

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:

1. Requested your client file from its currently recorded location (in the Departmental record keeping system) and received a written response that the file is not there and cannot be located

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	-



6 July 2022

s22

Sent by email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 7 January 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 6 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

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.	s22		1
2.		1	
3.		1	
4.		2	
5.		1	
6.		4	

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

Scope

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

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

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

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

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

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

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

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 the documents identified in the Schedule as exempt under section 33(a)(iii) are documents concerning international relations between Australia and foreign governments, the disclosure of which could reasonably be expected to cause damage to Australia's relations with those foreign governments.

In my opinion the expectation of damage that would be caused is a reasonable one, having paid regard to the nature of the information and the context of the submission in which the information is contained, and the nature and significance of Australia's relations with its regional partners. I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that foreign governments place on the Australian government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by foreign governments.

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.

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 parties consent to the release of their personal information for the purposes of this FOI request, has not been provided. This weighs against the release being reasonable.

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

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

I have considered:

Arguments in favour of the disclosure of the documents include:

- a person having a general right of access to any material about them held by the government;
- 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
[Redacted]

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
[Redacted]

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

s22
[Redacted]

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

s22
[Redacted]

Page No.	Description	Decision	Legislation
1	Irrelevant material	Exempt in part	s 22(1)(a)(ii)
1	Prejudice to law enforcement methods and procedures	Exempt in part	s 37(2)(b)

s22
[Redacted]

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

s22

Page No.	Description	Decision	Legislation
1	Personal information relating to a third party	Exempt in part	s 47F(1)

s22

Page No.	Description	Decision	Legislation
1	Documents affecting international relations	Exempt in part	s 33(a)(iii)
2-3	-	Released in full	-
4	Documents affecting international relations	Exempt in full	s 33(a)(iii)



27 June 2022

s22

Sent by email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 24 January 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 23 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

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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		338
2.			n/a
3.			n/a
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 in the Schedule of Documents. You should read the schedule in conjunction with the reasons for exemption below.

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

Scope

- (1) *This section applies if:*
- 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.

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

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

(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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

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.

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.

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
[Redacted]

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
[Redacted]

Page No.	Description	Decision	Legislation
1-191	-	Released in full	-
192	Financial interests of the Commonwealth	Exempt in part	s 47D
193-249	-	Released in full	-
250-251	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
252-254	-	Released in full	-
255	Prejudice to law enforcement methods and procedures	Exempt in part	s 37(2)(b)
256	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
257-338	-	Released in full	-

Electronic Records

Document No.	No of folios	Description	Decision	Legislation
1.	n/a	s22 [Redacted]	Released in full	-
2.	n/a		Released in full	-
3.	n/a		Released in full	-
4.	n/a		Released in full	-



10 June 2021

s22

Sent via 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 12 August 2021, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 11 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 FOI Section has identified that the document(s) within the scope of your request have already been released to you in a previous FOI Request which you have lodged. You had previously lodged an FOI Request **S22** seeking access to the same document(s) on 17 January 2019.

My decision is to provide an administrative release of the documents in the possession of the Department which falls within the scope of your request. These documents were in the possession of the Department on 11 September 2021, when your request was received.

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

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

Contacting the FOI Section

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

Yours sincerely

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

Attachments

- Documents released to you under the FOI Act



5 July 2022

s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:
s22
[Redacted]

Dear s22 [Redacted]

Access Decision - Freedom of Information (FOI) request – Release of documents

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 1 November 2021, seeking access to:

s22
[Redacted]

Timeframe 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.

The due date for a decision on your request is 1 December 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;
- Departmental documents, (identified below)

Decision

The Department has identified documents that fall within the scope of your request. These documents were in the possession of the Department on 1 November 2021 when your request was received.

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 (if applicable)	No. of folios
1.	s22		193
2.	s22		N/A
3.	s22		N/A

FREEDOM OF INFORMATION ACT 1982**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.

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

Lyll

Position number 1544

FOI Decision Officer

Freedom of Information

Department of Home Affairs

Email foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



14 June 2022

s22

Sent via 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 30 December 2021, seeking access to:

s22

Timeframe 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 29 January, 2022. 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;
- Departmental documents, (identified below);

Decision

The Department has identified one (1) file that falls within the scope of your request. This file was in the possession of the Department on 30 December, 2021 when your request was received.

My decision is to exempt in part the file in the possession of the Department which falls within the scope of your request. The reasons for my decision are set out in **Attachment A**.

The Schedule of Documents that fall 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.

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

Holly
Position number: 60107420
FOI Decision Maker
Freedom of Information Melbourne
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

s22
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		50
2.	[Redacted]		47

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

Scope

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

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

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

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

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

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

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

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

37 Documents affecting enforcement of law and protection of public safety

- (1) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*
 - (a) *prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;*
 - (b) *disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or*
 - (c) *endanger the life or physical safety of any person.*

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

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

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

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

42 Documents subject to legal professional privilege

- (1) *A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) *A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.*
- (3) *A document is not an exempt document under subsection (1) by reason only that:*
 - (a) *the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and*
 - (b) *the information is operational information of an agency.*

*Note: For **operational information**, see section 8A.*

The documents identified in the schedule of documents as being exempt under section 42(1) of the FOI Act are documents that contain information subject to legal professional privilege.

For a document to be exempt under section 42(1) I must be satisfied that the documents would be privileged from production in legal proceedings on the ground of legal professional privilege and that real harm would result from disclosure of this information.

A document is privileged on the ground of legal professional privilege if, amongst other things, it is a confidential communication between a person and his or her solicitor or barrister brought into existence for the dominant purpose of seeking or giving advice or for the purpose of providing legal services in connection with proceedings.

The documents considered exempt under section 42(1) were raised for the dominant purposes of giving or seeking legal advice, and are confidential communication between departmental legal

officers and the client in which information was conveyed or requested for the purpose of legal advice.

I have considered these facts in conjunction with section 42(1) of the FOI Act. The departmental legal adviser in response to a request prepared the documents concerned by the Department for legal advice. The Department, as the client, does not agree to waive its privilege in relation to the document because of the effect this could have on the conduct of its legal affairs.

I am satisfied that at this time the Department has not waived its claim to legal professional privilege in relation to this document and that the document is not solely operational information of the agency.

Consequently, having regard to all of these matters, I have decided to refuse access to the material indicated in the Schedule, in whole, under section 42(1) of the FOI Act.

Holly
Position number: 60107420
FOI Decision Maker
Freedom of Information Melbourne
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
1-50	-	Released in full	-

s22

Page No.	Description	Decision	Legislation
1-21	-	Released in full	-
22	Legal professional privilege	Exempt in full	s.42(1)
23-42	-	Released in full	-
43-46	Departmental Methods	Exempt in full	s.37(2)(b)
47	-	Released in full	-



Australian Government
Department of Home Affairs

26 July 2022

s22 [Redacted]

Sent by email: s22 [Redacted]

In reply please quote:
s22 [Redacted]

Dear s22 [Redacted]

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 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		6
2.			69
3.			6
4.			2

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.

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

- Documents released to you under the FOI Act



s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

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 12 April 2022, seeking access to:

s22
[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 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

Thomas

Position No: 60016894

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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference	No. of folios
1.	s22		602
2.			20
3.			40
4.			46
5.			1
6.			1
7.			1

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

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

22 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.*

I have decided that parts of the documents would disclose information that could reasonably be regarded as irrelevant to your request. This information consists of a third party visa applicant unrelated to you or your visa application.

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request. You will see these exemptions in the documents released to you as they will be clearly identified with 's 22 (1)(a)(ii)' however they will not be individually noted in the Schedule of Documents.

Please note that there are times that this same section of the FOI Act will be used to remove other material and this will be in the Schedule of Documents with a clear explanation as to what the material is.

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 fraud 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.

47F Public interest conditional exemptions—personal privacy*General rule*

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
- (a) the extent to which the information is well known;*
 - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
 - (c) the availability of the information from publicly accessible sources;*
 - (d) any other matters that the agency or Minister considers relevant.*

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.

The information that I have deemed to be conditionally exempt under section 47F(1) of the FOI Act is personal information and identification documents belonging to third parties. Information is conditionally exempt under section 47F(1) if its release would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Would the disclosure be an ‘unreasonable’ disclosure of personal information?

The FOI Act states that, when deciding whether the disclosure of the personal information would be ‘unreasonable’, a decision maker ‘must’ have regard to the factors set out in section 47F(2) of the Act (below).

In considering the extent to which the information identified under section 47F(1) is well known, I have taken into account that evidence that the third party consents to the release of his/her personal information for the purposes of this FOI request, has not been provided. I have also considered that the person to whom the personal information belongs is not known to be associated with the matters dealt with in this FOI request. I am satisfied that that the information has not been made available on another resource in the public domain. In light of these factors, I have formed the view that the disclosure of this information would be unreasonable.

Section 11B as applied to section 47F(1)

I have already outlined the factors, based on the OAIC guidelines, which I have considered in favour of release of the conditionally exempt information.

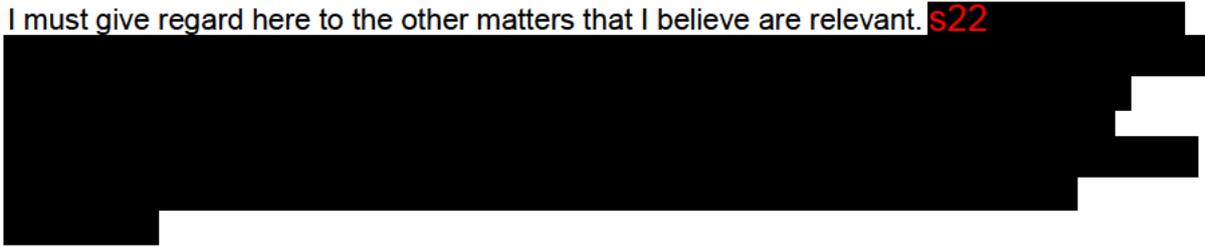
Here are the main factors I have considered, based on the OAIC guidelines, which weigh against the release of the information I have deemed to be conditionally exempt under section 47F(1):

- whether the release of the information could reasonably be expected to prejudice the protection of an individual’s right to privacy;
- whether the release of the information could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- whether the release of the information could reasonably be expected to impede the administration of justice for an individual; and
- whether the release of the information could reasonably be expected to harm the interests of an individual or group of individuals.

I am satisfied that providing you with access to the information that I have determined to be conditionally exempt under section 47F(1) would fulfil the pro-disclosure principle of the Objects of the FOI Act by providing you with access to departmental records stored on the files relating to your visa application process. However, I am also satisfied that release of the information could reasonably be expected to prejudice the protection of the third party's right to privacy, and could reasonably be expected to harm the interests of that individual.

On balance, I have given the greatest weight to the right an individual has to maintain their privacy, and that to release this information without the individual's informed and expressed consent may result in a breach of their privacy. I have therefore determined that the release of the conditionally exempt information would be contrary to the public interest. The information is therefore exempt from disclosure to you.

I must give regard here to the other matters that I believe are relevant. s22



47C Public interest conditional exemptions—deliberative processes

General rule

- (1) *A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:*
- (a) *an agency; or*
 - (b) *Minister; or*
 - (c) *the Government of the Commonwealth; or*
 - (d) *the Government of Norfolk Island.*

Exceptions

- (2) *Deliberative matter does not include either of the following:*
- (a) *operational information (see section 8A);*
 - (b) *purely factual material.*

Note: An agency must publish its operational information (see section 8).

- (3) *This section does not apply to any of the following:*
- (a) *reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;*
 - (b) *reports of a body or organisation, prescribed by the regulations, that is established within an agency;*
 - (c) *the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.*

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 47C are deliberative documents. They contain advice and recommendation prepared for the deliberative processes of Department of Home Affairs.

The information contained in the documents is not operational information or purely factual material.

Having formed the view that the release of the documents would reveal deliberative documents 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

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

- The decision to which the documents refer is still under deliberation
- An unfair advantage could be gained by knowledge of how the options were assessed
- The reason for decision has been provided in another document

I have given the possibility of the gain of an unfair advantage the most weight and am satisfied therefore the release would be contrary to the public interest and the documents are exempt under section 47C of the FOI Act.

Thomas

Position No: 60016894

FOI Officer | Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22 [Redacted]

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 [Redacted]

Page No.	Description	Decision	Legislation
1-5	Documents on file	Released in full	
6	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Fully Exempt	s37(2)(b)
7	Documents on file	Released in full	
8	Third party information unrelated to you or your visa application	Fully Exempt	s22(1)(a)(ii)
9-27	Documents on file	Released in full	
28	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Fully Exempt	s37(2)(b)
29-49	Documents on file	Released in full	
50-51	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Fully Exempt	s37(2)(b)
52-160	Documents on file	Released in full	
161-163	Third party correspondence	Fully Exempt	s47F(1)
164-168	Documents on file	Released in full	
169-170	Third party correspondence	Fully Exempt	s47F(1)
171	Documents on file	Released in full	
172	Third party correspondence	Fully Exempt	s47F(1)
173-181	Documents on file	Released in full	
182-185	Third party correspondence and personal identification documents	Fully Exempt	s47F(1)

s22

Page No.	Description	Decision	Legislation
186-198	Documents on file	Released in full	
199	Third party Statutory declaration	Fully Exempt	s47F(1)
200-231	Documents on file	Released in full	
232-234	Third party Statutory declaration	Fully Exempt	s47F(1)
235-254	Documents on file	Released in full	
255-265	Sponsor's application form	Fully Exempt	s47F(1)
266-275	Documents on file	Released in full	
276	Third party passport	Fully Exempt	s47F(1)
277	Documents on file	Released in full	
278	Third party passport	Fully Exempt	s47F(1)
279-280	Documents on file	Released in full	
281-285	Third party passport and Statutory declaration	Fully Exempt	s47F(1)
286-287	Documents on file	Released in full	
288-291	Third party passport and Statutory declaration	Fully Exempt	s47F(1)
292-294	Documents on file	Released in full	
295	Third party passport	Fully Exempt	s47F(1)
296	Documents on file	Released in full	
297-305	Third party passport and Statutory declaration	Fully Exempt	s47F(1)
306-321	Documents on file	Released in full	
322-327	Third party correspondence	Fully Exempt	s47F(1)
328-346	Documents on file	Released in full	
347-348	Third party correspondence	Fully Exempt	s47F(1)
349-352	Documents on file	Released in full	
353-362	Third party Bank statement and identification	Fully Exempt	s47F(1)
363-430	Documents on file	Released in full	
431-433	Third party identification documents	Fully Exempt	s47F(1)
434-508	Documents on file	Released in full	
509-512	Third party correspondence	Fully Exempt	s47F(1)
513-524	Documents on file	Released in full	
525-531	Third party Statutory declaration and identification	Fully Exempt	s47F(1)
532-541	Documents on file	Released in full	
542	Third party passport	Fully Exempt	s47F(1)
543-602	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
All	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
All	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
1	Emails relating to advice and recommendation prepared for the deliberative processes of the Department	Released with exemptions	s47C(1)
2	Documents on file	Released in full	
3	Third party information	Released with exemptions	s47F(1)
4-6	Documents on file	Released in full	
7-8	Third party information	Released with exemptions	s47F(1)
9-10	Documents on file	Released in full	
11-12	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Released with exemptions	s37(2)(b)
13	Third party information	Released with exemptions	s47F(1)
14	Documents on file	Released in full	
15	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Released with exemptions	s37(2)(b)
16	Documents on file	Released in full	
17	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Released with exemptions	s37(2)(b)
18-29	Documents on file	Released in full	
30	Third party information	Released with exemptions	s47F(1)
31-36	Documents on file	Released in full	
37-43	Third party information	Released with exemptions	s47F(1)
44	Information, if released, would be reasonably likely to prejudice the effectiveness of investigative methods or procedures.	Released with exemptions	s37(2)(b)
45-46	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
All	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
All	Documents on file	Released in full	

s22

Page No.	Description	Decision	Legislation
All	Documents on file	Released in full	



27 July 2022

s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

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 10th March 2022, seeking access to:

I request:
s22
[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 9th 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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		284
2.	s22		1
3.	s22		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.

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:*

- (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.

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 [REDACTED] I searched the following departmental databases:

- Integrated Client Services Environment (ICSE)
- ICSE Offspring
- TRIM – the Department's record management system
- Movement records

As the document cannot be found, I am refusing your request for access.

Nellie

Position number: 60019769

Authorised FOI Decision Maker

Freedom of Information

E: foi.vic@homeaffairs.gov.au



25 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 16 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 16 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 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

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.	s22		1141

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

Scope

(1) *This section applies if:*

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

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information 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.

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 parties consent to the release of their personal information for the purposes of this FOI request, has not been provided. This weighs against the release being reasonable.

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

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

I have considered:

Arguments in favour of the disclosure of the documents include:

- a person having a general right of access to any material about them held by the government;
- 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
1-17	-	Released in full	-
18-19	Identity information relating to a third party	Exempt in part	s 47F(1)
19	Personal information relating to a third party	Exempt in part	s 47F(1)
20-40	-	Released in full	-
41-43	Personal documents relating to a third party	Exempt in full	s 47F(1)
44	Identity document relating to a third party	Exempt in full	s 47F(1)
45-73	-	Released in full	-
74-80	Personal documents relating to a third party	Exempt in full	s 47F(1)
81-82	-	Released in full	-
83-96	Personal documents relating to a third party	Exempt in full	s 47F(1)
97-122	-	Released in full	-
123-134	Personal documents relating to a third party	Exempt in full	s 47F(1)
135-142	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
143-159	-	Released in full	-
160-163	Personal documents relating to a third party	Exempt in full	s 47F(1)
164-201	-	Released in full	-
202-205	Personal documents relating to a third party	Exempt in full	s 47F(1)
206-325	-	Released in full	-
326	Personal document relating to a third party	Exempt in full	s 47F(1)
327-337	-	Released in full	-
338-358	Personal documents relating to a third party	Exempt in full	s 47F(1)
359-414	-	Released in full	-
415-416	Personal documents relating to a third party	Exempt in full	s 47F(1)
417-421	-	Released in full	-
422	Identity document relating to a third party	Exempt in full	s 47F(1)
423-428	-	Released in full	-
429	Personal document relating to a third party	Exempt in full	s 47F(1)
430	-	Released in full	-

431-432	Personal document relating to a third party	Exempt in part	s 47F(1)
433-436	Personal documents relating to a third party	Exempt in full	s 47F(1)
437-446	-	Released in full	-
447	Personal document relating to a third party	Exempt in full	s 47F(1)
448-468	-	Released in full	-
469-488	Personal documents relating to a third party	Exempt in full	s 47F(1)
489-508	-	Released in full	-
509-510	Personal document relating to a third party	Exempt in full	s 47F(1)
511-515	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
516-533	Personal documents relating to a third party	Exempt in full	s 47F(1)
534-587	-	Released in full	-
588-647	Personal documents relating to a third party	Exempt in full	s 47F(1)
648-653	-	Released in full	-
654-657	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
658-706	-	Released in full	-
707-710	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
711-765	-	Released in full	-
766-767	Identity information relating to a third party	Exempt in part	s 47F(1)
767	Personal information relating to a third party	Exempt in part	s 47F(1)
768-781	-	Released in full	-
782-788	Personal documents relating to a third party	Exempt in full	s 47F(1)
789-796	-	Released in full	-
797-800	Personal documents relating to a third party	Exempt in full	s 47F(1)
801-813	-	Released in full	-
814-825	Personal documents relating to a third party	Exempt in full	s 47F(1)
826-852	-	Released in full	-
853-874	Personal documents relating to a third party	Exempt in full	s 47F(1)
875-877	-	Released in full	-
878-897	Personal documents relating to a third party	Exempt in full	s 47F(1)
898-927	-	Released in full	-
928-984	Personal documents relating to a third party	Exempt in full	s 47F(1)
985	-	Released in full	-
986-987	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
988-998	Personal document relating to a third party	Exempt in full	s 47F(1)
999-1000	-	Released in full	-
1001	Prejudice to law enforcement methods and procedures	Exempt in part	s 37(2)(b)
1002-1022	-	Released in full	-
1023-1043	Personal documents relating to a third party	Exempt in full	s 47F(1)
1044-1079	-	Released in full	-
1080	Personal information relating to a third party	Exempt in part	s 47F(1)
1081-1132	-	Released in full	-
1133-1134	Prejudice to law enforcement methods and procedures	Exempt in full	s 37(2)(b)
1135-1138	-	Released in full	-
1139-1140	Personal documents relating to a third party	Exempt in full	s 47F(1)
1141	-	Released in full	-



22 August 2022

s22 [Redacted]

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 8 April 2022, seeking access to:

s22 [Redacted]

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 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

Wanda

Position number: 60019771

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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference	No. of folios
1.	s22		448
2.			22
3.			N/A
4.			64
5.			8
6.			16
7.			20
8.			1

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

37 Documents affecting enforcement of law and protection of public safety

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

Section 37(1)(b) provides that a document will be exempt if its disclosure under the FOI Act would 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.

I believe that the release of these documents may disclose the confidential source of the information and that the identity of the confidential source may be ascertainable from the contents of the documents. The information was supplied to the Department on an expectation that the identity of the confider would remain confidential.

The Department has a policy of not disclosing the identity of persons providing information to the Department in the absence of their consent or unless there are compelling reasons for so doing. The Department relies on persons or organisations to supply information to it so that it can enforce migration law. If the Department were to disclose the identity of such suppliers it may discourage individuals from providing such information to the Department in the future and would be detrimental to the Department in enforcing the law.

On that basis I am refusing you access under section 37(1)(b) to the information in the documents.

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 of investigation 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.

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

General rule

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

The information identified in the attached Schedule of Documents as being exempt from disclosure to you under section 47F(1) of the FOI Act, is personal information belonging to third parties from whom consent has not been obtained.

Information is conditionally exempt under section 47F(1) if its release would involve the unreasonable disclosure of personal information about any person (including a deceased person). A conditionally exempt document **must** be released unless the release would be contrary to the public interest. I am bound by the FOI Act to firstly consider the conditional exemption, then consider the Public Interest Test in section 11B of the Act.

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

The conditional exemption will only apply if I am satisfied that the disclosure would involve 'unreasonable' disclosure of a third party's personal information. The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', a decision maker 'must' have regard to the factors set out in section 47F(2) of the Act (below).

In considering the extent to which the information identified under section 47F(1) is well known, I have taken into account that evidence that the third parties consent to the release of their personal information for the purposes of this FOI request, has not been provided.

I have also considered that many of the persons to whom the personal information belongs are not known to be associated with the matters dealt with

in this FOI request. I am satisfied that that the information has not been made available on another resource in the public domain.

On balance, I believe that my considerations against each of the above factors weigh in favour of the disclosure being unreasonable.

As I am satisfied that disclosure of the information identified in the Schedule would constitute an unreasonable disclosure of personal information, the information is conditionally exempt under section 47F(1) of the FOI Act

As I have decided that parts of the documents are conditionally exempt, I must now turn my mind to whether release of the conditionally exempt information would, on balance, be contrary to the public interest. The pro-disclosure principle declared in the objects of the FOI Act is given specific effect in the public interest test, as the test is weighted towards disclosure.

11B Public interest exemptions—factors

Scope

- (1) *This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).*
- (2) *This section does not limit subsection 11A(5).*

Factors favouring access

- (3) *Factors favouring access to the document in the public interest include 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.*

Irrelevant factors

- (4) *The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:*
 - (a) *access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;*
 - (aa) *access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;*
 - (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.*

Guidelines

- (5) *In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.*

Section 11B of the FOI Act (relating to the Public Interest Test), sets out four factors favouring access which must be considered if relevant. These include whether access to the documents would do any of the following:

- (a) *promote the objects of this Act*
- (b) *inform debate on a matter of public importance*
- (c) *promote effective oversight of public expenditure*

(d) allow a person to access his or her own personal information

These four factors are broadly framed but they do not constitute an exhaustive list. Other factors favouring disclosure may also be relevant in particular circumstances. Note the FOI Act does not list any factors weighing against disclosure. These factors, like those favouring disclosure, will depend on the circumstances.

The Office of the Australian Information Commissioner (OAIC) has issued guidelines that contain lists of factors weighing for and against disclosure, which may be considered (these are not exhaustive lists).

Here are the main factors I have considered, based on the guidelines, which weigh against the release of the conditionally exempt information:

- whether the release of the information could reasonably be expected to prejudice the protection of an individual's right to privacy;
- whether the release of the information could reasonably be expected to prejudice security, law enforcement, public health or public safety;
- whether the release of the information could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- whether the release of the information could reasonably be expected to impede the administration of justice for an individual; and
- whether the release of the information could reasonably be expected to harm the interests of an individual or group of individuals.

I am satisfied that providing you with access to the information would promote the objects of the pro-disclosure principle of the FOI Act by providing you with access to departmental records stored on the file relating to third party emails, personal ID documents and statements given to the department in confidence.

However, I do not consider that the release of personal information belonging to the third parties would inform debate on a matter of public importance or provide an oversight of public expenditure. I also consider that release of the information could reasonably be expected to prejudice the protection of the individuals' right to privacy, and could reasonably be expected to harm the interests of the individuals.

On balance, I have given the greatest weight to the right an individual has to maintain their privacy, and that to release this information without the individual's informed and expressed consent may result in a breach of their privacy.

I must also have regard to section 11B(4) of the Act which sets out parameters to ensure that no irrelevant factor will be considered in the decision making process. I have not taken any of the factors listed under section 11B(4) into account in my decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditional exempt information in the documents is not in the public interest and therefore exempt from disclosure under the FOI Act.

Wanda

Position number: 60019771

Freedom of Information Section

Department of Home Affairs

Email : foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22 [Redacted]

s22 [Redacted]

Page No.	Description	Decision	Legislation
106-108	Methods and procedures	Exempt in full	s.37(2)(b)
371-372	Disclosure of a confidential source	Exempt in full	s.37(1)(b)

s22 [Redacted]

Page No.	Description	Decision	Legislation
1,32-36	Third party names and file information, unrelated to the applicant	Exempt in full	s.47F(1)

s22 [Redacted]

Page No.	Description	Decision	Legislation
18	Disclosure of a confidential source	Exempt in part	s.37(1)(b)

s22 [Redacted]

Page No.	Description	Decision	Legislation
15	Disclosure of a confidential source	Exempt in part	s.37(1)(b)



19 August 2022

Sent via email to s22

s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22, the applicant, has authorised you to receive, on his behalf, correspondence about his 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 2 May 2022, seeking access to:

s22

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

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

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

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

I have now set aside the deemed 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 documents that fall within the scope of your request. My decision is to exempt in part certain 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,

Elizabeth (Position Number: 60046910)
Authorised FOI Officer
Freedom of Information Victoria
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 *)

*) Please note: the FOI documents will be sent via email. However, the audio interview recordings will not be attached to the email. A CD with the audio recordings will be sent to your postal address.



Attachment A – Decision Record

Client Details

s22

Scope of Request

s22

Departmental records within scope

No.	Description	Reference	No. of folios
1.	s22		140
2.			11
3.			17
4.			6
5.			N/A

Administrative access to previous FOI documentation

I have identified an existing FOI request s22 that has undergone assessment and finalisation resulting in documentation previously released to s22 via his previous migration agent. I am providing you administrative access to the previous documents released to s22 through administrative release rather than the Department making a fresh decision on those documents.

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

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

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

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

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

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

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also mobile and direct work telephone numbers of these staff. This material has therefore been removed under s22(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 's22(1)(a)(ii)' however they will not be individually noted in the Schedule of Documents. Please note that there are times that this same section of the FOI Act will be used to remove other material and this will be in the Schedule of Documents with a clear explanation as to what the material is.

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 matters in relation to the investigation of breaches or evasions of the law 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 law enforcement 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 investigations. Release of this information would prejudice the effectiveness of the referral process, and the attainment of true and correct information.

Elizabeth (Position Number: 60046910)
Authorised FOI Officer
Freedom of Information Victoria
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

Folio	Description	Decision	Legislation
1 – 140		Released in full	N/A

s22

Folio	Description	Decision	Legislation
1		Released in full	N/A
2	Document in relation to law enforcement methods and procedures	Exempt in part	s37(2)(b)
3 – 17		Released in full	N/A

s22

Folio	Description	Decision	Legislation
1 – 17		Released in full	N/A

s22

Folio	Description	Decision	Legislation
1 – 6		Released in full	N/A

s22

Folio	Description	Decision	Legislation
N/A		Released in full	N/A



17 August 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Access Decision - Freedom of Information (FOI) request

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 18 March 2022, seeking access to:

s22

Deemed refused decision

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

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

Revocation of deemed refused decision

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

- 55G Procedure in IC review—revocation or variation of access refusal decision
- (1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:
 - (a) giving access to a document in accordance with the request; or
 - (b) relieving the IC review applicant from liability to pay a charge; or
 - (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

FOI Officer Position no.60046911 (Devinder)
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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	[Redacted]		114
2.	[Redacted]		44
3.	[Redacted]		40
4.	[Redacted]		57

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.'

s22 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.

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.

s37 :Documents affecting enforcement of law and protection of public safety

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

Section 37(2)(b)

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 concerns 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 officers 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.

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

Email : foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22 [Redacted]

s22 [Redacted]

Page No.	Description	Decision	Legislation
1-69		Released in full	
71-72	Investigation methods and procedures	Exempt in part	s.37(2)(b)
73-94		Released in full	
95-105	Investigation methods and procedures	Exempt in part	s.37(2)(b)
106-114		Released in full	

s22 [Redacted]

Page No.	Description	Decision	Legislation
1-4		Released in full	
5-6	Investigation methods and procedures	Exempt in part	s.37(2)(b)
7-57		Released in full	

s22 [Redacted]

Document No.	No of folios	Description	Decision	Legislation
s22 [Redacted]	44	s22 [Redacted]	Released in full	
s22 [Redacted]	40	s22 [Redacted]	Released in full	



12 August 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 26 March 2022, seeking access to:

s22 [Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 25 April 2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

I have now set aside the deemed 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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	[Redacted]		29
2.	[Redacted]		13
3.	[Redacted]		7
4.	[Redacted]		1
5.	[Redacted]		6

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.

Please note that there are times that this same section of the FOI Act will be used to remove other material and this will be in the Schedule of Documents with a clear explanation as to what the material is.

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.

I have decided that parts of the file/document would disclose information that could reasonably be regarded as irrelevant to your request. ***This information consists of third party names not associated with your application.***

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.

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




Page No.	Description	Decision	Legislation
1-29		Released in full	



Page No.	Description	Decision	Legislation
1-13		Released in full	



Page No.	Description	Decision	Legislation
1		Released in full	
2	Third party names/details not associated with your application	Exempt in part	s.22(1)(a)(ii)
3-7		Released in full	



Page No.	Description	Decision	Legislation
1		Released in full	



Page No.	Description	Decision	Legislation
1-6		Released in full	



12 August 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, 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 8 April 2022, seeking access to:

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 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		14
2.			145
3.			2
4.			1

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

(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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

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

Contacting the FOI Section

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

Yours sincerely

Wanda

Position number: 60019771

Authorised FOI Decision Maker

Freedom of Information Victoria

E: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



19 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 22 February 2022, seeking access to:

s22 [Redacted]
[Redacted]
[Redacted]
[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 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 release in full 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.

Review rights**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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		14
2.	s22		1
3.	s22		1

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 release in full the documents detailed in the Schedule of Documents.

In your request you sought access to **s22**

The Department has taken reasonable searches in relation to this part of your request. No documents were located in the possession of the Department on 28 March 2022 when your FOI request was valid and the Department therefore has no records to produce in relation to this part of your request.

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

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

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

Document not received as required by contract

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

I have undertaken a search of the relevant departmental systems to locate and identify the 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

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

- Requested your client file from its currently recorded location (in the Departmental record keeping system) and received a written response that the file is not there.

No documents which would fall within the scope of this part 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 your request for access.

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 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.

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
[Redacted]

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
[Redacted]

Page No.	Description	Decision	Legislation
1-14	-	Released in full	-

Electronic Records

Document No.	No of folios	Description	Decision	Legislation
1.	1	s22	Released in full	-
2.	1	s22	Released in full	-



Sent via email
5 August 2022

s22
Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 14 March 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 13 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 one (1) document that falls 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 (if applicable)	No. of folios
1.	Documents in scope	s22 [REDACTED]	813

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.

Johnny
Position Number: 60046991
Decision Maker - Freedom of Information
FOI and Records Management Branch | Data Division
Strategy and National Resilience Group
Department of Home Affairs
E: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



18 August 2022

s22
[Redacted]

Sent via email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

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 8 March 2022, seeking access to:

s22 [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 7 April 2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate Departmental records.

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

The Schedule of Documents that fall 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
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		317
2.			1
3.			1
4.			N/A
5.			N/A
6.			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

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