



## Attachment A

### DECISION RECORD

#### Request Details

FOI Request FA15/11/00365  
File Number ADF2015/60872

#### Scope of request

1. You requested:

*“For the last three financial years (2012-2013, 2013-2014 and 2014-2015):*

- a) Number of Ministerial Intervention Request ("MIR") under s417 and s48B per financial year; and*
- b) Number of MIRs under s417 and s48B by persons who arrived to Australia as an Irregular/Illegal Maritime Arrival per financial year; and*
- c) Number of MIRs under s417 and s48B where the Minister intervened under s417 and s48B per financial year; and*
- d) Number of MIRs under s417 and s48B where the Minister intervened where the applicant arrived to Australia as an Irregulars/Illegal Maritime Arrival.”*

#### Documents in scope

2. There is one document within scope of your request, which was created by the Department to provide the information you sought where possible.

#### Authority to make decision

3. 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

4. In reaching my decision, I have considered the following:

- the terms of your request
- the *Freedom of Information Act 1982*;
- the Australian Information Commissioner’s guidelines relating to access to documents held by government
- Departmental documents, identified in the Schedule of Documents; and
- consultations with relevant business areas.

### **Reasons for decision**

5. 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.
6. 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 reasons(s) for each of the deletions in the document (s.22(3) of the FOI Act).
7. 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.

### **Deletion of exempt material under s.22(1)(a)(i) of the FOI Act**

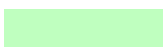
8. No information has been exempted from release under s.22(1)(a)(i).

### **Deletion of irrelevant material under s.22(1)(a)(ii) of the FOI Act**

9. I find that some of the document relevant to your request contains material which is irrelevant to your FOI request. I have withheld or deleted that material accordingly. These deletions are detailed in the Schedule of Documents and the document released.
10. The material deleted under s.22(1)(a)(ii) comprises emails relevant to the management of your FOI request.

### **Section 24A – documents cannot be found, do not exist or have not been received**

11. Your request includes information relating to the number of people who lodged Ministerial Intervention Requests who had arrived in Australia as Illegal Maritime Arrivals.
12. The section of the Department that provided the data in response to your request advised that this information is not kept in a form which can be presented as requested.
13. I therefore refuse access to this information on the basis that it is non-existent (s.24A(1)(b)(ii)).

  
Authorised decision maker  
Department of Immigration and Border Protection  
Email: [foi@border.gov.au](mailto:foi@border.gov.au)

11 May 2016



**Attachment B**

**SCHEDULE OF DOCUMENTS TO DECISION RECORD**

FOI Request FA15/11/00365  
File Number ADF2015/60872

No.	Date of document	Pages	Description	Relevant legislation (FOI Act)	
1.	18 February 2016	1-5	email	Exempted in part	s.22(1)(a)(ii)

## Attachment C – Extract of relevant legislation

### 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.

**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.