



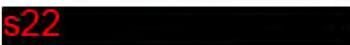
Australian Government
Department of Home Affairs

29 August 2022

s22



Email: s22



In reply please quote:



Dear s22



Freedom of Information request – Revised decision

s22 (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 5 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):

s22



Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 5 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 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****s22****Documents in scope****s22****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 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.

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.

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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

s22**s22**

Page	Description	Decision	Legislation
1-2	Third Party Information	Exempt in full	s.47F(1)

Note: All Remaining Documents Released in Full.**s22****[REDACTED]**



Australian Government
Department of Home Affairs

30 August 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22 [REDACTED] (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 8 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):

s22

s22



Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 8 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****s22****Documents in scope****s22****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' or 'Refuse' 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

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.

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.

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.

- s22

I have undertaken the following searches to identify the document/s you have requested:

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - Movement records

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

s22

s22

Page	Description	Decision	Legislation
2, 3	s22	Exempt in part	s.33(a)(i)

Note: All Remaining Documents Released in Full.

s22

Page	Description	Decision	Legislation
107-108	s22	Exempt in part	s.47E(d)
188-213	Internal Documents	Exempt in full	s.47E(d)

Note: All Remaining documents Released in Full.

s22

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

s22

Page	Description	Decision	Legislation
2223	s22	Exempt in part	s 47E(d)

Note: All Remaining Documents Released in Full

c22

Page	Description	Decision	Legislation
s22	s22	Refuse	s 24A

322



Australian Government
Department of Home Affairs

1 September 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Release of documents

s22 (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 2 December 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):

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 01 January 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.

Documents in scope

s22

**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

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

Attachments

- Documents released to you under the FOI Act



Australian Government
Department of Home Affairs

2 September 2022

s22 [REDACTED]

VIA EMAIL: s22 [REDACTED]

In reply please quote:

s22 [REDACTED]

Dear s22 [REDACTED]

Freedom of Information request – Revised decision

s22 [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 15 November 2021, seeking access to:

s22 [REDACTED]

A further submission to the Australian Information Commissioner, relating to the access request and shared with the Department on 14 July 2022, stated:

s22 [REDACTED]

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 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;
- the terms of your request, and subsequent submissions to the Australian Information Commissioner;
- the searches undertaken in the original decision; and
- advice from Departmental officers with responsibility for matters referred to in the document to which you sought access.

Revised decision

The Department has identified one document within the scope of your request. The document identified is s22



The identified material that I consider in scope of the original request is s22



My decision in relation to the document in the possession of the Department, which falls within the scope of your request is to:

- Rely on section 22 of the FOI Act in granting access to an edited copy of the document containing exempt or irrelevant material.

The reasons for my decision are set out below.

Reasons for decision

I have considered the document identified 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.

Section 22(2) – access to edited copies

Section 22(2) of the FOI Act provides that an agency must provide access to an edited copy of a document when:

- the agency has identified that a document is exempt or contains irrelevant material, and
- it is possible for the agency to prepare an edited copy of the document from which it has deleted the exempt or irrelevant material.

The document contains irrelevant material to the scope of your original request dated 15 November 2021. **s47E(d)**

[REDACTED]. I have determined that it is reasonably practicable to prepare an edited copy of the document in question, and accordingly have issued you with an edited copy of the documents pursuant to section 22(2) of the FOI Act.

Section 47E of the FOI Act - Operations of Agencies

Section 47E(d) of the FOI Act provides that documents are conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider that the disclosure of the parts of documents marked 47E(d) would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

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

Information relating to vessel tasks and maritime operations

The material to which I have applied this exemption relates to maritime operations. I consider that, in combination with being irrelevant to the scope of the request, the information is conditionally exempt pursuant to section 47E(d).

s47E(d)

[REDACTED]

[REDACTED]

I have decided that parts of the documents are conditionally exempt under section 47E(d) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

The public interest - section 11A of the FOI Act

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11 A(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 11 B(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 parts of the documents that are conditionally exempt under section 47E(d) of the FOI Act could reasonably be expected to prejudice law enforcement functions and, as a result, the ability of the Department to protect Australia's borders.

I consider there to be a strong public interest in ensuring that the ability of the Department to conduct its law enforcement functions is not compromised or prejudiced in any way. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government
- b) access to the document could result in any person misinterpreting or misunderstanding the document
- c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made
- d) access to the document could result in confusion or unnecessary debate.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

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



Australian Government
Department of Home Affairs

Schedule of Documents

Client Details**s22**

Document No.	Description	Decision	Legislation
1	s22	Release in part with irrelevant and exempt information deleted	22(2) 47E(d)



Australian Government
Department of Home Affairs

24 August 2022

s22 [REDACTED]

Sent by email: s22 [REDACTED]

In reply please quote:

s22 [REDACTED]

Dear s22 [REDACTED]

Freedom of Information request – Revised decision

s22 [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 4 August 2021, seeking access to:

s22 [REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 3 September 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 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

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.			243
2.			1
3.			22
4.			525
5.			46
6.			182
7.			104
8.			1
9.			1
10.			9
11.			12
12.			2
13.			4
14.			8
15.			90

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.

In your request you sought access to s22 [REDACTED]

The Department has taken reasonable searches in relation to your request. No documents were located in the possession of the Department on 4 August 2021 when your FOI request was valid and the Department therefore has no records to produce in relation to this portion 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 a s22 [REDACTED]. 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.

I am satisfied that all reasonable searches have been undertaken by the Department and that the document you seek access to, does not exist, therefore I am refusing this portion of your request for access.

I have also identified the following file as coming within the scope of your request.

s22

I have taken the following actions to locate these records, and received the following advice:

s22

As the file cannot be found and I am satisfied that all reasonable searches have been undertaken I am refusing this portion of your request for access. s22

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 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.

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 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;
- 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.

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

- An unfair advantage could be gained by knowledge of the operations of the Department;
- Reveal covert operating procedures, the release of which would require the Department to change the way it operates.

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. I have given this the most weight. I therefore believe that releasing this information would be contrary to the public interest.

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

Client Details

s22

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.

s22

Page No.	Description	Decision	Legislation
1-26	-	Released in full	-
27-37	Financial document relating to a third party	Exempt in full	s 47F(1)
38-40	-	Released in full	-
41	Personal document relating to a third party	Exempt in full	s 47F(1)
42-43	-	Released in full	-
44-45	Financial document relating to a third party	Exempt in full	s 47F(1)
46-243	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-20	-	Released in full	-
21-22	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)

s22

Page No.	Description	Decision	Legislation
1-29	-	Released in full	-
30-31	Substantial adverse effect on the operations of an agency	Exempt in part	s 47E(d)
32-74	-	Released in full	-
75-77	Substantial adverse effect on the operations of an agency	Exempt in full	s 47E(d)
78-521	-	Released in full	-
522-523	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
524-525	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	-
2	Prejudice to law enforcement methods and procedures	Exempt in part	s 37(2)(b)
3-46	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-61	-	Released in full	-
62-63	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
64-182	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-104	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	-

s22

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

s22

Page No.	Description	Decision	Legislation
1-9	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-12	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-2	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-4	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	-
2	Prejudice to law enforcement methods and procedures	Exempt in part	s 37(2)(b)
2	Substantial adverse effect on the operations of an agency	Exempt in part	s 47E(d)
3-8	Substantial adverse effect on the operations of an agency	Exempt in part	s 47E(d)

s22

Page No.	Description	Decision	Legislation
1-6	-	Released in full	-
7-8	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
9-13	Substantial adverse effect on the operations of an agency	Exempt in full	s 47E(d)
14	-	Released in full	-
15	Personal information relating to a third party	Exempt in part	s 47F(1)
16-90	-	Released in full	-



Australian Government
Department of Home Affairs

28 July 2022

s22 [REDACTED]

Email: s22 [REDACTED]

In reply please quote:

s22 [REDACTED]

Dear s22 [REDACTED]

Freedom of Information (FOI) 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 14 March 2022, seeking access to:

Scope of request

s22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 14 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:
- giving access to a document in accordance with the request; or
 - relieving the IC review applicant from liability to pay a charge; or
 - 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):
- 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
 - 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 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.

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.

Kind regards

Trish

Position no: 60019773

Decision Maker, Freedom of Information

FOI & Records Management Branch | Data Division

Strategy & Law Enforcement Group

Department of Home Affairs

Email: foi.vic@homeaffairs.gov.au

Website: www.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

s22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		773
2.	s22		-

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

The Department has taken reasonable searches in relation to your request. No Travel requests were located in the possession of the Department on 14 March 2022 when your FOI request was valid and the Department therefore has no records to produce.

My decision is to refuse access to this part of your request under section 24A(1)(b)(ii) of the FOI Act. My reasons and an extract of the legislation are set out below.

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 documents you have requested. The systems I have searched include:

- Integrated Client Services Environment (ICSE) – this includes the record management of visa applications received onshore and offshore
- 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. I am satisfied that all reasonable searches have been undertaken by the Department and that the document you seek access to, does not exist, therefore I am refusing part of your request for access.

Section 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.*

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,*

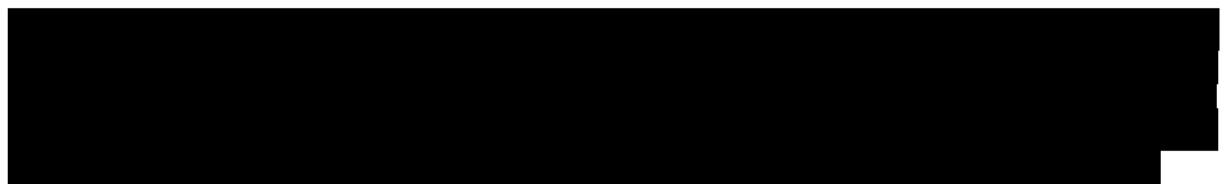
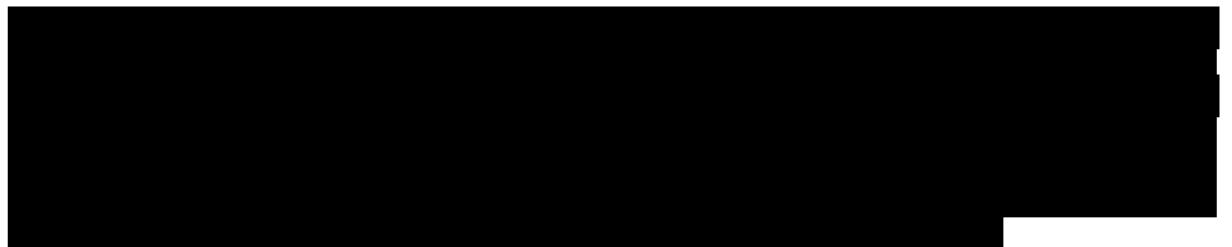
- examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d)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

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.

s47E(d)



To protect the Department's operations in maintaining current contact details and emails relating to particular staff members (which the Department would be forced to change to its disadvantage), I consider the documents are exempt in part pursuant to Section 47E(d) limited only to identifying details of staff.

Public Interest arguments:

The Department is of the view that it is not in the public interest to release the personal details of staff contained in the documents subject to consultation, for the reasons discussed above. The Department would argue that all the factors favouring access to the documents under s. 11B(3) would be met by the release, under s.22(1), of an edited copy of the documents with personal details of staff deleted.

Kind regards

Trish

Position no: 60019773

Decision Maker, Freedom of Information

FOI & Records Management Branch | Data Division

Strategy & Law Enforcement Group

Department of Home Affairs

Email: foi.vic@homeaffairs.gov.au

Website: www.homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

S22

s22

Page No.	Description	Decision	Legislation
1 – 16	-	Released in full	
17 - 19	Operations of agency	Exempt in part	s.47E(d)
20 – 22	-	Released in full	
23 – 24	Operations of agency	Exempt in part	s.47E(d)
25	-	Released in full	
26 - 29	Operations of agency	Exempt in part	s.47E(d)
30 - 35	-	Released in full	
36 - 37	Operations of agency	Exempt in part	s.47E(d)
38	-	Released in full	
39	Operations of agency	Exempt in part	s.47E(d)
40 - 43	-	Released in full	
44 – 47	Operations of agency	Exempt in part	s.47E(d)
48 – 50	-	Released in full	
51	Operations of agency	Exempt in part	s.47E(d)
52	-	Released in full	
53	Operations of agency	Exempt in part	s.47E(d)
54 - 59	-	Released in full	
60	Operations of agency	Exempt in part	s.47E(d)
61 – 108	-	Released in full	
109 - 115	Operations of agency	Exempt in part	s.47E(d)
116 - 260	-	Released in full	
261 – 262	Operations of agency	Exempt in full	s.47E(d)
263 – 268	-	Released in full	
269 - 271	Operations of agency	Exempt in full	s.47E(d)
272 – 341	-	Released in full	
342 – 343	Operations of agency	Exempt in full	s.47E(d)
344 - 384	-	Released in full	
385 – 394	Operations of agency	Exempt in full	s.47E(d)
395 - 396	Operations of agency	Exempt in part	s.47E(d)
397	-	Released in full	
398 – 401	Operations of agency	Exempt in full	s.47E(d)
402 - 404	-	Released in full	
405 - 417	Operations of agency	Exempt in full	s.47E(d)
418	Operations of agency	Exempt in part	s.47E(d)

419 - 428	Operations of agency	Exempt in full	s.47E(d)
429 – 464	-	Released in full	
465 – 508	Operations of agency	Exempt in full	s.47E(d)
509 – 533	-	Released in full	
534 – 540	Operations of agency	Exempt in full	s.47E(d)
541 – 584	-	Released in full	
585 – 586	Operations of agency	Exempt in full	s.47E(d)
587 – 773	-	Released in full	

s22



Page No.	Description	Decision	Legislation
-	s22	Released in full	

s22



Page No.	Description	Decision	Legislation
-	Travel requests	Exempt in full	24A(1)(b)(ii)



Australian Government
Department of Home Affairs

FOIREQ2200353 048

1 August 2022

s22

[REDACTED]

In reply please quote:

s22

Sent by email: s22

Dear s22

Freedom of Information request – Revised decision

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.

s22 [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 12 April 2022, seeking access to:

s22

[REDACTED]

[REDACTED]

[REDACTED]

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

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, with the exception of irrelevant material exempted under s.22 of the FOI Act. 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
Melissa
Position number 60046995
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

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference	No. of folios
1.			73
2.			66
3.			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 within the scope of your request and released them in full with the exception of material exempted under s.22 of the FOI Act. The applicable legislation and reasons for the decision are 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.

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 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.

Melissa
Position number 60046995
Freedom of Information Section
Department of Home Affairs
Email : foi.vic@homeaffairs.gov.au



Australian Government
Department of Home Affairs

3 May 2022

s22

Email s22

In reply please quote:

s22

Dear s22

Revised Decision - Freedom of Information (FOI) request – Release of documents
s22 (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 29 October 2021, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 28 November 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 falls within the scope of your request. A list of the documents is below for your reference.

No.	Description	Reference	No. of folios
1.	s22		309
1.			1

In '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) 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 . 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)

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

- (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.*

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

FOI Officer Position no.60046911 (Devinder)
Freedom of Information Section
Department of Home Affairs

Email : foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



Australian Government
Department of Home Affairs

20 July 2022

s22

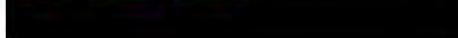


Email: s22

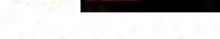


In reply please quote:

s22



Dear s22



Access Decision - Freedom of Information (FOI) request

Freedom of Information request – Revised decision

s22 (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 25TH March 2022, seeking access to:

s22



Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 24th 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**.

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: foi.vic@homeaffairs.gov.au

Attachments

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



Attachment A – Decision Record

Client Details

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.			1
2.			1
3.			196
4.			n/a
5.			n/a

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 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.

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

Scope

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

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:*
- 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;*
 - 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*
 - 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: foi.vic@homeaffairs.gov.au



Australian Government
Department of Home Affairs

05 Sept 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22 (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 14 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):

s22



Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 14 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

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

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

Attachment A – DECISION RECORD**Client Details****s22****Documents in scope****s22****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

My decision is to release, in part, the documents within the scope of your request. Please see the attached Decision Record and Schedule of Documents for information on those documents which have been exempted or refused as part of this 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.*

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.

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 relation to **s22**

I have undertaken the following searches to identify the document/s you have requested:

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - ICSE Offspring
 - 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

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

Attachment B - SCHEDULE OF DOCUMENTS

s22



s22





Australian Government
Department of Home Affairs

FOIREQ2200353 068

23 August 2022

s22

[REDACTED]

Email: s22

s22

SLL

Dear s22

Freedom of Information request – Revised decision

s22, (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 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):

s22

[REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 24 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.

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****s22****Documents in scope****s22****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.

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

23 August 2022

Attachment B - SCHEDULE OF DOCUMENTS

s22

s22

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



12 September 2022

s22

Email

s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

This letter refers to your request received on 13/04/2022 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):

s22

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 JC 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 foi.vic@homeaffairs.gov.au

Attachments

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

s22



s22



Attachment A – DECISION RECORD**Client Details****s22****Documents in scope****s22****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.*

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.

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)'.

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 foi.vic@homeaffairs.gov.au

Attachment B - SCHEDULE OF DOCUMENTS

s22**s22**

Page	Description	Decision	Legislation
	All pages	Released in full	

s22

Page	Description	Decision	Legislation
31	Operational referral information	Exempt in full	s. 47E(d)
235-243	Operational referral information	Exempt in full	s. 47E(d)
	All other pages	Released in full	

s22

Page	Description	Decision	Legislation
n/a	s22	Released in full	

s22

Page	Description	Decision	Legislation
n/a	s22	Released in full	

s22

Page	Description	Decision	Legislation
n/a	s22	Released in full	



Australian Government
Department of Home Affairs

07/09/2022

s22



Email: s22



In reply please quote:

s22



Dear s22

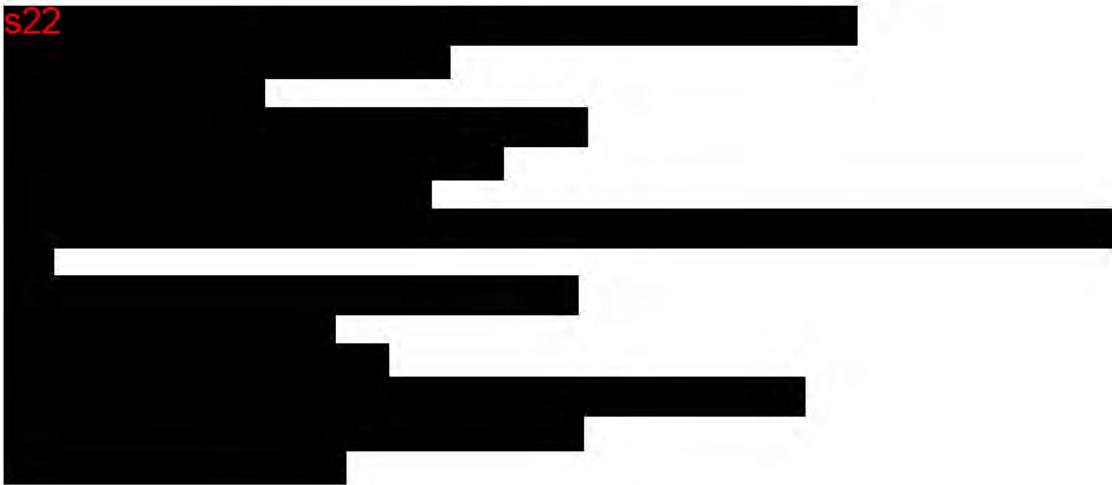


Freedom of Information request – Revised decision

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 5 April 2022 seeking access to:

s22



Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 05/05/2022 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 to you under the FOI Act

Attachment A – DECISION RECORD

Client Details**s22****Documents in scope:**

- s22
- 

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 and you have indicated at questions 12 and 17 of the form 424A that you do not require information about any other person involved in your application.

s22

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 interview recording on file **s22**

Therefore, I am refusing access under s24A of the FOI Act.

s22

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 searched the departmental databases Integrated Client Services Environment (ICSE) for the above documents and could not locate any.

Therefore, I am refusing access under s24A 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.

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.

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**s22**

- s22

Pages	Description	Decision	Legislation
73-83 86-99 119	Third party documents	Material irrelevant to your request	s22(1)(a)(ii)
All other pages		Released	

- s22

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Pages	Description	Decision	Legislation
2-3, 13	Third party information and document	Material irrelevant to your request	s22(1)(a)(ii)
All other pages		Released	

- s22

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Pages	Description	Decision	Legislation
11-12 14-15	Third party documents	Material irrelevant to your request	s22(1)(a)(ii)
All other pages		Released	

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i [REDACTED]

s22

[REDACTED]

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

i [REDACTED]

s22

[REDACTED]



Australian Government
Department of Home Affairs

1 September 2022

s22

Email: s22

In reply please quote:

s22

Dear s22,

Freedom of Information request – Release of documents

s22 (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 7 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):

s22

[REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 07 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, I can be contacted using the details provided below.

Yours sincerely

Electronically Signed

Geoffrey
FOI Officer Position number: 00002168
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****s22****Documents in scope****s22****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.vic@homeaffairs.gov.au

Attachment B – Schedule of Documents

s22**s22**

Page	Description	Decision	Legislation
93-96	Checklist	Exempt in part	s33(1)(a)(i)

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

s22

Page	Description	Decision	Legislation
	Entire file	Released in full	

s22

Page	Description	Decision	Legislation
	Entire file	Released in full	

s22

Page	Description	Decision	Legislation
	Entire file	Released in full	

s22**s22**

Page	Description	Decision	Legislation
	Entire document	Released in full	



Australian Government
Department of Home Affairs

15 June 2022

s22 [REDACTED]

Sent via email: s22 [REDACTED]

In reply please quote:

s22 [REDACTED]

Dear s22 [REDACTED]

Freedom of Information request – Revised decision

s22 [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 27 January 2022, seeking access to:

s22 [REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 26 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 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, 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

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



Attachment A – Decision Record

Client Details

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		418
1.			1
2.			1
3.			N/A

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 or in full 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. 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.

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.

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.

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;
- 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.

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

- An unfair advantage could be gained by knowledge of the operations of the department;
- Reveal covert operating procedures, the release of which would require the department to change the way it operates.

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. I have given this the most weight. I therefore believe that releasing this information would be contrary to the public interest.

Yours sincerely

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

Attachment B – Schedule of Documents

Client Details

s22

s22

Page No.	Description	Decision	Legislation
1-44		Released in full	
45	Financial/property interests of the Commonwealth	Exempt in part	s.47D
46-52		Released in full	
53	Financial/property interests of the Commonwealth	Exempt in part	s.47D
54		Released in full	
55-68	Operations and processes of Department	Exempt in full	s.47E(d)
69-70		Released in full	
71	Financial/property interests of the Commonwealth	Exempt in part	s.47D
72-153		Released in full	
154-156	Operations and processes of Department	Exempt in part	s.47E(d)
157-418		Released in full	

s22

Page No.	Description	Decision	Legislation
1		Released in full	

s22

Page No.	Description	Decision	Legislation
1		Released in full	

s22

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



Australian Government
Department of Home Affairs

5 July 2022

s22 [REDACTED]

Sent by email: s22 [REDACTED]

In reply please quote:

s22 [REDACTED]

Dear s22 [REDACTED]

Freedom of Information request – Revised decision

s22 [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 3 September 2021, seeking access to:

s22 [REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 03 October 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 document(s) 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 (if applicable)	No. of folios
1.	S22		203
1.			41
2.			114

22 Deletion of exempt matter or irrelevant material

(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.*

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)'.

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

Thomas
Position No: 60016894
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



Australian Government
Department of Home Affairs

18 July 2022

s22

Sent by email: s22

In reply please quote:

s22

Dear s22

Access Decision - Freedom of Information (FOI) request

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 14 October 2021, seeking access to:

s22

Time frame for processing your request

The FOI Act provides a statutory period for processing your request of 30 calendar days, unless an extension of time is agreed to, or provided for under a provision of the FOI Act.

According to section 15 of the FOI Act, the statutory timeframe for the processing of your request expired on 13 November, 2021. The Department apologises for the delay in processing your request.

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.

Decision

The Department has taken reasonable searches in relation to your request. No documents were located in the possession of the Department on 14 October 2021 when your FOI request was valid and the Department therefore has no records to produce.

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 documents 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
- Movement records

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

As the documents cannot be found and I am satisfied that all reasonable searches have been undertaken I am refusing your request for access.

Review rights**Review by the Office of the Australian Information Commissioner**

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

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

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. Information about how to submit a complaint is 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 an 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 submitting a webform, or contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

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



Australian Government
Department of Home Affairs

24 August 2022

s22
s22

Sent by email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22 (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 August 2021, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 3 September 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 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

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.			243
2.			1
3.			22
4.			525
5.			46
6.			182
7.			104
8.			1
9.			1
10.			9
11.			12
12.			2
13.			4
14.			8
15.			90

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.

In your request you sought access to s22

The Department has taken reasonable searches in relation to your request. No documents were located in the possession of the Department on 4 August 2021 when your FOI request was valid and the Department therefore has no records to produce in relation to this portion 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 a s22. 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