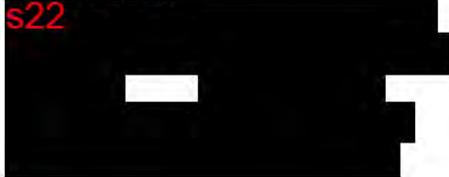




Attachment B – Schedule of Documents

Client Details

s22



s22



Page No.	Description	Decision	Legislation
1-66		Released in full	
67-75	Operations and processes of Department	Exempt in full	s.47E(d)
76-124		Released in full	
125	Financial/property interests of the Commonwealth	Exempt in part	s.47D
126		Released in full	
127	Financial/property interests of the Commonwealth	Exempt in part	s.47D
128		Released in full	
129	Financial/property interests of the Commonwealth	Exempt in part	s.47D
130-317		Released in full	

s22



Page No.	Description	Decision	Legislation
1		Released in full	

s22



Page No.	Description	Decision	Legislation
1		Released in full	

s22



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

s22 [Redacted]

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

s22 [Redacted]

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



16 September 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 April 2022, seeking access to:

s22
[Redacted text block containing multiple lines of blacked-out information]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 14 May 2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

I have now set aside the deemed 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 four (4) electronic files and two (2) electronic documents that falls within the scope of your request. These document(s) were in the possession of the Department on 14 April, 2022 when your request was received.

My decision is to exempt in part the documents 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 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

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

Michelle
Position Number: 60019770
Freedom of Information
Department of Home Affairs
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]		93
2.	[Redacted]		180
3.	[Redacted]		156
4.	[Redacted]		63
5.	[Redacted]		01
6.	[Redacted]		01

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.

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.

47E Public interest conditional exemptions—certain operations of agencies

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

(a) *prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*

(b) *prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*

(c) *have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*

(d) *have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

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

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

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

s47E(d)

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

Public Interest arguments:

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

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.
- **s22** [REDACTED]. This weighs against the release being reasonable.
- No third part consent was 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.

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.

38 Documents to which secrecy provisions apply

- (1) *Subject to subsection (1A), a document is an exempt document if:*
- (a) *disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and*
 - (b) *either:*
 - (i) *that provision is specified in Schedule 3; or*
 - (ii) *this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.*
- (1A) *A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.*
- (2) *Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.*
- (3) *This section applies in relation to a document so far as it contains personal information about a person if:*
- (a) *the person requests access to the document; and*
 - (b) *disclosure of the document, or information contained in the document, is prohibited under section 503A of the Migration Act 1958 as affected by section 503D of that Act.*

- (4) *In this section:*

enactment includes a Norfolk Island enactment.

I have made a decision not to grant access to these documents as I am of the opinion that these documents are exempt documents under section 38 of the FOI Act. The release of the documents is prohibited under section 503A as affected by section 503D of the *Migration Act 1958*.

The information contained within the documents has been communicated to an authorised migration officer by a gazetted agency on condition that it be treated as confidential information and the information is relevant to the exercise of a power under section 501, 501A, 501B or 501C.

Yours sincerely

Michelle
Position Number: 60019770
Freedom of Information
Department of Home Affairs
E: 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
1-25		Released in full	
26	Third party document	Exempt in full	s.47F(1)
27-30		Released in full	
31	Third party identity document	Exempt in full	s.47F(1)
32-64		Released in full	
65	Third party document	Exempt in full	s.47F(1)
66-71		Released in full	
72-73	Third party document	Exempt in full	s.47F(1)
74-93		Released in full	

s22

Page No.	Description	Decision	Legislation
1-39		Released in full	
40-76	Departmental operational methods	Exempt in full	s.47E(d)
77-80		Released in full	
81-82	Information & documents subject to s.503A of the Migration Act	Exempt in full	s.38(1)
83-88		Released in full	
89-91	Departmental investigative methods	Exempt in full	s.37(2)(b)
92	Departmental investigative methods	Exempt in part	s.37(2)(b)
93-95		Released in full	
96-135	Departmental investigative methods	Exempt in full	s.37(2)(b)
136-180		Released in full	

s22

Page No.	Description	Decision	Legislation
1-96		Released in full	
97-106	Departmental operational methods	Exempt in full	s.47E(d)

107-118		Released in full	
119-120	Information & documents subject to s.503A of the Migration Act	Exempt in full	s.38(1)
121-156		Released in full	

s22

Page No.	Description	Decision	Legislation
1-46		Released in full	
47	Departmental investigative methods	Exempt in full	s.37(2)(b)
48—49		Released in full	
50-51	Departmental operational methods	Exempt in full	s.47E(d)
52-53		Released in full	
54-63	Departmental operational methods	Exempt in full	s.47E(d)

Electronic Records

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



13 September 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 28 April 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 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 RevProcedure 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 falls within the scope of your request. My decision is to exempt in part the documents 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 falls within the scope of your request is at **Attachment B**. Read together the Decision Record and Schedule sets out the decision on access and where appropriate refers to various sections of the FOI Act.

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

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

Contacting the FOI Section

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

Contacting the Department

You can contact us with 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

Rubi

Position number 60016889

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 [Redacted]	s22 [Redacted]	366

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.

Section 22

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

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b).

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

Section 47E(d)

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.*

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;

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

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

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

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

Rubi

Position number 60016889

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
60	Draft decision record	Exempt in part	S47Ed



9 September 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 your request received on 10 May 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 09 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 the documents that fall within the scope of your request. My decision is to exempt in part the documents in the possession of the Department, which fall within the scope of your request. The reasons for my decision are set out in **Attachment A**.

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

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

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

Contacting the FOI Section

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

Yours sincerely

Electronically Signed

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

Attachments

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

Attachment A – Decision Record

Client Details

s22
 [REDACTED]

Documents in scope

s22
 [REDACTED]

Information considered

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records. In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

Scope

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

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

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

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

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

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

My reasons for exemption are set out below:-

47E Public interest conditional exemptions—certain operations of agencies

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

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

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

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

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

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

I considered the following factors in favour of disclosure:

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

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

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

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

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

Yours sincerely

Electronically Signed

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

Attachment B – Schedule of Documents

s22

s22

Page	Description	Decision	Legislation
63-64	Checklist	Exempt in part	s47E(d)

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

s22

Page	Description	Decision	Legislation
	Entire file	Released in full	



15 September 2022

s22

Sent via email: s22

In reply please quote:

s22

Dear s22

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

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 July 2022, seeking access to:

s22

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original decision**) in relation to a request or an application*

under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised decision**) would have an effect of:

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

No.	Description	Reference	No. of folios
1.	s22		62
2.	s22		26

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

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

Scope

(1) *This section applies if:*

(a) *an agency or Minister decides:*

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

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

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

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

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

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

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

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

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

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

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

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

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

Contacting the FOI Section

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

Yours sincerely

John

Position number: 6004 6997

FOI Decision Maker

Freedom of Information Victoria

E: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



19 September 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 19 January 2022, seeking access to:

s22 [Redacted]

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

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

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

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

I have now set aside the deemed 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

Authorised 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	No. of folios
1.	s22	[Redacted]	147
2.	[Redacted]	[Redacted]	85

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.

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: Wanda

Position number: 60019771

Authorised FOI Decision Maker

Freedom of Information Victoria

E: foi.vic@homeaffairs.gov.au

Authorised FOI Decision Maker

Freedom of Information Victoria

E: foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22 [REDACTED]

s22 [REDACTED]

Page No.	Description	Decision	Legislation
127	Third party citizenship certificate information, unrelated to the applicant	Exempt in full	s.47F(1)
128	Third party change of name certificate information, unrelated to the applicant	Exempt in full	s.47F(1)
145-146	Third party passport bio-data information, unrelated to the applicant	Exempt in full	s.47F(1)



25 August 2022

s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

Access Decision - Freedom of Information (FOI) request

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 23 March 2022, seeking access to:

Scope of request

On 23 March 2022, you requested access to the following documents:

s22
[Redacted]

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 22 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 records.

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

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

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

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

Contacting the FOI Section

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

Kind regards

Trish

Position no: 60019773

Decision Maker, Freedom of Information

FOI & Records Management Branch | Data Division

Strategy & Law Enforcement Group

Department of Home Affairs

Email: foi.vic@homeaffairs.gov.au

Website: www.homeaffairs.gov.au

Attachments

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



Attachment A – Decision Record

Client Details

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		056
2.		035	
3.		165	
4.		211	
5.		005	
6.		-	
7.		022	
8.		001	
9.		001	

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

The Department has taken reasonable searches in relation to your request. *No SRSS reports and no submissions to and from the Minister in regards to the grant of a Visitor* were located in the possession of the Department on 23 March 2022 when your FOI request was valid and the Department therefore has no records to produce.

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

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

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

Document not received as required by contract

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

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

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

No documents which would fall within the scope of your request were located as part of these searches. I am satisfied that all reasonable searches have been undertaken by the Department and that the document you seek access to, does not exist, therefore I am refusing part of your request for access.

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

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

In your acknowledgement letter, you were advised of the Department's policy to consider irrelevant to the scope of your request the personal details of staff engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work

telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

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

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.

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.
- The information in question had no effect on the outcome of your visa application. 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.

Kind regards

Trish
Position no: 60019773
Decision Maker, Freedom of Information
FOI & Records Management Branch | Data Division
Strategy & Law Enforcement Group
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au
Website: www.homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22
[Redacted]

s22
[Redacted]

Page No.	Description	Decision	Legislation
1 - 3	Personal privacy	Exempt in full	s.47F(1)
4 - 31	-	Released in full	
32	Personal privacy	Exempt in full	s.47F(1)
33 - 35	-	Released in full	
36	Personal privacy	Exempt in full	s.47F(1)
37 - 56	-	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1 - 8	-	Released in full	
9	Personal privacy	Exempt in full	s.47F(1)
10 - 28	-	Released in full	
29	Personal privacy	Exempt in full	s.47F(1)
30 - 35	-	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1 - 65	-	Released in full	
66 - 69	Personal privacy	Exempt in full	s.47F(1)
70- 76	-	Released in full	
77 - 78	Personal privacy	Exempt in full	s.47F(1)
79 - 80	-	Released in full	
81 - 83	Personal privacy	Exempt in full	s.47F(1)
84 - 118	-	Released in full	
119 - 121	Personal privacy	Exempt in full	s.47F(1)
122	Personal privacy	Exempt in part	s.47F(1)
123 - 153	-	Released in full	
154 - 155	Personal privacy	Exempt in part	s.47F(1)
156 - 165	-	Released in full	

s22

Page No.	Description	Decision	Legislation
1 – 43	-	Released in full	
44	Financial/Property Interests of the Commonwealth	Exempt in part	s.47D
45 – 176	-	Released in full	
177	Personal privacy	Exempt in part	s.47F(1)
178 – 189	-	Released in full	
190	Personal privacy	Exempt in part	s.47F(1)
191 – 211	-	Released in full	

s22

Page No.	Description	Decision	Legislation
1 – 5	-	Released in full	

s22

Page No.	Description	Decision	Legislation
-	-	Released in full	

s22

Page No.	Description	Decision	Legislation
1 - 6	-	Released in full	
7 - 8	Operations of agency	Exempt in part	s.47E(d)
9-22	-	Released in full	

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	

s22

Page No.	Description	Decision	Legislation
1	-	Released in full	

s22

Page No.	Description	Decision	Legislation
-	s22	Exempt in full	24A(1)(b)(ii)

s22

Page No.	Description	Decision	Legislation
-	s22	Exempt in full	24A(1)(b)(ii)



26 August 2022

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 28 April 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 28 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 document that falls within the scope of your request. My decision is to exempt in part the document 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 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.	s22 [Redacted]	[Redacted]	134

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.

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.

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 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

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

Attachment B – Schedule of Documents**Client Details**

s22



s22

Page No.	Description	Decision	Legislation
1-8		Released in full	
9-12	Documents/details pertaining to the visa proposer	Exempt in full	s.47F(1)
13-28		Released in full	
29	Documents/details pertaining to the visa proposer	Exempt in part	s.47F(1)
30-69			
70	Documents/details pertaining to the visa proposer	Exempt in part	s.47F(1)
71-134		Released in full	



15 September 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 13 May 2021, seeking access to:

s22 [Redacted]

Deemed refused decision

You have made an application for review of the decision with the Office of the Australian Information Commissioner (OAIC). The OAIC has notified the Department that the Information Commissioner will review the 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		04

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. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s.22(1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

You will see these exemptions in the documents released to you as they will be clearly identified with 's.22(1)(a)(ii)'.

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

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

Contacting the FOI Section

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

Yours sincerely

Michelle

Position Number: 60019770

Freedom of Information

Department of Home Affairs

E: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



5 September 2022

s22

Sent via 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 30 March 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 29 April 2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

I have now set aside the deemed 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		7
2.			2

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

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

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

Contacting the FOI Section

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

Yours sincerely

Angela
FOI Officer Position No: 00001107
Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



12 September 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 6 June 2022, seeking access to:

s22 [Redacted]

[Redacted]

s22

Deemed refused decision

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

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		30

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 as detailed in the Schedule of Documents. You should read the schedule in conjunction with the reasons below.

In your request you sought access to:



The Department has taken reasonable searches in relation to points 1 and 3 of your request.

No documents were located in the possession of the Department on 6 June 2022 when your FOI request was valid and the Department therefore has no records to produce in relation to these points.

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:

- sent point 3 of the scope of your request to the business area;
- received a response from the business area that no correspondence in respect of what is being requested was found.

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

As the documents cannot be found and I am satisfied that all reasonable searches have been undertaken I am refusing points 1 and 3 of 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

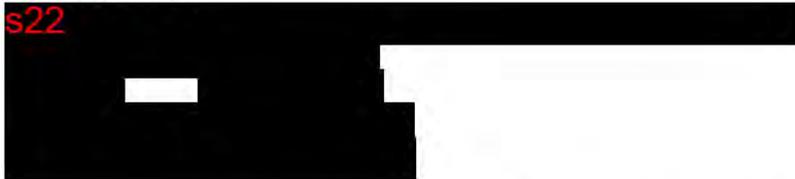
Nicole
Position No. 60095088
FOI Officer | Freedom of Information Section
Department of Home Affairs
Email: foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22



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
1-30	-	Released in full	-



5 Sept 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22 (the applicant) has authorised you to receive, 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 19 May 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 18 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 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		129
2.			1
3.			1
4.			1
5.			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

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

Attachments

- Documents released to you under the FOI Act



19 May 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 18 May 2022 seeking access to:

s22 [Redacted]

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

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

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

Contacting the FOI Section

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

Yours sincerely
Electronically signed

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

Attachments

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

Attachment A – DECISION RECORD**Client Details**

s22 [REDACTED]

Documents in scope

s22 [REDACTED]

Information considered

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records. In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

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

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

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

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

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

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

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

7 Exemption of certain persons and bodies

(2A) An agency is exempt from the operation of this Act in relation to the following documents:

*(a) a document (an **intelligence agency document**) that has originated with, or has been received from, any of the following:*

- (i) the Australian Secret Intelligence Service;*
- (ii) the Australian Security Intelligence Organisation;*
- (iii) the Inspector-General of Intelligence and Security;*
- (iv) the Office of National Assessments;*
- (v) the Australian Geospatial-Intelligence Organisation;*
- (vi) the Defence Intelligence Organisation;*
- (vii) the Australian Signals Directorate;*

(b) a document that contains a summary of, or an extract or information from, an intelligence agency document, to the extent that it contains such a summary, extract or information.

The documents that I have refused access to under section 7(2A) are documents that have been provided by organisations that are not subject to the requirements of the FOI Act. Section 7 of the FOI Act provides that certain organisations or documents are not subject to the requirements of the FOI Act. This means that you have no legal right to obtain access to the documents originating from those agencies.

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

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

Document not received as required by contract

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

In relation to **s22**

I have taken the following actions and received the following responses:

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - ICSE Offspring
 - TRIM – the Department's record management system

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

47E Public interest conditional exemptions—certain operations of agencies

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

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

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

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

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

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

I considered the following factors in favour of disclosure:

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

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

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

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

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

Electronically signed

Lucksika
P/N: 60016890
FOI Officer
19 September 2022

Attachment B - SCHEDULE OF DOCUMENTS

s22 [REDACTED]

s22 [REDACTED]

Page	Description	Decision	Legislation
1-3, 5-8, 11, 14, 16, 19-23, 25-31, 35, 37, 44- 47, 55-60, 62-63, 65-95, 97-99, 101, 105-116, 118-119, 121, 124-130, 134, 136-138, 140, 145-146, 149, 151, 155-156, 161	Third party information	Irrelevant material deleted	s.22(1)(a)(ii)
122	Documents exempt under s.7(2A)	Exempt in full	s.7(2A)

s22 [REDACTED]

Page	Description	Decision	Legislation
4, 6-10	Third party information	Irrelevant material deleted	s.22(1)(a)(ii)

s22 [REDACTED]

Page	Description	Decision	Legislation
-	s22 [REDACTED]	Refused	s.24A(b)(i)

s22 [REDACTED]

Page	Description	Decision	Legislation
2, 4	CSP	Exempt	s.47E(d)
19-20	Third party information	Irrelevant material deleted	s.22(1)(a)(ii)



11/07/2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

If you are nominated to receive correspondence about this Freedom of Information (FOI) request, copies will not be sent to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs (the Department) under the *Freedom of Information Act 1982* (the FOI Act) on 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 [due date] and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

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

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

Contacting the FOI Section

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

Yours sincerely

Electronically signed

FOI Officer

Jai

Position no. 60016895

Freedom of Information Section

Department of Home Affairs

Email : foi.nsw@homeaffairs.gov.au

Attachments

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

Attachment A – DECISION RECORD**Client Details**s22
[REDACTED]**Documents in scope:**

- s22 [REDACTED]

Information considered

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records. In reaching my decision, I have considered the following:

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

Reasons for decision

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

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

(1) *This section applies if:*

(a) *an agency or Minister decides:*

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

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

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

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

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

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

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

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

47F Public interest conditional exemptions—personal privacy

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

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

- (a) the extent to which the information is well known;*
- (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
- (c) the availability of the information from publicly accessible sources;*
- (d) any other matters that the agency or Minister considers relevant.*

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

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

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

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

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

I have considered:

Arguments in favour of the disclosure of the documents include:

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

Arguments against disclosure of the documents include:

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

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

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

Yours sincerely,

Electronically signed

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

Attachment B - SCHEDULE OF DOCUMENTS

s22



- s22

Pages	Description	Decision	Legislation
17, 20-24	Third party documents	Exempt in full	s47F(1)
All other pages		Released	



10 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 correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

This letter refers to your request received on 14/03/2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s22 [REDACTED]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 14/03/2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

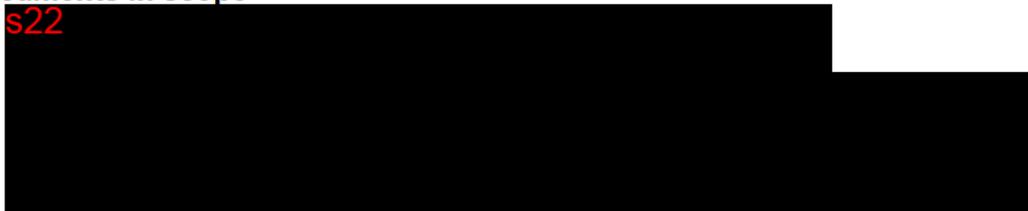
Revised decision

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

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

Documents in scope

s22



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

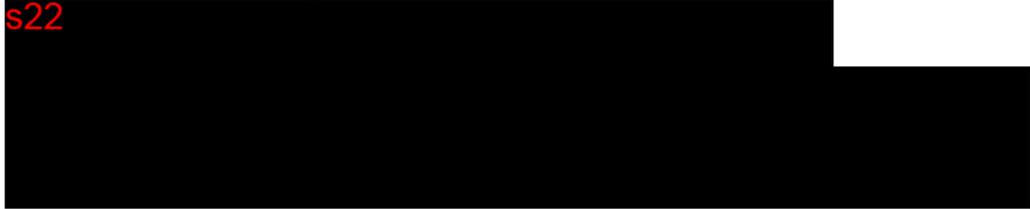
If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely
AJ, Position number 2145
FOI Officer
Department of Home Affairs
Email foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act

s22





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 7 March 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 6 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.	s22		123
2.			198
3.			N/A
4.			1
5.			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 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.

Yours sincerely

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

Attachment B – Schedule of Documents

Client Details

s22



s22



Page No.	Description	Decision	Legislation
1-123		Released in full	

s22



Page No.	Description	Decision	Legislation
1-118		Released in full	
119	Financial/property interests of the Commonwealth	Exempt in part	s.47D
120-198		Released in full	

s22



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

s22



Page No.	Description	Decision	Legislation
1		Released in full	

s22



Page No.	Description	Decision	Legislation
1		Released in full	



31 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 20 May 2022, seeking access to:

[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 19 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 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 [REDACTED]	[REDACTED]	448

2.	S22		91
3.			2
4.			1
5.			N/A
6.			N/A
7.			N/A
8.			N/A
9.			N/A
10.			N/A

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

Attachments

- Documents released to you under the FOI Act