

FOI

Subject: FOI Request

Dear

I refer to your request to access your personal records.

I note that you have submitted your request to access these documents using the Right to Know website and as a result documents released to you would be accessible to the public. For this reason you may wish to consider whether you would prefer to provide an alternate email and/or an address to which the Department can correspond with you.

Please note that currently your request has not been registered as valid. I will outline the reasons for this below, I also invite you to contact the Department through another email address.

Requirements of the Act

The requirements for a valid FOI request are set out in section 15(2) of the FOI Act, which provides that:

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).

I am not satisfied that the web address you have provided meets the requirement of 'details of how notices under the FOI Act may be sent to the applicant' (s.15(2)(c) of the FOI Act). Rather, the address you have provided appears to be an address for publication of correspondence on the internet.

For your information the release of personal information to the individual concerned is not released by this Department for publication. This is in accordance with s.11C(1)(a) of the FOI Act.

Next steps

Please consider how you would like to continue to correspond with the Department. You may advise the Department of your contact details by writing to foi@border.gov.au. Please provide this advice **by close of business [three business days]** The request will then be validated.

If you have not provided confirmation by that time, the request will be closed as invalid.

Further information on how to submit and FOI Request to the Department can found in the Departments form 424A, Request for access to documents.

See: <http://www.border.gov.au/Citizenship/Documents/424a.pdf#search=424A%20form>

Yours sincerely

FOI

Subject: Your request for documents - address for a 'notice' under the Act

Our references: [FA 14/XX/XXXX](#); [ADFXXXX/XXXX](#)

Dear [\[Applicant\]](#)

I am writing to you in response to your email dated [\[date\]](#), purportedly under the *Freedom of Information Act 1982* (the Act) and asking that the Department of Immigration and Border Protection (the Department) provide you with a copy of the following document:

[\[scope\]](#)

The purpose of this email is to advise you that I consider the request may be invalid under the Act. I will explain my reasons in full below.

Requirements of the Act

The requirements for a valid FOI request are set out in section 15(2) of the Act, which provides that:

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).

The Act envisages that an agency and the applicant will, where necessary and appropriate, engage in dialogue about the request. The Act also envisages that there may be instances when an agency will wish to send a formal legal notice to an applicant, for example, when the agency believes that it would be a substantial and unreasonable diversion of resources to process the request or intends to charge the applicant for processing the request. In addition, the Act provides applicants with review rights which are activated by the act of the agency 'notifying' the applicant of the decision.

In order to engage in this dialogue, the applicant must provide an address through which the applicant intends to be contactable. It should be an address through which the agency will be able to write to the applicant and receive a response to the communication. It must also be an address through which the agency can reasonably assume that legal notices will be received, read and responded to by the applicant. This requirement has been an element of a valid FOI request since the Act was first enacted in 1982.

Issues regarding your request

I am not satisfied that the web address you have provided meets the requirement of 'details of how notices under this Act may be sent to the applicant' (s.15(2)(c) of the Act). In particular, it does not appear to be an address to which the agency could send a 'notice'. The address you have provided appears to be an address for publication of correspondence on the internet.

Next steps

Please confirm by writing to foi@immi.gov.au that the web address you have provided is an address to which the Department can send you notices, by close of business **[seven days after sent]**. The request will then be validated.

Alternatively you may nominate a separate address for the purpose of the Department issuing you with a 'notice' under the Act.

If you have not provided confirmation by that time, the request will be closed as invalid.

Yours sincerely

[Insert signature block]