



19 July 2022

s 22

Sent via email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 30 March 2022, seeking access to:

s 22

On 1 April 2022, the Department sought to clarify the terms of your request and issued you a notice under s.24AB of the FOI Act.

On 5 April 2022, you revised the terms of your request to seek access to:

- s 22
- s 22
- s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 3 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in

Attachment A.

The Schedule of Documents that falls within the scope of your request is at **Attachment B.** Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 available at www.oaic.gov.au .

Contacting the FOI Section

If you wish to discuss this matter, you may contact the FOI Section using the details provided below.

Yours sincerely

Nancy
Position No. 60107424
FOI Officer
Freedom of Information
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Scope of Request

s 22

On 1 April 2022, the Department sought to clarify the terms of your request and issued you a notice under s.24AB of the FOI Act.

On 5 April 2022, you revised the terms of your request to seek access to:

- s 22

Departmental records within scope

No.	Description	Reference	No. of folios
1.	Paper Departmental File	s 22	124
2.	Electronic Departmental File		34
3.	Electronic Departmental File		36
4.	s 22		-

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above);

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemption below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
 - and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information and it is possible for the agency to prepare an edited copy of the document with exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) of the FOI Act and is identified in the attached schedule of documents.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s.22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s.22 (1)(a)(ii) however they will not be individually noted in the Schedule of Documents.'

37 Documents affecting enforcement of law and protection of public safety

- (1) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*
- (a) *prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*

- (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or*
- (c) endanger the life or physical safety of any person.*

(2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:

- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;*
- (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or*
- (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.*

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or*
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or*
- (c) was obtained because of a false or misleading statement, whether or not made knowingly.*

Bogus document or information

The information which I have exempted under section 37(2)(b) is information which, if disclosed, there is a high probability that this document would be accepted by another Government agency as not everyone looking at the document is an actual document examiner and don't have the means to determine that the document before them is counterfeit or bogus.

I believe disclosure of this information would reasonably compromise the department's capacity to relinquish control of copy of these documents.

Departmental law enforcement methods and procedure

Other information which I have exempted under section 37(2)(b) is information which, if disclosed, would reveal lawful methods or procedures used by the Department to investigate complaints and would be reasonably likely to prejudice the effectiveness of those methods or procedures.

I believe disclosure of this information would reasonably compromise the Department's investigation strategy by revealing the Department's methods of investigating issues and in so doing would compromise the Department's ability to successfully utilise such methods or procedures in the future.

It is important that these processes are kept confidential to prevent persons from circumventing these procedures, or from providing false information during these investigations. Release of this information would prejudice the effectiveness of the referral process, and the attainment of true and correct information.

Yours sincerely

Nancy
Position No. 60107424
FOI Officer
Freedom of Information

Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s 22

s 22

Page No.	Description	Decision	Legislation
1-26		Released in full	-
27	Bogus information	Exempt in part	s.37(2)(b)
28		Released in full	-
29-30	Bogus information	Exempt in part	s.37(2)(b)
31-37		Released in full	-
38-39	Bogus information	Exempt in full	s.37(2)(b)
40	Bogus information	Exempt in part	s.37(2)(b)
41-124		Released in full	-

s 22

Page No.	Description	Decision	Legislation
1-8	22	Exempt in full	s.37(2)(b)
9-34		Released in full	-

s 22

Page No.	Description	Decision	Legislation
1	22	Exempt in part	s.37(2)(b)
2-36		Released in full	-

s 22

Page No.	Description	Decision	Legislation
N/A		Released in full	-



12 July 2022

s 22

Email: migration@vla.vic.gov.au

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 11th March 2022, seeking access to:

I request a copy of the following documents relating to my client under the *Freedom of Information Act 1982*:

- s 22
-
-
-
-
-

Please note that this request includes any international movement records relating to my client.

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 10th April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in

Attachment A.

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 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

Nellie

Position number: 60019769

Authorised FOI Decision Maker

Freedom of Information

E: xxx.xxx@xxxxxxxxxxxxx.xxx.xx

Attachments

- Attachment A – Decision Record
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Scope of Request

Departmental records within scope

No.	Description	Reference	No. of folios
1.	Department file		
2.	s 22	s 22	s 22
3.			
4.			
5.			
6.			
7.			
8.			

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above);

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part.

In your acknowledgement letter, you were advised of the Department’s policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

37 Documents affecting enforcement of law and protection of public safety

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
 - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
 - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

The information which I have exempted under section 37(2)(b) is information which, if disclosed, would reveal lawful methods or procedures used by the department to investigate complaints and would be reasonably likely to prejudice the effectiveness of those methods or procedures.

I believe disclosure of this information would reasonably compromise the department's investigation strategy by revealing the department's methods of investigating issues and in so doing would compromise the department's ability to successfully utilise such methods or procedures in the future.

It is important that these processes are kept confidential to prevent persons from circumventing these procedures, or from providing false information during these investigations. Release of this information would prejudice the effectiveness of the referral process, and the attainment of true and correct information.

Nellie

Position number: 60019769

Authorised FOI Decision Maker

Freedom of Information

E: xxx.xxx@xxxxxxxxxxxx.xxx.xx



14 July 2022

s 22

Email: migraxxxx@xxx.xxx.xxx.xx

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 22 March 2022, seeking access to:

I request a copy of the following documents relating to my client under the *Freedom of Information Act 1982*:

- s 22
-
-
-
-
-

Please note that this request includes any s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 21 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Departmental records within scope

No.	Description	Reference	No. of folios
1.	s 22		
1.			
2.			
3.			
4.			
5.			

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

As a revised decision has been issued you may choose to withdraw the Review with the OAIC. Please notify the OAIC if you wish to withdraw the IC Review

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 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

Nellie

Position number: 60019769

Authorised FOI Decision Maker

Freedom of Information

E: xxx.xxx@xxxxxxxxxxxxx.xxx.xx

Attachments

- Documents released to you under the FOI Act



s 22

Sent via email: migration@vla.vic.gov.au

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 28 March 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 27 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in

Attachment A.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 available at www.oaic.gov.au .

Contacting the FOI Section

If you wish to discuss this matter, you may contact the FOI Section using the details provided below.

Yours sincerely

Nancy
Position No. 60107424
FOI Officer
Freedom of Information
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act



Attachment A – Decision Record

s 22

Scope of Request

s 22

Departmental records within scope

No.	Description	Reference	No. of folios
1.	Departmental File		
2.		s 22	
3.	s 22		
4.		s 22	

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above);

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemption on the following page.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)**Scope**

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
 - and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information and it is possible for the agency to prepare an edited copy of the document with exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) of the FOI Act and is identified in the attached schedule of documents.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s.22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s.22 (1)(a)(ii) however they will not be individually noted in the Schedule of Documents.'

37 Documents affecting enforcement of law and protection of public safety

(1) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*

- (a) *prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*
- (b) *disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or*
- (c) *endanger the life or physical safety of any person.*

- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

The information which I have exempted under section 37(2)(b) is information which, if disclosed, would reveal lawful methods or procedures used by the Department to investigate complaints and would be reasonably likely to prejudice the effectiveness of those methods or procedures.

I believe disclosure of this information would reasonably compromise the Department's investigation strategy by revealing the Department's methods of investigating issues and in so doing would compromise the Department's ability to successfully utilise such methods or procedures in the future.

It is important that these processes are kept confidential to prevent persons from circumventing these procedures, or from providing false information during these investigations. Release of this information would prejudice the effectiveness of the referral process, and the attainment of true and correct information.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness
- Reveal certain operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

47F Public interest conditional exemptions—personal privacy (extract)

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (a) the extent to which the information is well known;*
 - (b) 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;*
 - (c) the availability of the information from publicly accessible sources;*
 - (d) any other matters that the agency or Minister considers relevant.*
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

A document is conditionally exempt under s.47F(1) if its release would involve the unreasonable disclosure of personal information about any person (including a deceased person). A conditionally exempt document must be released unless the release would be contrary to the public interest. The FOI Act requires me to firstly consider the conditional exemption and then the Public Interest Test in s.11B.

The information identified in the attached Schedule of Documents as being exempt from disclosure to you under section 47F(1) of the FOI Act, is personal information belonging to a third party.

Would the disclosure be an 'unreasonable' disclosure of personal information.

Having formed the view that the documents are of a kind to which section 47F does apply, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable
- The information does not appear to be in the public forum. This weighs against the release being reasonable
- Evidence that the third party consents to the release of their personal information for the purposes of this FOI request, has not been provided with in your request. This weighs against the release being reasonable

Further to the considerations above, you have not provided any other supporting documents nor provide reason on why you should have access to documentation or information belonging to the third party.

On balance, I am satisfied that disclosure of the personal information would be an unreasonable disclosure of personal information.

I am satisfied that the information I have identified in the relevant documents, as a third party's personal information, is conditionally exempt under s.47F(1) of the FOI Act.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditional exempt material would be contrary to the public interest. Section 11B sets out four factors favouring access, these include whether access to the documents would do any of the following:

- (a) promote the objects of this Act*
- (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*

Arguments in favour of the disclosure of the documents include:

- a person having a general right of access to any material about them held by the government;
- there is a general public interest in making information held by the Government accessible to the public;
- a person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- inform debate on a matter of public importance; and
- the need for openness and accountability of the Department's operations.

Arguments that against disclosure of the documents include:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy
- prejudice the fair treatment of individuals

- prejudice security, law enforcement, public health or safety

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Nancy
Position No. 60107424
FOI Officer
Freedom of Information
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s 22

s 22

Page No.	Description	Decision	Legislation
1-126		Released in full	-
127-131	Information relating to departmental operation	Exempt in full	s.47E(d)
132		Released in full	-
133	Third party information	Exempt in part	s.47F(1)
134-233		Released in full	-

s 22

Page No.	Description	Decision	Legislation
1	Departmental law enforcement methods and procedure	Exempt in part	s.37(2)(b)

s 22

Page No.	Description	Decision	Legislation
N/A		Released in full	-

s 22

Page No.	Description	Decision	Legislation
N/A		Released in full	-



1 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 29 November 2021, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 29 December 2021 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

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 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

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Departmental records within scope

s 22

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above);

Reasons for decision

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
- and*

- (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:

 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and**
- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:

 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and**
- (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

I have considered the documents within the scope of your request and applied exemptions in part as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemption below.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

OTHER IRRELEVANT MATERIAL UNDER S.22

I have decided that parts of the documents would disclose information that could reasonably be regarded as irrelevant to your request under section 22(1)(a)(ii) of the FOI Act. You can identify those documents in the Schedule of Documents with the words as 'irrelevant material deleted' in the decision column.

The materials in question relate to third parties. Your request is for information about yourself and you have indicated at questions 12 and 17 of the form 424A that you do not require information about any other person.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

SECTION 47E(d) – Proper and efficient conduct

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

- I considered the following factors in favour of disclosure:
- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance;
- The need for openness and accountability of the department's operations; and
- The extent to which the information is known by the public.
- On the other hand I considered the following in favour of non-disclosure:
- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness; and
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant an advantage of having a prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Section 24A – Documents cannot be found or do not exist

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*
 - (ii) *does not exist.*

DOCUMENT DOES NOT EXIST

In relation to the s 22 I have taken the following actions and determined that this document does not exist in your Departmental records:

- Searched the following Departmental databases:
 - Integrated Client Services Environment (ICSE)
 - ICSE Offspring
 - TRIM – the Department's record management system
- Contacted the following business areas, who advised that this document does not exist in your record:
 - Ministerial Intervention Unit
 - Operational Coordination Unit

As the document does not exist, I am refusing your request for access.

Yours sincerely

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

1 July 2022



Attachment B – Schedule of Documents

Client Details

s 22

1. **s 22**

2. **s 22**

Page	Description	Decision	Legislation
6	s 22	Exempt in full	S22(1)(a)(ii)
120-121	s 22	Exempt in full	S22(1)(a)(ii)
125 127	s 22	Exempt in full	S22(1)(a)(ii)
	All other folios	Release in full	

3. **s 22**

Page	Description	Decision	Legislation
16	s 22	Exempt in full	S22(1)(a)(ii)
29	s 22	Exempt in full	S22(1)(a)(ii)
60,78	s 22	Exempt in full	S22(1)(a)(ii)

4. **s 22**

Page	Description	Decision	Legislation
182-183	Departmental Checklist	Exempt in part	S47E(d)
	All other folios	Release in full	

5. **s 22**

6. **s 22**

7. **s 22**

Page	Description	Decision	Legislation
2	Client Systems	Exempt in part	S47E(d)
	All other folios	Release in full	

8. **s 22**



04/07/2022

s 22
s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 1 March 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 31/03/2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Electronically signed

FOI Officer

Jai

Position no. 60016895

Freedom of Information Section

Department of Home Affairs

Email : foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released-As per Schedule

Attachment A – DECISION RECORD



s 22

Documents in scope:

- s 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*
- (ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22 (1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

The documents in question are those associated with visa cancellation.

I am of the opinion that release of the information would prejudice the operations of the department in relation to its management of visa cancellation processes by revealing the various criteria taken into consideration during the decision to cancel a visa.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;

- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Reveal covert operating procedures, the release of which would require the department to change the way it operates.
- could reasonably be expected to prejudice security, law enforcement, public health or public safety
- Release could prejudice the management function of the department.
- The information is not already known to the public.

Releasing information about the investigative processes, reasons, criteria and checks undertaken during the decision to cancel a visa may enable applicants to circumvent certain processes in the future. This would result in the department having to continually change its processes at a cost to the department. I have given these factors the most weight.

I therefore believe that releasing this information would be contrary to the public interest.

Yours sincerely,

Electronically signed

FOI Officer
Jai
Position no. 60016895
Freedom of Information Section
Department of Home Affairs
Email : foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

- **s 22**

Pages	Description	Decision	Legislation
1-2	22	Exempt in part	s47E(d)
3-81		Released	
82-107	s 22	Exempt in full	s47E(d)
108-226		Released	



04/07/2022

s 22
[Redacted]

Email: s 22 [Redacted]

In reply please quote:

s 22
[Redacted]

Dear s 22 [Redacted]

Freedom of Information request – Revised decision

s 22 [Redacted] (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 18 November 2021, seeking access to:

s 22
[Redacted]

[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 18/12/2021 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;

- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Electronically signed

FOI Officer

Jai

Position no. 60016895

Freedom of Information Section

Department of Home Affairs

Email : foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act-As per Schedule

Attachment A – DECISION RECORD**Client Details:**A black rectangular redaction box covering the client details. The text 's 22' is written in large red font over the redaction.**Documents in scope:**A black rectangular redaction box covering the documents in scope. The text 's 22' is written in large red font over the redaction.**Information considered**

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) the nature and extent of the modification; and*
- (ii) the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

The exempted information relates to the Department's processes in maintaining and enforcing the integrity of Australia's visa programme. Disclosure of the material would have a substantial adverse effect on the ability of the Department to perform its function of maintaining visa integrity because it would be forced to modify its existing practices and

processes for dealing with a particular issue and dedicate substantial resources to creating new practices and processes.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them.
- The need for openness and accountability of the department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Reveal covert operating procedures, the release of which would require the department to change the way it operates.
- could reasonably be expected to prejudice security, law enforcement, public health or public safety
- Release could prejudice the management function of the department
- The information is not already known to the public.

Releasing information about the way the Department operates may enable applicants to circumvent certain processes in the future. This would result in the Department having to continually change its processes at a cost to the Department and ultimately to the taxpayers. Release of this information and failure of the Department to change this process would adversely affect the integrity of the visa programme.

Having regard to the content of the material in this case, I am satisfied that the public interest factors against disclosure outweigh the factors in favour of disclosure.

47F Public interest conditional exemptions—personal privacy

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

(2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:

- (a) the extent to which the information is well known;*
- (b) 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;*
- (c) the availability of the information from publicly accessible sources;*
- (d) any other matters that the agency or Minister considers relevant.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

Having formed the view that the documents are of a kind to which section 47F does apply, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- Departmental records indicate that **s 22** is not related to

the FOI applicant.

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the department. This weighs against the release being reasonable.
- The information does not appear to be in the public forum. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents in their complete format.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure of the documents include:

- a person having a general right of access to any material about them held by the government;
- Promote the objects of the FOI Act
- there is a general public interest in making information held by the Government accessible to the public;
- the extent to which the information is known by the public.

Arguments against disclosure of the documents include:

- The information is not already known to the public.
- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy;
- Could prejudice the fair treatment of individuals;

The information contained within the identified documents wholly relates to a person other than you. The department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

The information I have found unreasonable to release is specifically described in the description field of my *schedule of documents to decision record*.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely,

Electronically signed

FOI Officer
Jai
Position no. 60016895
Freedom of Information Section

Department of Home Affairs
Email : foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

- Departmental File: **s 22**

Pages	Description	Decision	Legislation
1-14		Released	
15-18	Third party documents	Exempt in full	s47F(1)
19-29		Released	
30-34	Third party documents	Exempt in full	s47F(1)
35-75		Released	

- **s 22**
- **s 22**

Pages	Description	Decision	Legislation
All other pages		Released	
2	Summary	Exempt in part	s47E(d)

- **s 22**



19 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22, (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 21 April 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 21 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

(a) giving access to a document in accordance with the request; or

(b) relieving the IC review applicant from liability to pay a charge; or

(c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;

- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD



s 22

Documents in scope

1. 
- 2.
- 3.

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*

(ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

(i) *the nature and extent of the modification; and*

(ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under section 47F(1) of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in full' or 'Exempt in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

Freedom of Information Act 1982

47F Public interest conditional exemptions—personal privacy

(1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

I have formed the view that the documents are of a kind to which section 47F does apply. Therefore, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable.
- The information does not appear to be in the public forum. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered the following factors in favour of the disclosure of the documents:

- there is a general public interest in making information held by the Government accessible to the public;

On the other hand, I have considered the following factor against disclosure of the documents:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy.

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
6,7,9,10 12,13,14 15,16,17 19	Third Party Information	Exempt in part	s.47F(1)

Note: All Remaining Documents Released in Full.

2. **s 22**

Page	Description	Decision	Legislation
1,3	Third Party Information	Exempt in part	s.47F(1)

Note: All Remaining Documents Released in Full.

3. **s 22**

Page	Description	Decision	Legislation
1,2,3,5 7,22,23 24,25,29 30,31,32 34,35,38	Third Party Information	Exempt in part Exempt in full	s.47F(1)

Note: All Remaining Documents Released in Full.



13 July 2022

s 22

Sent by email: migration@vla.vic.gov.au

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 1 April 2022, seeking access to:

s 22

[Redacted content]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 1 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to refuse access to parts of your request where documents could not be found or do not exist, and to exempt in part the documents in the possession of the Department which fall within the scope of your request. The reasons for my decision are set out in the Decision Record at **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Nicole
Position No. 60095088
FOI Officer | Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Scope of Request

s 22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s 22		
2.			
3.			
4.			

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above).

Reasons for decision

In your request you sought access to **22** [REDACTED].

The Department has taken reasonable searches in relation to your request. No documents were located in the possession of the Department on 1 April 2022 when your FOI request was valid and the Department therefore has no records to produce in relation to this part of your request.

My decision is to refuse access under section 24A of the FOI Act. My reasons and an extract of the legislation are set out below.

24A Requests may be refused if documents cannot be found, do not exist or have not been received*Document lost or non-existent*

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*
 - (ii) *does not exist.*

Document not received as required by contract

- (2) *An agency may refuse a request for access to a document if:*
- (a) *in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and*
 - (b) *the agency has not received the document; and*
 - (c) *the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.*

I have undertaken a search of the relevant departmental systems to locate and identify the document you have requested. The systems I have searched include:

- Integrated Client Services Environment (ICSE) – this includes the record management of visa applications received onshore
- ICSE Offspring – this includes the record management of visa applications received at Post
- TRIM – the Department's record management system

No documents which would fall within the scope of your request were located as part of these searches.

As the document cannot be found and I am satisfied that all reasonable searches have been undertaken I am refusing this part your request for access. **s 22** [REDACTED]

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*

- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
- (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
- (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request and it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

The schedule identifies documents where material has either been deleted as exempt information under the FOI Act; or deleted as irrelevant to the scope of the request.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff and contractors engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22 (1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

47D Public interest conditional exemptions—financial or property interests of the Commonwealth or Norfolk Island

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth, of Norfolk Island or of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents I have exempted under section 47D relate to the commercial activities of the Department. The release of these documents would have a substantial adverse effect on the financial or property interests of the Commonwealth.

Having formed the view that the release of the documents would have a substantial adverse effect on the financial or property interests of the Commonwealth I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Prejudice the competitive commercial activities of the Department;
- Provide an unfair advantage in relation to lawful tender process;
- Affect the Department's ability to use public money effectively.

The Department's responsibility to use public money lawfully and effectively has been given the most weight. I am satisfied therefore the release would be contrary to the public interest and the documents are exempt under section 47D of the FOI Act.

47F Public interest conditional exemptions—personal privacy

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (a) *the extent to which the information is well known;*
 - (b) *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;*
 - (c) *the availability of the information from publicly accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant.*
- (3) *Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

Access given to qualified person instead

- (4) *Subsection (5) applies if:*
 - (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and*
 - (b) *it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.*

- (5) *The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:*
- (a) *carries on the same occupation, of a kind mentioned in the definition of **qualified person** in subsection (7), as the first-mentioned qualified person; and*
 - (b) *is to be nominated by the applicant.*
- (6) *The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.*
- (7) *In this section:*
- qualified person** *means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:*
- (a) *a medical practitioner;*
 - (b) *a psychiatrist;*
 - (c) *a psychologist;*
 - (d) *a counsellor;*
 - (e) *a social worker.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

Having formed the view that the documents are of a kind to which section 47F does apply, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable.
- The information does not appear to be in the public forum. This weighs against the release being reasonable.
- Evidence that the third party consents to the release of their personal information for the purposes of this FOI request has not been provided in your request.

On balance I believe it would be unreasonable to release these documents in their complete format.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered:

Arguments in favour of the disclosure of the documents include:

- a person having a general right of access to any material about them held by the government;
- there is a general public interest in making information held by the Government accessible to the public;
- a person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- inform debate on a matter of public importance; and
- the need for openness and accountability of the Department's operations.
- the extent to which the information is known by the public.

Arguments that against disclosure of the documents include:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy
- prejudice the fair treatment of individuals
- prejudice security, law enforcement, public health or safety

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Nicole
Position No. 60095088
FOI Officer | Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

s 22

For the collation of this FOI request only, all files and documents within the scope have been folioed with an underlined number in the top right hand corner of each page.

s 22

Page No.	Description	Decision	Legislation
1	-	Released in full	-
2	<u>22</u>	Exempt in part	s 47F(1)
3-44	-	Released in full	-
45	<u>22</u>	Exempt in part	s 47D
46-54	-	Released in full	-
55-62	<u>22</u>	Exempt in full	s 47F(1)
63-64	<u>22</u>	Exempt in part	s 47F(1)
65	-	Released in full	-
66	<u>22</u>	Exempt in part	s 47F(1)
67-235	-	Released in full	-
236-242	<u>22</u>	Exempt in full	s 47F(1)
243-248	-	Released in full	-
249-250	<u>22</u>	Exempt in part	s 47F(1)
251-254	<u>22</u>	Exempt in full	s 47F(1)
255-464	-	Released in full	-

s 22

Document No.	No of folios	Description	Decision	Legislation
1.				
2.				
3.				
4.				

s 22



15 July 2022

s 22

Email: familyreunion@racs.org.au

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Release of documents

22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to your request received on 3 February 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 05 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) *giving access to a document in accordance with the request; or*
- (b) *relieving the IC review applicant from liability to pay a charge; or*
- (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details



s 22

Documents in scope

1. Departmental file s 22 

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
 - (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*

and
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s 22 (1)(a)(ii) however they will not be individually noted in the Schedule of Documents.

The request contains material that is exempt under s47F(1) of the FOI Act.

My reasons for exemption are set out below:-

47F Public interest conditional exemptions—personal privacy

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (a) *the extent to which the information is well known;*
 - (b) *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;*
 - (c) *the availability of the information from publicly accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant.*
- (3) *Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

Access given to qualified person instead
- (4) *Subsection (5) applies if:*
 - (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and*
 - (b) *it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.*
- (5) *The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:*
 - (a) *carries on the same occupation, of a kind mentioned in the definition of qualified person in subsection (7), as the first-mentioned qualified person; and*
 - (b) *is to be nominated by the applicant.*
- (6) *The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.*

(7) *In this section:*

qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- (a) a medical practitioner;*
- (b) a psychiatrist;*
- (c) a psychologist;*
- (d) a counsellor;*
- (e) a social worker.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

I have formed the view that the documents are of a kind to which section 47F does apply. Therefore, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered the following factors in favour of the disclosure of the documents:

- there is a general public interest in making information held by the Government accessible to the public;

On the other hand, I have considered the following factor against disclosure of the documents:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy.

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. s 22

Page	Description	Decision	Legislation
s 22			

Note: the remainder of the file has been released in full



6 July 2022

s 22

Sent via email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 17 February 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 19 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

No.	Description	Reference	No. of folios
1.	s 22		
2.			

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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

Nancy
Position No. 60107424
FOI Officer
Freedom of Information
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



8 June 2022

s 22
[Redacted]

Sent via email: s 22 [Redacted]

In reply please quote:
s 22 [Redacted]

Dear s 22 [Redacted]

Freedom of Information request – Revised decision

s 22 [Redacted] (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 20 August 2021, seeking access to:

s 22 [Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 19/09/2021 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which fall within the scope of your request. A list of the documents is below for your reference.

No.	Description	Reference (if applicable)	No. of folios
1.	s 22		
2.			
3.			
4.			
5.			

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*
- (ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request and it is

possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

The schedule identifies documents where material has either been deleted as exempt information under the FOI Act; or deleted as irrelevant to the scope of the request.

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 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

John
Position number: 6004 6997
FOI Decision Maker
Freedom of Information Victoria
E: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



1 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22, (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 10 February 2022, seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 12 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act.

Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

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 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

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD**Client Details**A black rectangular redaction box covering the client details. The text 's 22' is written in large red font over the redaction.

Do

A black rectangular redaction box covering the document description. The text 's 22' is written in large red font over the redaction.**Information considered**

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

STAFF AND CONTRACTOR NAMES DELETION

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

Section 24A – Documents cannot be found or do not exist

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

(1) *An agency or Minister may refuse a request for access to a document if:*

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

DOCUMENT DOES NOT EXIST

In relation to the **s 22**, I have taken the following actions and received the following responses:

- Searched the following Departmental databases and found no record of this file:
 - Integrated Client Services Environment (ICSE)
 - ICSE Offspring
 - TRIM – the Department’s record management system

- **s 22**

As the document does not exist, I am refusing your request for access.

Yours sincerely,

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

1 July 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

S 22



6 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Release of documents

This letter refers to your request received on 24 March 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 23 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) *giving access to a document in accordance with the request; or*
- (b) *relieving the IC review applicant from liability to pay a charge; or*
- (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to refused and exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD**Client Details****Documents in scope****Information considered**

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;**and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*

- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
- (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s 22(1)(a)(ii) however they will not be individually noted in the Schedule of Documents.

The request contains material that is exempt under s33(a)(i) and s47E(d) of the FOI Act.

My reasons for exemption are set out below:-

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) *would, or could reasonably be expected to, cause damage to:*
 - (i) *the security of the Commonwealth;*
 - (ii) *the defence of the Commonwealth; or*
 - (iii) *the international relations of the Commonwealth; or*
- (b) *would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.*

Note: See also subsection 4(10).

I have decided that documents that would fall within the scope of this request would be exempt under section 33(a)(i) as they concern the security of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's security.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information and may reveal methods that are used to gather intelligence information.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness
- Reveal certain operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS



1. s 22

Page	Description	Decision	Legislation
84-88	Checklist	Exempt in part	s33(1)(a)(i)
196-203	s 22	Exempt in full	s47E(d)
250-257		Exempt in full	s47E(d)

Note: the remainder of the file has been released in full

2. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	

3. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	

4. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	

5. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	

6. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	

7. s 22

Page	Description	Decision	Legislation
	Entire file	Released in full	



Australian Government
Department of Home Affairs

21 July 2022

s 22

Email

s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 09/03/2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 08/04/2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review - revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

(a) giving access to a document in accordance with the request; or

(b) relieving the IC review applicant from liability to pay a charge; or

(c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 available at www.oaic.gov.au.

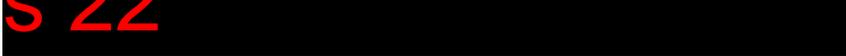
Contacting the FOI Section

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

Yours sincerely
AJ, Position number 2145
FOI Officer
Department of Home Affairs
Email xxx.xxx@xxxxxxxxxxxxx.xxx.xx

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

1. 
2. 

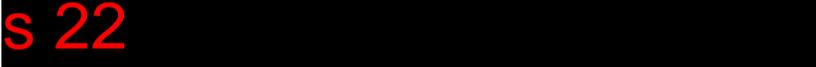
Attachment A – DECISION RECORD

Client Details



s 22

Documents in scope

1. s 22
2. 

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*

(ii) the resources available to modify the document; and

(d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22 (1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

I have decided that parts of the documents would disclose information that could reasonably be regarded as irrelevant to your request under section 22(1)(a)(ii) of the FOI Act. You can identify those documents in the Schedule of Documents with the words as 'irrelevant material deleted' in the decision column.

The materials in question relate to third parties. Your request is for information about yourself and you have indicated at questions 12 and 17 of the form 424A that you do not require information about any other person.

I have therefore determined the materials which do not relate to you to be irrelevant to your request and have deleted them under section 22(1)(a)(ii) of the FOI Act.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Yours sincerely
AJ, Position number 2145
FOI Officer
Department of Home Affairs
Email xxx.xxx@xxxxxxxxxxxx.xxx.xx

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22** **s 22**

Page	Description	Decision	Legislation
s 22	s 22	s 22	
	22	22	

2. **s 22** **s 22**

Page	Description	Decision	Legislation
s 22	s 22	22	
	s 22	s 22	



4 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22, (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 24 March 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 23 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. **s 22**

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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

Iris
Position no. 60120965
Freedom of Information
FOI and Records Management Branch | Data Division
Strategy and National Resilience Group
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



3 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22, (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 6 April 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 6 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. s 22
- 2.
- 3.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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

Electronically signed

Lucksika
P/N: 60016890
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



21 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 4 April 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on [due date] and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Electronically signed

Nurun

Position No: 60016892

FOI Case Officer, Freedom Of Information (FOI)

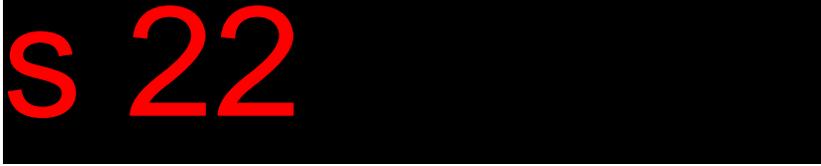
Email: foi.vic@homeaffairs.gov.au

Date: 21 July 2022

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD



Documents in scope

1. s 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

- (1) *This section applies if:*
 - (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
 - and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*

(ii) the resources available to modify the document; and

(d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents. Please note that there are times that this same section of the FOI Act will be used to remove other material and this will be in the Schedule of Documents with a clear explanation as to what the material is.

The materials in question relate to third parties. Your request is for information about yourself and you have indicated at questions 12 and 17 of the form 424A that you do not require information about any other person.

I have therefore determined the materials which do not relate to you to be irrelevant to your request and have deleted them under section 22(1)(a)(ii) of the FOI Act.

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

(a) would, or could reasonably be expected to, cause damage to:

(i) the security of the Commonwealth;

(ii) the defence of the Commonwealth; or

(iii) the international relations of the Commonwealth; or

(b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

Note: See also subsection 4(10).

I have decided that documents that would fall within the scope of this request would be exempt under section 33(a)(i) as they concern the security of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's security.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information and may reveal methods that are used to gather intelligence information.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Yours sincerely,

Kind Regards

Nurun

Position No: 60016892

FOI Case Officer, Freedom Of Information (FOI)

Email: foi.vic@homeaffairs.gov.au

Date: 21 July 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. Departmental 22 - 143 pages

s 22

Note: As a decision has now been made on your FOI application, please contact the OAC directly to advise if you would like to withdraw your OAC review request



6 July 2022

s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to your request received on 19 January 2022, seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 18 February 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act.

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 available at www.oaic.gov.au.

Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

Contacting the FOI Section

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

Yours sincerely

Imelda

Position No. 60009318
Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details



Documents in scope



Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*

(ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

(i) *the nature and extent of the modification; and*

(ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

STAFF AND CONTRACTOR NAMES DELETION

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

SECTION 47E(d) – Proper and efficient conduct

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance;
- The need for openness and accountability of the department's operations; and
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness; and
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant an advantage of having a prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Yours sincerely

Imelda
Position No. 60009318
Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

6 July 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. s 22

Page	Description	Decision	Legislation
29	Departmental Report	Exempt in full	S47E(d)
	All other folios	Release inn full	

2.

3.

4.

5.

6.

s 22



8 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 9 February 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 11 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. s 22
- 2.
- 3.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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

Electronically signed

Nurun
Position No: 60016892
FOI Case Officer, Freedom Of Information (FOI)
Email: foi.vic@homeaffairs.gov.au
Date: 08 July 2022

Attachments

- s 22
-
-

Note: 1. s 22

2. "As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request"



29 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to your request received on 18 March 2022, seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 17 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
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Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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

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Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

Contacting the FOI Section

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

Yours sincerely

Imelda

Position No. 60009318
Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details



Documents in scope

1. 22
2. 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;**and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
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A number of documents contain information that is exempt under one or more sections of the

FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22 (1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

SECTION 47E(d) – Proper and efficient conduct

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance;
- The need for openness and accountability of the department's operations; and

- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness; and
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant an advantage of having a prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

Yours sincerely

Imelda
Position No. 60009318
Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

29 July 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**
2. **s 22**

Page	Description	Decision	Legislation
1	s 22	Exempt in part	S47E(d)



15 July 2022

22 [REDACTED]

Email: 22 [REDACTED]

In reply please quote:

s 22 [REDACTED]

Dear Mr 22 [REDACTED]

Freedom of Information request – Release of documents

This letter refers to your request received on 24 September 2021 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

Complete copy of my Protection Visa files

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 24 October 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) *giving access to a document in accordance with the request; or*
 - (b) *relieving the IC review applicant from liability to pay a charge; or*
 - (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details



Documents in scope



Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s 22 (1)(a)(ii) however they will not be individually noted in the Schedule of Documents.

The request contains material that is exempt under s47F(1) of the FOI Act.

My reasons for exemption are set out below:-

47F Public interest conditional exemptions—personal privacy

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (a) *the extent to which the information is well known;*
 - (b) *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;*
 - (c) *the availability of the information from publicly accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant.*

- (3) *Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.*

Access given to qualified person instead

- (4) *Subsection (5) applies if:*
 - (a) *a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and*
 - (b) *it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.*
- (5) *The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:*
 - (a) *carries on the same occupation, of a kind mentioned in the definition of qualified person in subsection (7), as the first-mentioned qualified person; and*
 - (b) *is to be nominated by the applicant.*

- (6) *The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.*

- (7) *In this section:*

qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- (a) a medical practitioner;*
- (b) a psychiatrist;*
- (c) a psychologist;*
- (d) a counsellor;*
- (e) a social worker.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

I have formed the view that the documents are of a kind to which section 47F does apply. Therefore, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered the following factors in favour of the disclosure of the documents:

- there is a general public interest in making information held by the Government accessible to the public;

On the other hand, I have considered the following factor against disclosure of the documents:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy.

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. Departmental File: **22**

Page	Description	Decision	Legislation
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)
22	22	Exempt in part	s47F(1)

Note: the remainder of the file has been released in full

2. Departmental File: **22**

Page	Description	Decision	Legislation
	Entire file	Released in full	



10 August 2022

s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 30 March 2022, seeking access to:

s 22

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on [due date] and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) *giving access to a document in accordance with the request; or*
 - (b) *relieving the IC review applicant from liability to pay a charge; or*
 - (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Regards

Maureen
Position Number: 11278
FOI Case Officer
FOI and Records Management Branch | Data Division
Strategy and National Resilience Group
Department of Home Affairs

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act



Attachment A – DECISION RECORD

Client Details

s 22

Documents in scope

s 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant material deleted

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
 - (a) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (b) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (c) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the schedule of documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

The documents that were removed/redacted under section 22(1)(a)(ii) of the FOI Act are those considered irrelevant to your request.

Your request is for information about yourself as you have indicated in your FOI request. The third party information redacted under section 22(1)(a)(ii) is not related to your visa application or your file.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

7 Exemption of certain persons and bodies

(2A) An agency is exempt from the operation of this Act in relation to the following documents:

*(a) a document (an **intelligence agency document**) that has originated with, or has been received from, any of the following:*

- (i) the Australian Secret Intelligence Service;*
- (ii) the Australian Security Intelligence Organisation;*
- (iii) the Inspector-General of Intelligence and Security;*
- (iv) the Office of National Assessments;*
- (v) the Australian Geospatial-Intelligence Organisation;*
- (vi) the Defence Intelligence Organisation;*
- (vii) the Australian Signals Directorate;*

(b) a document that contains a summary of, or an extract or information from, an intelligence agency document, to the extent that it contains such a summary, extract or information.

The documents that I have refused access to under section 7(2A) are documents that contain extracts or summaries from an intelligence agency document. Section 7 of the FOI Act provides that certain organisations or documents are not subject to the requirements of the FOI Act. This means that you have no legal right to obtain access to the documents originating from those agencies.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*
 - (ii) *does not exist.*

In relation to your request following:



s 22

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - Content Manager – the Department's record management system

As the document does not exist, I am refusing your request for access to these documents.

Maureen
Position Number: 11278
FOI Case Officer

10 August 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

s 22

Page	Description	Decision	Legislation
12-14	Information which falls under s7(2A)	Exempt in full	7(2A)

s 22

Page	Description	Decision	Legislation
225-228	Email correspondence	Exempt in full	47E(d)
253-256	Information which falls under s7(2A)	Exempt in full	7(2A)

s 22

Page	Description	Decision	Legislation
326	3 rd party information irrelevant to the scope of the request	Exempt in part	22(1)(a)(ii)

s 22

s 22

s 22

s 22

Page	Description	Decision	Legislation
11	Information which falls under s7(2A)	Exempt in part	7(2A)
5, 16-17	Internal notes/procedure	Exempt in part	47E(d)

s 22

s 22

s 22

s 22



2 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 22 March 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 2 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

(a) *giving access to a document in accordance with the request; or*

(b) *relieving the IC review applicant from liability to pay a charge; or*

(c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

(a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*

(b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

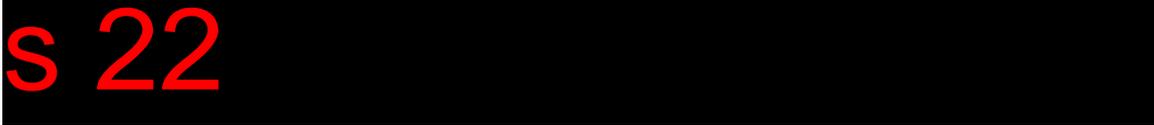
- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Documents in scope

1.

2.


Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*
- (ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under section 47F(1) of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in full' or 'Exempt in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

Freedom of Information Act 1982

47F Public interest conditional exemptions—personal privacy

(1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

The documents that are exempt, either in full or in part, under section 47F of the FOI Act contain personal information.

I have formed the view that the documents are of a kind to which section 47F does apply. Therefore, I am required to consider whether disclosure of the documents would be unreasonable. I took the following information into consideration:

- The information appears on a file that holds your personal information. This weighs in favour of the release being reasonable.
- The information is not your personal information. This weighs against the release being reasonable.
- Every person has the right to expect that their personal information will be securely maintained by the Department. This weighs against the release being reasonable.
- The information does not appear to be in the public forum. This weighs against the release being reasonable.

On balance I believe it would be unreasonable to release these documents.

Having formed the view that the documents are of a kind to which section 47F(1) does apply, I am required to consider whether disclosure of the documents would be contrary to the public interest.

I have considered the following factors in favour of the disclosure of the documents:

- there is a general public interest in making information held by the Government accessible to the public;

On the other hand, I have considered the following factor against disclosure of the documents:

- it is a core Government concern to maintain the integrity of the information it holds and in the maintaining of an individual's privacy.

The information contained within the identified documents wholly relates to a person other than you. The Department is obliged to take action to prevent the unreasonable disclosure of an individual's personal information and I have given this the greatest weight.

I consider that disclosure of this information would be contrary to the public interest and it is therefore exempt from disclosure under section 47F of the FOI Act.

Yours sincerely

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
1	22	Exempt in full	s.47F(1)
7,8	22	Exempt in part	s.47F(1)
22	22	Exempt in full	s.47F(1)

Note: All Remaining Documents Released in Full.

2. **s 22**

Page	Description	Decision	Legislation
2	22	Exempt in part	s.47F(1)

Note: All Remaining Documents Released in Full.



12 August 2022

s 22

BY EMAIL: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 30 March 2022, seeking access to:

s 22

On 5 April 2022, you revised the terms of your request to seek access to:

s 22

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
 - a) *giving access to a document in accordance with the request; or*

- b) relieving the IC review applicant from liability to pay a charge; or
- c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
 - a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

Revised decision

The Department has reconsidered the material within s 22 [REDACTED]. My decision is to release the material in s 22 [REDACTED] which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

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 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

Vanessa
Position number 60008303
Freedom of Information Section
Department of Home Affairs
Email : foi@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Scope of Request

On 5 April 2022, you revised the terms of your request to seek access to:

s 22

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of the revised request dated 5 April 2022; and
- Departmental documents (pages identified below).

Decision

The Department has re-considered the documents at issue, and in relation to the material within s 22 that the Department previously marked as exempt under section 37(2)(b), I now consider is not exempt, and can now be released.

I have decided that the material within s 22

Yours sincerely

Vanessa
Position number 60008303
Freedom of Information Section
Department of Home Affairs
Email : foi@homeaffairs.gov.au



9 June 2022

s 22
BY EMAIL: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information (FOI) request – Revised decision under section 55G of FOI Act

On 23 February 2022, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

On 16 May 2022, the Office of the Australian Information Commissioner (OAIC) issued a notice under section 54z of the FOI Act in which it notified the Department that the Information Commissioner would review the deemed access refusal decision of the Department.

Following the commencement of the Information Commissioner review, the Department has now made a revised decision on your request under section 55G of the FOI Act. The purpose of this letter is to provide you with the Department's revised decision.

1 Scope of request

You have requested access to the following documents:

s 22

2 Revocation or variation of access refusal decision

Under section 15AC of the FOI Act, the Department was deemed to have refused your request for access to documents when it did not make a decision on your request within the statutory timeframes prescribed by the FOI Act.

Section 55G of the FOI Act provides for the revocation or variation of an access refusal decision, including a deemed refusal decision, during a review by the Information Commissioner.

Specifically, section 55(1)(a) of the FOI Act provides that an agency may vary (or set aside and substitute) an access refusal decision if the variation or substitution would have the effect of giving access to a document in accordance with the request.

As a substantive decision on this request would have the effect of the Department giving access to one or more documents, either in full or in part, the Department has now revised its original deemed access refusal decision under section 55G(1)(a) of the FOI Act.

3 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.

4 Relevant material

In reaching my decision I referred to the following:

- the terms of your 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

5 Documents in scope of request

The Department has identified two documents as falling within the scope of your request. These documents were in the possession of the Department on 23 February 2022 when your request was received.

6 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 one document in full
- Release one document in part with deletions

7 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.

7.1 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 1 March 2022, 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.

s 47E(d) [Redacted]

[Redacted]

[Redacted]

s 47E(d)

[Redacted]

- [Redacted]

- [Redacted]

[Redacted]

- [Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

- [Redacted]

- [Redacted]

[Redacted]

47E(d)

[Redacted]

[Redacted]

[Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

- [Redacted]

[Redacted]

7.3 Section 47C of the FOI Act – Deliberative Processes

Section 47C of the FOI Act provides that a document is conditionally exempt if its disclosure would disclose deliberative matter relating to the deliberative processes involved in the functions of the Department.

'*Deliberative matter*' includes opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the deliberative processes of an agency.

'*Deliberative processes*' generally involves "*the process of weighing up or evaluating competing arguments or considerations*"³ and the '*thinking processes –the process of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.*'⁴

The document contains advice, opinions and recommendations prepared or recorded in the course of, or for the purposes of, the deliberative processes involved in the functions of Department, being the management of transitory persons through Ministerial intervention and various proposed amendments to legislation. I am satisfied that this deliberative matter relates to a process that was undertaken within government to consider whether and how to make or implement a decision, revise or prepare a policy, administer or review a program.⁵

Disclosure of this deliberative information could reasonably be expected to inhibit full and frank advice from the Department to its Minister, and, as a result, full consideration by the Government on any potential future consideration of amendments to legislation.

Section 47C(2) provides that "deliberative matter" does not include purely factual material. I have had regard to the fact that "purely factual material" does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content such that it is impractical to excise it.⁶ A factual summary prepared to aid a complex issue may be classed as purely factual material, but may also be of a character as to disclose a process of section involving opinion, advice or recommendation. As such, a conclusion which involves a deliberative process may well prevent material from being purely factual⁷.

I am further satisfied that the factors set out in subsection (3) do not apply in this instance.

I have decided that the information is conditionally exempt under section 47C 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 7.4 below.

7.4 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).

³ *Dreyfus and Secretary Attorney-General's Department (Freedom of information)* [2015] AATA 962 [18]

⁴ *JE Waterford and Department of Treasury (No 2)* [1984] AATA 67

⁵ *Dreyfus and Secretary Attorney-General's Department (Freedom of information)* [2015] AATA 962

⁶ *Dreyfus and Secretary Attorney-General's Department (Freedom of information)* [2015] AATA 962 [18]

⁷ *Harris v Australian Broadcasting Corporation and Others* (1984) 1 FCR 150

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 conditionally exempt information under **section 47C** of the FOI Act could reasonably be expected to prejudice the ability of Departments across government to provide full and honest advice to stakeholders in future proposals to legislative amendments.
- A Ministerial Submission plays an important role in the relationship between a Department and its Minister. Its purpose is to provide frank and honest advice. It is inherently confidential between the Department and its Minister and the preparation of a Ministerial Submission is essentially intended for the audience of that Minister alone. A precedent of public disclosure of advice given as a part of a Ministerial Submission would result in:
 - concerns existing in the open and honest nature of advice being provided which may then hinder future deliberations and decision making processes for the Department and the Government as a whole and
 - future Ministerial Submissions being prepared with a different audience in mind, which would compromise the quality of the advice being prepared for the Minister.

- I consider that the public interest in protecting the process of the provision of free and honest confidential advice by a Department to its Minister has, on balance, more weight, than the public interest that might exist in disclosing the deliberative matter. Endangering the proper working relationship that a Department has with its Minister and its ability to provide its Minister with honest advice confidentially would be contrary to the public interest.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government*
- access to the document could result in any person misinterpreting or misunderstanding the document*
- 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*
- 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.

8 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.

9 Your 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 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 <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

10 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.

11 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.

Elaine – position 60097486
Authorised Decision Maker
Department of Home Affairs

ATTACHMENT A

SCHEDULE OF DOCUMENTS
REQUEST UNDER FREEDOM OF INFORMATION ACT 1982

s 22

No.	Date of document	No. of pages	Description	Decision on release	
1.	21/02/2020	8	s 22	Exempt in part	s47C(1) s22(1)(a)(ii) s33(a)(i)
2.	-	1	Attachment A	Released in full	-



13/07/2022

s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

If you are nominated to receive correspondence about this Freedom of Information (FOI) request, copies will not be sent to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 7 March 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on [due date] and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

Electronically signed

FOI Officer

Jai

Position no. 60016895

Freedom of Information Section

Department of Home Affairs

Email : foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details

s 22

Documents in scope:

• s 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
- (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and
- (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*

(ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

(i) *the nature and extent of the modification; and*

(ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

s 22

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

Section 24A provides that the department may refuse access to a document where that document cannot be found or does not exist. Before coming to a decision that a document cannot be found or does not exist, the department must take all reasonable steps to locate the document

I could not locate any **s 22** in the Departmental database ICSE.

I am therefore refusing access under s24A of the FOI Act.S

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

(a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;

(b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;

- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Reveal covert operating procedures, the release of which would require the department to change the way it operates.
- could reasonably be expected to prejudice security, law enforcement, public health or public safety
- Release could prejudice the management function of the department.
- The information is not already known to the public.

Releasing information about the processes, criteria and checks during protection visa processing may enable applicants to circumvent certain processes in the future. This would result in the department having to continually change its processes at a cost to the department.

Release would also compromise the capacity of the department to carry out one of its essential management functions, processing of protection visas.

I have given these factors the most weight. I therefore believe that releasing this information would be contrary to the public interest.

Yours sincerely,

Electronically signed

FOI Officer

Jai
Position no. 60016895
Freedom of Information Section
Department of Home Affairs
Email : foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

- s22

Pages	Description	Decision	Legislation
98-100	Checklists	Exempt in part	s47E(d)
All other pages		Released	

•
•
•
•
•
•
s 22



22 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22, (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 18 February 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 20 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application*

under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in

Attachment A.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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
Electronically signed

Lucksika
P/N: 60016890
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD

Client Details



Documents in scope

1. s 22

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant material deleted

- (1) *This section applies if:*
 - (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the schedule of documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

The documents that were removed/redacted under section 22(1)(a)(ii) of the FOI Act are those considered irrelevant to your request.

The information in question relate to third parties personal information. Your request is for information about yourself and you have not requested for information about any other person.

Electronically signed

Lucksika
P/N: 60016890
FOI Officer
22 July 2022

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
1-3, 5-6	Third party information	Irrelevant material deleted	s.22(1)(a)(ii)



3 August 2022

s 22

Email: migration@vla.vic.gov.au

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 28 March 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 27 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

s 22

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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
Electronically signed

Lucksika
P/N: 60016890
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



29 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 6 April 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 6 May 2022, and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

(a) giving access to a document in accordance with the request; or

(b) relieving the IC review applicant from liability to pay a charge; or

(c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. s 22 [REDACTED]

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 available at www.oaic.gov.au.

Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

Contacting the FOI section

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

Yours sincerely

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

Attachments

1. s 22 [REDACTED]



27 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 6 April 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 6 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act.

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 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

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD**Client Details**A black rectangular redaction box covering the client details. The text 's 22' is written in large, bold, red font across the box.**Documents in scope**A large black rectangular redaction box covering the list of documents in scope. The text 'S 22' is written in large, bold, red font across the box.**Information considered**

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
 - (a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) *the nature and extent of the modification; and*
- (ii) *the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in full' or 'Exempt in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

I have decided that parts of the documents would disclose information that could reasonably be regarded as irrelevant to your request under section 22(1)(a)(ii) of the FOI Act. You can identify those documents in the Schedule of Documents with the words as 'irrelevant material deleted' in the decision column.

The materials in question relate to Departmental procedure of requesting of files.

I have therefore determined the materials to be irrelevant to your request and have deleted them under section 22(1)(a)(ii) of the FOI Act.

Freedom of Information Act 1982

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) *prejudice the effectiveness of procedures or methods for the conduct of tests,*

- examinations or audits by an agency;*
(b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
(c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the Department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Could reasonably be expected to impede the administration of migration and citizenship laws, including procedural fairness
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

The disclosure of documents exempt under section 47E(d) would reveal various methods used by the Department, giving the applicant prior knowledge of the processes of the Department. This could allow applicants to deliberately circumvent certain departmental processes in the future, thereby prejudicing and compromising the effectiveness of the processes set up for the core operational activity of the Department – processing of visa and citizenship applications. In addition, changing the processes continually would come at a cost to the Department.

On balance, I am satisfied that the release would be contrary to the public interest and the documents are exempt under section 47E(d) of the FOI Act.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

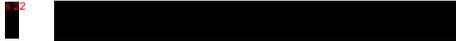
- (1) An agency or Minister may refuse a request for access to a document if:
- (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:

- (i) is in the agency's or Minister's possession but cannot be found; or
- (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
- (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

I have identified the following document/s as coming within the scope of your request.

 A small black rectangular redaction mark is positioned to the left of a larger black rectangular redaction box.

I have undertaken the following searches to identify the document/s you have requested:

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - TRIM – the Department's record management system

I have been unable to locate any documents within the scope of your request.

As the document does not exist, I am refusing your request for access.

Yours sincerely

Dolly
FOI Officer Position Number 60008098
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
2	Client Search Portal	Exempt in part	s.47E(d)

Note: All Remaining Documents Released in Full.

2. **s 22**

Page	Description	Decision	Legislation
2	Client Search Portal	Exempt in part	s.47E(d)

Note: All Remaining Documents Released in Full.

3. **s 22**

Page	Description	Decision	Legislation
2	Case Notes	Exempt in part	s.47E(d)

Note: All Remaining Documents Released in Full.

4. **s 22**

Page	Description	Decision	Legislation
3	Case Notes	Exempt in part	s.47E(d)
13-15	Case Notes	Exempt in part	s.47E(d)
17	Electronic operational referral information	Exempt in full	s.47E(d)
28-30	Departmental procedure of requesting for file	Irrelevant material deleted	s.22(1)(a)(ii)
34	Electronic operational referral information	Exempt in full	s.47E(d)
36	Referrals	Exempt in part	s.47E(d)
37	Internal Email	Exempt in full	s.47E(d)

Note: All Remaining Documents Released in Full.

5. **s 22**

Page	Description	Decision	Legislation
18-20	Departmental procedure of requesting for file	Irrelevant material deleted	s.22(1)(a)(ii)
27,31	Electronic operational referral information	Exempt in full	s.47E(d)

Note: All Remaining Documents Released in Full.

6. **s 22**

Page	Description	Decision	Legislation
	s 22	Refuse	s.24A

7. **s 22**

8.

9.

10

11





29 July 2022

s 22

Email: xxxxxxxxxxxxxx@xxxx.xxx.xx

s 22

Dear s 22

Freedom of Information request – Release of documents

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to your request received on 13 April 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 13 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) *giving access to a document in accordance with the request; or*
- (b) *relieving the IC review applicant from liability to pay a charge; or*
- (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: xxx.xxx@xxxxxxxxxxxx.xxx.xx

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD



Documents in scope

- 1.
- 2.
- 3.



Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

- (1) *This section applies if:*
 - (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s 22(1)(a)(ii) however they will not be individually noted in the Schedule of Documents.

The request contains material that is exempt under s33(a)(i) of the FOI Act.

My reasons for exemption are set out below:-

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

(a) would, or could reasonably be expected to, cause damage to:

- (i) the security of the Commonwealth;*
- (ii) the defence of the Commonwealth; or*
- (iii) the international relations of the Commonwealth; or*

(b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

Note: See also subsection 4(10).

I have decided that documents that would fall within the scope of this request would be exempt under section 33(a)(i) as they concern the security of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's security.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information and may reveal methods that are used to gather intelligence information.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
1	Checklist	Exempt in part	s33(1)(a)(i)
14-16	Cable	Exempt in full	s33(1)(a)(i)
23	Cable	Exempt in full	s33(1)(a)(i)

Note: the remainder of the file has been released in full

2. **s 22**

Page	Description	Decision	Legislation
	Entire document	Released in full	

3. **s 22**

Page	Description	Decision	Legislation
	Entire document	Released in full	



28 July 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 12 April 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 12 May 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) giving access to a document in accordance with the request; or*
 - (b) relieving the IC review applicant from liability to pay a charge; or*
 - (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refusal decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

I have considered the documents you seek to access and applied exemptions in part to the documents which fall within the scope of your current request. The reasons for my decision are set out in **Attachment A**.

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 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

Electronically signed

Vesna
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Documents released to you under the FOI Act



Attachment A – Decision Record

Client Details

s 22

Scope of Request

s 22

s 22

No.	Description	Reference (if applicable)	No. of folios
1.	s 22		
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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified above)

Reasons for decision

I have considered the documents you seek to access and applied exemptions in part to the documents which fall within the scope of your current request. The reasons for exemption are set out below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request and it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some departmental roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s.22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's.22(1)(a)(ii)'.

24A Requests may be refused if documents cannot be found, do not exist or have not been received*Document lost or non-existent*

- (1) *An agency or Minister may refuse a request for access to a document if:*
- (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*
 - (ii) *does not exist.*

Document not received as required by contract

(2) An agency may refuse a request for access to a document if:

- (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and*
- (b) the agency has not received the document; and*
- (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.*

In your request you also sought access to:

A large, bold, red graphic consisting of the letter 'S' followed by the number '22'. The text is set against a solid black rectangular background.

I am satisfied that the Department has undertaken reasonable searches to locate the document which do not exist. Therefore, my decision in relation to this part of your current request is to refuse access under the FOI Act.

Vesna
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email foi.vic@homeaffairs.gov.au



18/08/2022

s 22

Email: **s 22**

In reply please quote:

Client Name: **s22**
Date of Birth: **s22**
Client ID: **s22**
FOI Request: **s22**
File Number: **s22**

Dear **s 22**

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 23 March 2022, seeking access to:

s 22

The revised scope Point 1(c) is as follows:

- **s 22**

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 22/04/2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

(a) giving access to a document in accordance with the request; or

(b) relieving the IC review applicant from liability to pay a charge; or

(c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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

[Electronically signed]

Gerard
Position Number: 00001910
Authorised FOI Officer
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

Attachment A – DECISION RECORD**Client Details****Documents in scope:**

- Documents in scope from Hard Copy Dossier
- Documents in scope from Electronic Dossier
- Documents in scope from s 22
- Single Client View Report

Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request.

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;*
and

(b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*

- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
- (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*

(c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*

- (i) the nature and extent of the modification; and*
- (ii) the resources available to modify the document; and*

(d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's 22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

I have decided that parts of the documents would disclose information that could reasonably be regarded as irrelevant to your request under section 22(1)(a)(ii) of the FOI Act. You can identify those documents in the Schedule of Documents with the words as 'irrelevant material deleted' in the decision column.

The materials in question relate to third parties. Your request is for information about yourself as indicated in your FOI request.

I have therefore determined the materials which do not relate to you to be irrelevant to your request and have deleted them under section 22(1)(a)(ii) of the FOI Act.

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

(a) would, or could reasonably be expected to, cause damage to:

- (i) the security of the Commonwealth;*

I have decided that documents that would fall within the scope of this request would be exempt under section 33(a)(i) as they concern the security of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's security.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information and may reveal methods that are used to gather intelligence information.

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

For a document to be exempt under section 47E(d), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the department's operations and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this department.

s 22

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- The need for openness and accountability of the department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- Reveal covert operating procedures, the release of which would require the department to change the way it operates.
- could reasonably be expected to prejudice security, law enforcement, public health or public safety
- Release could prejudice the management function of the department.
- The information is not already known to the public.

The documents include material about management of immigration detention. Publication in any form could compromise mechanisms critical to the capability of the Detention Services provider to maintain good order, safety, security and the professional delivery of services.

I have given these factors the most weight. I therefore believe that releasing this information would be contrary to the public interest.

Yours sincerely

[Electronically signed]

Gerard
Position Number: 00001910
Authorised FOI Officer
Department of Home Affairs

Attachment B - SCHEDULE OF DOCUMENTS

s 22

- Documents in scope from Hard Copy Dossier

Pages	Description	Decision	Legislation
1,3-5,7,8,14,15	Third party information	Material irrelevant to your request	s22(1)(a)(ii)
All other pages		Released	

- Documents in scope from Electronic Dossier

Pages	Description	Decision	Legislation
s 22			
5,6,14,15,18,21,52 54,68	Third party information	Material irrelevant to your request	s22(1)(a)(ii)
s 22			
41-50	Internal documents	Exempt in full	s47E(d)
s 22			
55-60	Internal documents	Exempt in full	s47E(d)
All other pages		Released	

s 22

Pages	Description	Decision	Legislation
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s 22

s 22



2,6,10,14,18,22,26 30,34,38,42,46,49 53,56,59,63,67,71 75,78,82,85,88,91 94,97,100,103,106 109,112,115,118 121,124,127,131 134,137,140,143 146,149,152,156 159,162,165,168 171,174,177,180 183,186,189,192 195,198,201,204 207,210,213,216 224-225,409, 414-417,419,447 453,459,465,471 477,483,490,494 498,502,506	Third party information	Material irrelevant to your request	s22(1)(a)(ii)
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s 22

- Single Client View Report

Pages	Description	Decision	Legislation
1, 4-5,7-8,13,14,26		Exempt in part	s47E(d)

33,35			
5,20,23,24,30-33, 36-39,44	Third party information	Material irrelevant to your request	s22(1)(a)(ii)
42,58		Exempt in part	s33(a)(i)
All other pages		Released	



17 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to your request received on 31 January 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 2 March 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. s 22
2. [REDACTED]

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 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

Iris
Position no. 60120965
Freedom of Information
FOI and Records Management Branch | Data Division
Strategy and National Resilience Group
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



15 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

s 22 (the applicant) has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 26 March 2022, seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 25 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

- (a) giving access to a document in accordance with the request; or
- (b) relieving the IC review applicant from liability to pay a charge; or
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. [Redacted]
2. [Redacted]
3. [Redacted]
4. [Redacted]
5. [Redacted]
6. [Redacted]

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 available at www.oaic.gov.au.

Withdrawal of OAIC Review Request

As a decision has now been made on your FOI application, please contact the OAIC directly to advise if you would like to withdraw your OAIC review request.

Contacting the FOI section

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

Yours sincerely

Imelda
Position No. 60009318
Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

Attachments

1. [Redacted]
2. [Redacted]
3. [Redacted]
4. [Redacted]
5. [Redacted]
6. [Redacted]



23 August 2022

s 22

Email: s 22

In reply please quote:

s 22

Dear s 22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 30 March 2022, seeking access to:

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 29 April 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

(1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

(2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

(a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and

(b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.

I have now set aside the deemed refused decision and substitute it with a revised decision under section 55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below)

Revised decision

The Department has identified the documents that fall within the scope of your request.

My decision is to release in full the documents in the possession of the Department, which falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

1. s 22

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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 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
Electronically signed

Lucksika
P/N: 60016890
FOI Officer
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



11 August 2022

s 22

Email: s 22

s 22

Dear s 22

Freedom of Information request – Release of documents

This letter refers to your request received on 31 May 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s 22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 30 June 2022 and you have not been given a notice of decision.

You have made an application for review of the deemed refusal decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the deemed refusal decision.

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during a review by the Information Commissioner (IC):

55G Procedure in IC review—revocation or variation of access refusal decision

- (1) *An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:*
- (a) *giving access to a document in accordance with the request; or*
 - (b) *relieving the IC review applicant from liability to pay a charge; or*
 - (c) *requiring a record of personal information to be amended or annotated in accordance with the application.*

Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 27 (business documents) or 27A (documents affecting personal privacy) may apply.

- (2) *If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*
- (a) *the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
 - (b) *the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have now set aside the deemed refused decision and substitute it with a revised decision under section s55G(1)(a) of the FOI Act as set out below.

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 Departmental records.

Information considered

In reaching my decision, I have considered the following:

- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner's FOI guidelines relating to access to documents held by government;
- the terms of your request;
- Departmental documents, (identified below);

Revised decision

The Department has identified the documents that fall within the scope of your request. My decision is to refuse and exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act

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 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.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachments

- Attachment A – Decision Record
- Attachment B – Schedule of Documents
- Documents released to you under the FOI Act

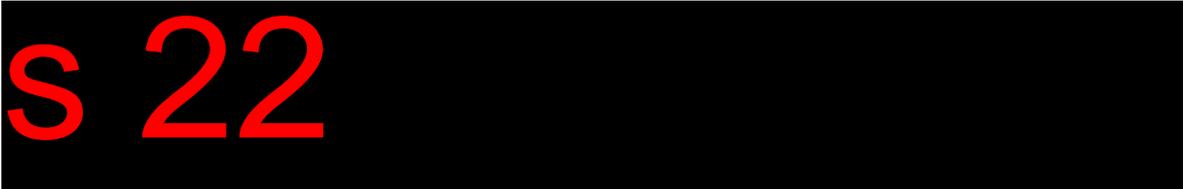
Attachment A – DECISION RECORD

Client Details



Documents in scope

- 1.
- 2.
- 3.
- 4.



Information considered

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 departmental records. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The terms of your request

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemptions below.

22 Access to edited copies with exempt or irrelevant matter deleted (extract)

Scope

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access;**and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the Schedule of Documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with s 22 (1)(a)(ii) however they will not be individually noted in the Schedule of Documents.

The request contains material that I have refused access to under s24A of the FOI Act

My reasons for refusal are set out below:-

FREEDOM OF INFORMATION ACT 1982

- SECT 24A

Requests may be refused if documents cannot be found or do not exist

Document lost or non-existent

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and*
- (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or*
 - (ii) does not exist.**

Access to **s 22**) has been refused under section 24A. Section 24A of the FOI Act provides that a request for access to documents may be refused where those documents are in the department's possession but cannot be found or do not exist. Before coming to the conclusion that the documents cannot be found the department must take all reasonable steps to find the documents.

I have conducted a thorough search of departmental systems including: ICSE, ICSE Offspring, Mainframe, TRIM, Client Search Portal etc.

s 22

s 22

s 22 does not exist. On this basis I am refusing you access to this part of your request under section 24A of the FOI Act.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
Freedom of Information Section
Department of Home Affairs
Email: foi.nsw@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s 22

1. **s 22**

Page	Description	Decision	Legislation
	Entire document	Released in full	

2. **s 22**

Page	Description	Decision	Legislation
	Entire document	Released in full	

3. **s 22**

Page	Description	Decision	Legislation
	Entire file	Released in full	

4. **s 22**

Page	Description	Decision	Legislation
	Entire file	Refused in full	s24A