



31 August 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

s22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

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

s22

Interpreted scope:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 13 Apr, 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		104
2.			4

22 Deletion of exempt matter or irrelevant material

(1) *This section applies if:*

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

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

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

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

Contacting the FOI Section

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

Yours sincerely

Thomas
Position No: 60016894
FOI Officer | Freedom of Information Section
Department of Home Affairs
Email:foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



21 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 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 05/05/2022 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 04/06/2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

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

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

Contacting the FOI Section

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

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

Attachments

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

s22

s22

Attachment A – DECISION RECORD**Client Details**s22
[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.

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

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

(1) *This section applies if:*

(a) *an agency or Minister decides:*

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

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

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

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

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

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

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

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

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

47E Public interest conditional exemptions—certain operations of agencies

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

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

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

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

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

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

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

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

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

I considered the following factors in favour of disclosure:

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

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

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

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

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

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

Attachment B - SCHEDULE OF DOCUMENTS

s22 [REDACTED]

s22 [REDACTED]

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

s22 [REDACTED]

Page	Description	Decision	Legislation
n/a	s22 [REDACTED]	Released in full	



Sent via email
13 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 20 May 2022, seeking access to:

s22

Duplicate documents in files

At times the Department may save duplicate copies of documents in one file. s22

Administrative access to previous Freedom of Information documentation

I have identified an existing FOI request s22 sent in on 19 May 2015 that has undergone assessment and finalisation resulting in documents and audio recordings previously being released on 7 July 2015 to you.

As you have re-requested access to documentation that has undergone a previous disclosure, I am providing administrative access to the previous release rather than the department making a fresh decision on those documents.

The department considers the terms of your request satisfied on the basis we have provided a subsequent copy of documentation that has already undergone the FOI assessment process, which was within scope of your most previous request

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.

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

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

Attachments

- 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		124
2.			18
3.			22
4.			24
5.			2
6.			1
7.			1
8.			4
9.			4
10.			N/A

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Reasons for decision

I have considered the documents within the scope of your request and applied exemptions in full 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 engaged in some roles. This includes their names, direct email addresses and also the mobile and direct work telephone numbers of these staff. This material has therefore been removed under s 22 (1)(a)(ii) of the FOI Act from the documents that form the scope of your request.

37 Documents affecting enforcement of law and protection of public safety

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

(c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

Section 37(1)(b) provides that a document will be exempt if its disclosure under the FOI Act would disclose or enable a person to ascertain the existence or identity of a confidential source of information or the non-existence of a confidential source of information in relation to the enforcement or administration of the law.

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

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

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

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 have considered the documents identified. These documents are copies of identification documents relating to another family member.

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.

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



Attachment B – Schedule of Documents

Client Details

s22
[Redacted]

s22
[Redacted]

Page No.	Description	Decision	Legislation
1-87	-	Released in full	
88-89	Disclosure of a confidential source	Exempt in full	s.37(1)(b)
90-110	-	Released in full	
111	Personal Privacy	Exempt in full	s.47F(1)
112	-	Released in full	
113	Personal Privacy	Exempt in full	s.47F(1)
114-124	-	Released in full	
-	s22 [Redacted]	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1-18	-	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1-22	-	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1-24	-	Released in full	

s22
[Redacted]

Page No.	Description	Decision	Legislation
1-2	-	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
1-4	-	Released in full	

s22

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



Australian Government
Department of Home Affairs

1 September 2022

Sent via post:

s22
[Redacted]

In reply please quote:

s22
[Redacted]

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 11 April 2022, seeking access to:

s22
[Redacted]

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

Attachment A.

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

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

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

Contacting the FOI Section

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

Yours sincerely

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		207
2.		316	
3.		9	
4.		122	
5.		42	
6.		100	
7.		1	
8.		1	
9.		3	

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate 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
1-86		Released in full	
87-111	Third party details	Exempt in full	s.47F(1)
112-181		Released in full	
182-200	Third party details	Exempt in full	s.47F(1)
201-204		Released in full	
205	Third party details	Exempt in full	s.47F(1)
206-207		Released in full	

s22

Page No.	Description	Decision	Legislation
1-287		Released in full	
286-288	Third party details	Exempt in full	s.47F(1)
289-317		Released in full	

s22

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

s22

Page No.	Description	Decision	Legislation
1-39		Released in full	
40-47	Third party details	Exempt in full	s.47F(1)
48-70		Released in full	
71-73	Third party details	Exempt in full	s.47F(1)
74-81		Released in full	
82-112	Third party details	Exempt in full	s.47F(1)
113-114		Released in full	
115	Third party details	Exempt in part	s.47F(1)
116-122	Third party details	Exempt in full	s.47F(1)

s22

Page No.	Description	Decision	Legislation
1-19		Released in full	
20-21	Third party details	Exempt in full	s.47F(1)
22		Released in full	
23	Third party details	Exempt in full	s.47F(1)
24-37		Released in full	
38-40	Third party details	Exempt in full	s.47F(1)
41-42		Released in full	

s22

Page No.	Description	Decision	Legislation
1-18		Released in full	
19-26	Third party details	Exempt in full	s.47F(1)
27-51		Released in full	
52-54	Third party details	Exempt in full	s.47F(1)
55-66		Released in full	
67	Third party details	Exempt in full	s.47F(1)
68	Third party details	Exempt in part	s.47F(1)
69	Third party details	Exempt in full	s.47F(1)
70		Released in full	
71-72	Third party details	Exempt in full	s.47F(1)
73-74		Released in full	
75-97	Third party details	Exempt in full	s.47F(1)
98-100		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
3		Released in full	



5 September 2022

s22 [redacted]

Email: s22 [redacted]

In reply please quote:

s22 [redacted]

Dear s22 [redacted]

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 13 May 2022, seeking access to:

s22 [redacted]

[redacted]

[redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 12 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		59
2.			10

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

Lyll
Position number 1544
Freedom of Information Section
Department of Home Affairs
Email : foi.vic@homeaffairs.gov.au

Attachments

- Documents released to you under the FOI Act



5 September 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

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

Attachment A.

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

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

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

Contacting the FOI Section

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

Yours sincerely

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

Email : foi.vic@homeaffairs.gov.au

Attachments

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



Attachment A – Decision Record

Client Details

s22
[Redacted]

Scope of Request

s22
[Redacted]

Departmental records within scope

No.	Description	Reference (if applicable)	No. of folios
1.	s22		323
2.	s22		-
3.	s22		-
4.	s22		17

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.

s22 Access to edited copies with exempt or irrelevant matter deleted (extract)*Scope*

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

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

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

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

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.'

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

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

- (2) *A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:*
- (b) *disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or*

Section 37(2)(b)

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

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

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

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

Email : foi.vic@homeaffairs.gov.au



Attachment B – Schedule of Documents

Client Details

s22 [Redacted]

s22 [Redacted]

Page No.	Description	Decision	Legislation
1-33		Released in full	
34-41	Investigation methods and procedures	Exempt in full	s.37(2)(b)
42-43		Released in full	
44-45	Investigation methods and procedures	Exempt in full	s.37(2)(b)
46-89		Released in full	
90-120	Investigation methods and procedures	Exempt in full	s.37(2)(b)
121-323		Released in full	

Electronic Records

Document No.	No of folios	Description	Decision	Legislation
s22	17	s22	Released in full	
	-		Released in full	
	-		Released in full	



Australian Government
Department of Veterans' Affairs

s22

Revised decision made under section 55G of the *Freedom of Information Act 1982*

Decision and reason for decision of Stella (Position Number 62331110),
Executive Director, Information Access Unit,
Client Access and Rehabilitation Branch, Department of Veterans' Affairs

Applicant: s22

Date of primary decision: 29 April 2022

FOI reference number: s22

Revised decision date: 27 September 2022

Revised decision reference number: s22

Dear s22

Freedom of Information Request: s22

1. The purpose of this correspondence is to advise you of a revised decision the Department of Veterans' Affairs (**Department**) has made under section 55G of the *Freedom of Information Act 1982* (**FOI Act**) in relation to s22

Revised Decision

2. I have made a decision to vary the original decision made by Joanna, Position Number 62329542, Information Access Officer, Information Access Unit. That decision was to provide full access to the document with deletions under section 22 of the FOI Act to remove staff names and position numbers.
3. I have made a decision to grant full access with the previous section 22 deletions removed.

Authority to make decision

4. I, Stella (Position Number 62331110), Executive Director, Information Access Unit, Client Access Rehabilitation Branch, am an officer authorised by the Secretary of the Department

to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

- 5. On 9 March 2022, you made a request for information under the FOI Act. Your request sought access to:

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

- 6. On 15 March 2022, the department acknowledged your request, in accordance with the timeframes prescribed by s 15(5(a) of the FOI Act.
- 7. On 8 April 2022, the OAIC granted the department an extension of time under s 15AB(2) of the FOI Act altering the due date to 29 April 2022.
- 8. On 29 April 2022, the department sent you the decision to *'grant access in full to the documents with irrelevant material deleted under s 22 of the FOI Act'*. The document was released to the email address listed as the address for notices to be received under the FOI Act when the request was made.
- 9. On 14 July 2022, the Office of the Australian Information Commissioner (**OAIC**) sent the Department a notice of Request for IC review and Preliminary Inquiries under s 54V of the FOI Act.

Reasons for decision

10. I have decided to **grant access** to the document within the scope of your request, with the previous deletions under section 22 of the FOI Act removed.

Access to documents

11. The document released to you in accordance with the FOI Act is enclosed.

Application for Information Commissioner Review – request to withdraw application

12. I consider the Department to have satisfactorily resolved the issues you have identified. As such, I kindly ask you to consider withdrawing your application for review with the OAIC.

Your rights of review

13. If you are dissatisfied with my decision, you may advise the OAIC that you do not wish to withdraw your application for IC Review.
14. You can contact the OAIC in one of the following ways:

Online: www.oaic.gov.au
Post: Office of the Australian Information Commissioner
 GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street, Sydney NSW 2000

15. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner:
<http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

16. If you wish to discuss this decision, please do not hesitate to contact the Information Access Unit using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Access Unit
 Department of Veterans' Affairs

GPO Box 9998, Brisbane QLD 4001

Phone: 1800 838 372

Email: Information.Access@dva.gov.au

Yours sincerely,

Stella

Position Number 62331110

Executive Director

Information Access Unit

Client Access and Rehabilitation Branch

Department of Veterans' Affairs

27 September 2022



Australian Government
Department of Veterans' Affairs

s22
Schedule 1

Schedule of documents

Applicant: **s22**

Date of primary decision: 29 April 2022

FOI reference number: **s22**

Revised decision date: 27 September 2022

Revised decision reference number: **s22**

Doc No.	Date of document	Document description	Pages	Decision	Exemption provision
1	03/02/2022	Email sent from Information.Law@dva.gov.au to s22 , "Response to follow up question regarding s22 – Decision [SEC=OFFICIAL]"	1 – 2	Full Release	N/A
2	N/A	s22	3 – 5	Full Release	N/A



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.
 Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:
 - (a) section 12 (documents otherwise available);
 - (b) section 13 (documents in national institutions);
 - (c) section 15A (personnel records);
 - (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

15 Requests for access (as related to the requirements for requests)*Persons may request access*

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

Requirements for request

- (2) The request must:
- (a) be in writing; and
 - (aa) state that the request is an application for the purposes of this Act; and
 - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
 - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
- (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
 - (b) postage by pre-paid post to an address mentioned in paragraph (a);
 - (c) sending by electronic communication to an electronic address specified by the agency or Minister.

17 Requests involving use of computers etc

- (1) Where:
- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;

- (b) It appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

22 Access to edited copies with exempt or irrelevant matter deleted

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.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
 - (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

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

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
- (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii); including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the Administrative Decisions (Judicial Review) Act 1977 does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document. (see section 11A).

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.



19 September 2022

s22

In reply please quote:

s22

Dear s22

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

s22 (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information (FOI) request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on 5 May 2022, seeking access to:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 04 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 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		48
2.			Audio recording
3.			18
4.			15

Staff and contractor names deletion

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

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

- Documents released to you under the FOI Act



16/09/2022

s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

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 21 April 2022 seeking access to:

s22
[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 21/05/2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

Section 55G of the FOI Act allows for a revocation or variation of access refusal decision during

a review by the Information Commissioner (IC):

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

My decision is to 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 [REDACTED]

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

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

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

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: Documents released to you under the FOI Act

- s22 [REDACTED]



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

This letter refers to your request received on 18 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 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 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
[Redacted content consisting of multiple lines of blacked-out text]

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

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

Attachments

- Documents released to you under the FOI Act



23 September 2022

s22
[Redacted]

Email: s22 [Redacted]

In reply please quote:

s22
[Redacted]

Dear s22 [Redacted]

Freedom of Information request – Revised decision

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

s22
[Redacted]

Deemed refused decision

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

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

My decision is to release in full the documents in the possession of the Department, which

falls within the scope of your request. A list of the documents is below for your reference.

Documents in scope

s22 [Redacted]

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

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

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

Withdrawal of OAIC Review Request

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

Contacting the FOI section

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

Yours sincerely

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

Attachments

s22 [Redacted]



Australian Government
Department of Home Affairs

21 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 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 14/07/2022 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 14/07/2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

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

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

Contacting the FOI Section

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

Yours sincerely

AJ, Position number 2145

FOI Officer

Department of Home Affairs

Email foi.vic@homeaffairs.gov.au

Attachments

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

s22



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.

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

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

(1) *This section applies if:*

(a) *an agency or Minister decides:*

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

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

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

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

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

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

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

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 gathered the following:

- 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.

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

Attachment B - SCHEDULE OF DOCUMENTS

s22

s22

Page	Description	Decision	Legislation
	All pages	Released in full	

s22

Page	Description	Decision	Legislation
	All pages	Released in full	

s22

Page	Description	Decision	Legislation
	All pages	Released in full	

s22

Page	Description	Decision	Legislation
1	Operational referral information	Exempt in part	s. 47E(d)
	All other pages	Released in full	

s22

Page	Description	Decision	Legislation
n/a	s22	Refused in full	s. 24A(b)(ii)



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

This letter refers to your request received on 6 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 [Redacted]
[Redacted]
[Redacted]
[Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 5 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 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

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.

STAFF AND CONTRACTOR NAMES - IRRELEVANT MATERIAL

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.

DELETION OF OTHER IRRELEVANT MATERIAL UNDER S.22

Please note that I have deleted other irrelevant material under section 22(1)(a)(ii) of the FOI Act from the following pages:

s22

The materials in question relate to third parties. Your request is for information about yourself and you have indicated in your email request 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.

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

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

Withdrawal of OAIC Review Request

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

Contacting the FOI section

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

Yours sincerely

Imelda

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

Attachments:

Document released:

s22





21 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 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.

s22 [Redacted]

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 10 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 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)

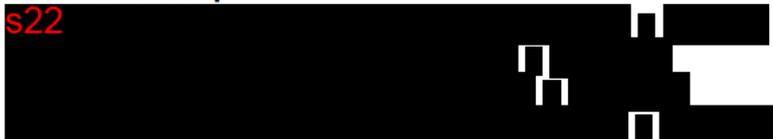
Revised decision

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



STAFF AND CONTRACTOR NAMES DELETION

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

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

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

Withdrawal of OAIC Review Request

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

Contacting the FOI section

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

Yours sincerely

Imelda

Position No. 60009318

Freedom of Information Section

Department of Home Affairs

Email:foi.vic@homeaffairs.gov.au

Attachments

s22 [REDACTED]



26 September 2022

s22

Email: s22

In reply please quote:

s22

Dear s22

Freedom of Information request – Revised decision

This letter refers to your request received on 17 March 2022 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents held by the Department of Home Affairs (the Department):

s22

The Department has interpreted the scope of your request more specifically as:

s22

Deemed refused decision

A 'deemed refusal' has occurred as the time for making a decision has expired on 16 April 2022 and you have not been given a notice of decision.

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

Revocation of deemed refused decision

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

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

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

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

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

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

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

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

Authority to make decision

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

Information considered

In reaching my decision, I have considered the following:

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

Revised decision

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

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

Documents in scope

s22

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

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

Contacting the FOI section

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

Yours sincerely

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



Australian Government

Department of Climate Change, Energy,
the Environment and Water

s22

s22

Via email: s22

Dear s22

Your Freedom of Information request – Charges decision

I refer to your revised request, received by the Department of Agriculture, Water and the Environment on 2 May 2022 for access under the *Freedom of Information Act 1982* (FOI Act) to the following:



s22

s22

s22



s22

On 1 July 2022, environment and water functions from the former Department of Agriculture, Water and the Environment transferred to the Department of Climate Change, Energy, the Environment and Water (**department**) and your request is now considered part of the functions of this department.

Revision of decision

I have decided to waive the charge of \$150.83. My findings of fact and reasons for this decision are discussed below.

My decision

I am authorised to make decisions under section 23(1) of the FOI Act. I have decided under section 55G to set aside and substitute the previous charges decision notified to you.

I have decided not to impose the charge of \$150.83. My findings of fact and reasons for this decision are discussed below.

Preliminary assessment of charge

On 11 May 2022 the department wrote to you to advise you that a charge of \$150.83 would be imposed for processing your request.

The department's preliminary assessment of that charge was calculated as follows:

Search and retrieval time: 4 hours at \$15.00 per hour	\$60.00
Decision-making time: \$20.00 per hour	
Examining pages, redacting and scheduling documents	\$89.33

Consultation with 1 third party at 2 hours per party	\$40.00
Writing statement of reasons	\$61.50
Deduction of 5 hours decision-making time*	-\$100.00
TOTAL	\$150.83

*The FOI Act provides that the first five hours of decision-making time are free of charge and this is reflected in the calculation.

Your contentions

On 12 May 2022, you requested a waiver of the charge for processing your request under the FOI Act, on the grounds that the release of the documents are in the public interest. Specifically, your correspondence provided:



Original charges decision

On 14 June 2022, the department decided to affirm the charge of \$150.83 on the basis that there was no public interest in the release of the documents.

Your request for review to the Information Commissioner

On 9 September 2022 the department was notified of your request for Information Commissioner review of the decision to affirm the charges for your FOI decision dated 14 June 2022.

In your request to the Information Commissioner, you further provided:



Financial hardship

Under section 29(5)(a) of the FOI Act, I am required to consider whether payment of the charge would cause financial hardship to you.

Paragraph 4.101 of the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**) relevantly provides:

'Financial hardship exists when payment of the debt would leave you unable to provide food, accommodation, clothing, medical treatment, education or other necessities for yourself or your family, or other people for whom you are responsible.'

The Guidelines further provide that an applicant relying on the grounds of financial hardship would ordinarily be expected to provide some evidence of financial hardship, such as receipt of an income support payment or evidence of income, debts or assets. In this regard, I note that you have not contested the charges notification due to financial hardship and as such have not provided evidence of your financial status.

Public interest

Under section 29(5)(b) of the FOI Act, I am required to consider whether giving access to the documents would be in the general public interest or the interest of a substantial section of the public.

Paragraph 4.107 of the Guidelines relevantly provides:

'An applicant relying on s 29(5)(b) should identify or specify the 'general public interest' or the 'substantial section of the public' that would benefit from this disclosure (s 29(1)(f)(ii)). This may require consideration of both the content of the documents

requested and the context in which their public release would occur. Matters to be considered include whether the information in the documents is already publicly available, the nature and currency of the topic of public interest to which the documents relate, and the way in which a public benefit may flow from the release of the documents.'

The Guidelines further provide at paragraph 4.109:

'The 'public interest' is a broad concept that cannot be exhaustively defined. When considering the public interest, it is important that the agency or minister direct its attention to the advancement of the interests or welfare of the public, and this will depend on each particular set of circumstances. Further, the public interest is not a static concept confined or defined by strict reference points.'

I have noted your submissions in relation to the public interest as well as your comments to the Information Commissioner in relation to this. I am satisfied that the subject matter of the **s22** **s22** is in the general public interest. As such, I have decided to waive the charges associated with your FOI request.

Time periods for processing your request

As I have decided to not impose the charge, a decision on access to documents is now due to you by 15 November 2022.

Further assistance

If you have any questions, please email foi@dceew.gov.au.

Yours sincerely



Sam Hush
A/g Branch Head
Environment Compliance Branch
Chief Counsel Division

29 September 2022



27 September 2022

Our reference: s22

s22

Only by email: s22

Dear s22

Freedom of Information Request – Revised Decision
Section 55G of the *Freedom of Information Act 1982*

I refer to your request made to Services Australia (the Agency) dated 23 October 2021 for an internal review (IR) of a charges decision issued under the *Freedom of Information Act 1982* (the FOI Act) on 13 December 2021.

You paid the charge on 11 November 2021 and a decision under the FOI Act in relation to your request was notified to you on 13 December 2021.

I am writing to provide you with a revised decision under s 55G of the FOI Act. This decision has the effect of waiving and refunding the charge of s22 that you paid in full.

Revised Decision – Section 55G of the FOI Act

I am authorised to make decisions under s 23(1) of the FOI Act.

Section 55G of the FOI Act provides that an Agency may vary, or set aside and substitute, an original decision at any time during a review conducted by the Australian Information Commissioner.

In accordance with s 55G, I have decided to set aside the Agency's IR decision to reaffirm the charge of s22 for your FOI request s22

In substitution for the decision set aside, I have decided to waive the charge in full and refund you the above amount you paid on 11 November 2021.

We will refund you the charge you paid in full to the credit card used to pay the charge.

Further assistance

If you have any questions, please email FOI.LEGAL.TEAM@servicesaustralia.gov.au.

Yours sincerely

Sarah
Authorised FOI Decision Maker
Freedom of Information Team
Information Access Branch | Legal Services Division
Services Australia