



24 March 2023

D Maheshwari

BY EMAIL: Dushyant Maheshwari <foi+request-9981-3f1e6892@righttoknow.org.au>

In reply please quote:

FOI Request: FA 23/03/00087

File Number: FA 23/03/00087

Dear Dushyant Maheshwari,

Freedom of Information (FOI) request – Access Decision

On 23 February 2023, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

1. What is the criteria of choosing medical centers in India as the panel physicians for Visa examinations?

2. What checklists are used before selecting these medical centers?

2 Authority to make decision

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

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act

- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

4 Documents in scope of request

The Department has identified two documents as falling within the scope of your request. These documents were in the possession of the Department on 23 February 2023 when your request was received.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release one document in full
- Release one document in part with deletions

6 Reasons for Decision

Detailed reasons for my decision are set out below.

My findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

The documents in question contain information held by the Department in relation to Panel doctors appointed by the department for undertaking health checks. I am of the opinion that release of the documents would prejudice the operations of the department in relation to its management of health checks.

Releasing information about the Department's decision in this process will circumvent certain processes in the future. This would result in the Department having to continually change their processes at a cost to the department.

Release would therefore compromise the capacity of the department to carry out one of its management functions, namely the management of Panel doctors.

Finally, releasing this information would prejudice Department's ability to work effectively with the panel doctor's network.

6.1 Section 47E of the FOI Act – Operations of Agencies

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

I consider that the disclosure of the parts of documents marked 's47E(d)' would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

The documents in question contain information held by the Department in relation to Panel doctors appointed by the department for undertaking health checks. I am of the opinion that release of the documents would prejudice the operations of the department in relation to its management of health checks.

Releasing information about the Department's decision in this process will circumvent certain processes in the future. This would result in the Department having to continually change their processes at a cost to the department.

Release would therefore compromise the capacity of the department to carry out one of its management functions, namely the management of Panel doctors.

Finally, releasing this information would prejudice Department's ability to work effectively with the panel doctor's network.

I have decided that parts of the documents are conditionally exempt under section 47E(d) of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard at paragraph 1.1 above.

6.2 The public interest – section 11A of the FOI Act

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

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) *promote the objects of this Act (including all the matters set out in sections 3 and 3A)*
- (b) *inform debate on a matter of public importance*
- (c) *promote effective oversight of public expenditure*
- (d) *allow a person to access his or her own personal information.*

Having regard to the above I am satisfied that:

- Access to the documents would promote the objects of the FOI Act.
- The subject matter of the documents does not seem to have a general characteristic of public importance. The matter has a limited scope and, in my view, would be of interest to a very narrow section of the public.
- No insights into public expenditure will be provided through examination of the documents.

- You do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the document.

- Disclosure to the world at large of the conditionally exempt information contained within document Australian Offshore Panel Physicians Network - Information Pack 2023 would have a substantial adverse effect on the IT Network of the Department. This conditionally exempt information is of value to individuals or organisations who may be interested in crafting a hostile cyber security attack on the IT systems of the Department. I consider that this would be contrary to the public interest and that this factor weighs strongly against disclosure.

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

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

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

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

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

OR
By email to: foi.reviews@homeaffairs.gov.au

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)
Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.

Yours sincerely,

[Signed electronically]

Joanne
Position number 60100057
Authorised Decision Maker
Department of Home Affairs