



Australian Government

Department of Immigration and Border Protection

8 December 2014

In reply please quote:

FOI Request FA 14/07/01381-R1
File Number ADF2014/27019

Daniel O'Connor
via Right to Know
Sent via email to: foi+request-727-6620b945@righttoknow.org.au

Dear Mr O'Connor

Freedom of Information request – Internal Review Decision Letter

This letter refers to your request received on Friday, 7 November 2014 under s.54(2) of the *Freedom of Information Act 1982* (the FOI Act) that the Department of Immigration and Border Protection (the Department) undertake an internal review of the decision on 29 October 2014 by Mr Steven Hocking.

Your original request (FA 14/07/01381) sought access to the following documents:

A recent ABC news article (<http://www.abc.net.au/news/2014-07-30/sarah-hanson-young-denied-access-to-curtin-detention-centre/5635690>) reports:

"When the minister's office became aware of the request the minister sought advice from the Department, and was advised that access would not be appropriate at this time, based on the interests of the good management and safety of the centre."

I seek access to the advice requested and the response to the minister by the department.

Additionally, I seek access to the document(s) which would have been relied upon to provide an accurate response to the minister; such as a recent operational or management report regarding the Curtin detention centre; or an issue register detailing current management or risk issues & the mitigation plans in place.

Mr Hocking released the document he identified as falling within the scope of your request. He deleted the information that he was satisfied was exempt under s.47F(1) of the FOI Act and also deleted information that he considered irrelevant to your request, under s. 22(1)(a)(ii) of the Act. This meets the definition of an 'access refusal decision' in the FOI Act.

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The Department received your internal review request on Tuesday, 6 November 2014. The due date for a decision under the FOI Act is Saturday, 6 December 2014. However, as this date falls on a non-working day, s.36(2) of the *Acts Interpretation Act 1901* provides that the latest date the Department may respond is the next working day, which is Monday, 8 December 2014.

Decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests for internal review of FOI decisions.

On 4 December 2014 you were advised that I had been appointed decision maker for this request. This letter is to inform you that I have finalised the internal review. You will find my decision and the reasons for the decision in the attached Decision Record. This forms the written reasons for my decision as required under s.26(1) of the Act.

Review rights

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 my decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a review request to the OAIC, please see FOI fact sheet 12 '*Freedom of information – Your review rights*', available online at www.oaic.gov.au.

How to make a complaint about the handling of this FOI request

You may complain to the Australian Information Commissioner if you have concerns about how the department has handled your request under the FOI Act. Information about how to submit a complaint is also available at www.oaic.gov.au.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Linda Rossiter
Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection
Email foi@immi.gov.au

Attachments

- ✓ Attachment A - Decision Record



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request FA 14/07/01381-R1

File Number ADF2014/27019

Scope of request

In your original request you sought access under the FOI Act to the following documents:

A recent ABC news article (<http://www.abc.net.au/news/2014-07-30/sarah-hanson-young-denied-access-to-curtin-detention-centre/5635690>) reports:

"When the minister's office became aware of the request the minister sought advice from the Department, and was advised that access would not be appropriate at this time, based on the interests of the good management and safety of the centre."

I seek access to the advice requested and the response to the minister by the department.

Additionally, I seek access to the document(s) which would have been relied upon to provide an accurate response to the minister; such as a recent operational or management report regarding the Curtin detention centre; or an issue register detailing current management or risk issues & the mitigation plans in place.

On 29 October 2014 Mr Hocking emailed his decision to you. Mr Hocking identified one document, an email containing 4 pages, as being within the scope of your request. In his decision, Mr Hocking deleted the information that he was satisfied was exempt under s.47F(1) of the FOI Act. He also deleted information that he considered irrelevant to your request, under s.22(1)(a)(ii) of the Act. This meets the definition of an 'access refusal decision' in the Act.

Decision you are challenging

In your email of 6 November 2014, you asked that the department review two points regarding your original request, as follows:

- The amount of delays sought/the reasons for seeking them vs internal service standards and obligations under the act (s93A).
- The applicability of 22(1)(a)(ii) to the released material.

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With regard to the first point, you have expressed concern about the time taken by the Department to finalise your request as well as the reasons provided by the Department to the OAIC in seeking an extension of time under s.15AB of the Act. This is not something that can be considered through the internal review process. If you have concerns about how the department has handled your request under the FOI Act you may complain to the Office of the Australian Information Commissioner (OAIC).

With regard to the second point I have interpreted your request to be that the decision maker did not interpret the scope of your request correctly and so incorrectly deleted information under s.221(1)(a)(ii) of the Act that was relevant to the scope of your request.

Decision and reasons for decision

I am authorised under s.23 of the FOI Act 1982 (the Act) to make a decision on your request for internal review of the decision.

In your request for review you have stated that:

Use of 22(1)(a)(ii) - "that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access" - implies that the "advice requested" is not relevant to the agreed scope.

I feel that does not pass the criteria for 'reasonably irrelevant', particularly when the department has acknowledged in writing an understanding of my request.

Secondly, the unredacted advice actually provided disagrees with the public statements by the Minister's spokespeople in the media.

<http://www.abc.net.au/news/2014-07-30/sarah-hanson-young-denied-access-to-curtin-detention-centre/5635690> "When the minister's office became aware of the request the minister sought advice from the Department," the statement said.

"The minister sought advice from his Department on visitor access... and was advised that access would not be appropriate at this time, based on the interests of the good management and safety of the centre."

Given what has been released, I can only assume that the redacted content refers to these issues of management/safety and are extremely relevant to understanding the context.

I have considered the information on the four pages within the scope of your request and note that s.22(1)(a)(ii) has been applied to the top of page 1, to part of page 2 and to all of pages 3 and 4.

I note that the information removed from the top of page one is the name of the individual who printed the document. I do not consider it relevant to the scope of your request.

The information removed from pages 2, 3 and 4 is not a copy of the advice requested, nor information that 'would have been relied upon to provide an accurate response to the minister; such as a recent operational or management report regarding the Curtin detention centre; or an issue register detailing current management or risk issues & the mitigation plans in place'. It does not refer to issues of management or safety and is not a response to the minister by the department.

I agree that the information exempted by the original decision maker is irrelevant to the scope of your request and have made a formal decision to affirm the original decision made by Mr Hocking on Wednesday, 29 October 2014.



Linda Rossiter
Authorised decision maker
Freedom of Information Section
Department of Immigration and Border Protection
Email foi@immi.gov.au

8 December 2014

