would be of interest to a narrow section of the public.
- no insights into public expenditure will be provided through examination of the document.
- you do not require access to the document 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 document:

- 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.
- 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 document 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](mailto: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](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: [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Benson', is positioned above the typed name.

**Position no. 60025680**  
**Authorised Decision Maker**  
**Department of Home Affairs**