



**Australian Government**

**Department of Immigration and Border Protection**

**Attachment A**

**DECISION RECORD**

**Request Details**

FOI Request FA 14/01/00425

File Number ADF2014/1785

**Scope of request**

*any correspondence, emails, messages etc between Garry Fleming, First Assistant Secretary, Migration and Citizenship Policy Division and any one else in that division and Dianne Trionfi or anyone else in the migration agents section regarding Anne O'Donohue of Immigration Solutions and her attendance at meetings regarding a review of the industry.*

*The timeframe is from November 12, 2013 until January 14, 2014*

**Documents in scope**

1. Internal email 1 – dated 13 January 2014 – containing 2 folios.
2. Internal email 2 – dated 8 January 2014 – containing 8 folios.

**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*;
- departmental files and/or documents (identified above);
- the Australian Information Commissioner's guidelines relating to access to documents held by government; and
- the department's FOI handbook

**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.

### **Deletion of exempt or irrelevant material under s.22 of the FOI Act**

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 attached Schedule of Documents 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.

### **FREEDOM OF INFORMATION ACT 1982**

#### **SECT 47F(1)**

#### **Public interest conditional exemptions—personal privacy**

*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).*

*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 under section 47F(1) contain the personal information of a third party. In my view, release of this information would be an unreasonable release of third party personal information and would be contrary to the public interest.

I have considered a number of factors in order to determine whether or not the release of the third parties' personal information would be reasonable or not in the specific circumstances of the case.

Factors considered when applying the unreasonableness test include:

- the extent to which the information is well known;
- the availability of the information from publicly available sources;
- that the documents contain third party personal information;
- 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;
- how the information was obtained; and
- the current relevance and age of the information.

In my view, when all circumstances are considered, the release of personal information would be unreasonable in the circumstances as it would constitute an unreasonable invasion of a third parties' privacy.

The FOI Act now provides that 'conditionally exempt' information must be released unless the decision maker reaches the view that release of the information would be 'contrary' to the public interest.

I am satisfied that the information I have exempted under section 47F(1) contain personal information and the disclosure would be contrary to the public interest. When assessing the public interest test, I have considered:

Factors in favour of disclosure:

- promote the objects of the Act; and
- the extent to which the information is well known.

Factors against disclosure:

- could reasonably be expected to prejudice the protection of an individual's right to privacy.

On balance, I am satisfied that release of the personal information exempt within the documents would be contrary to the public interest and is therefore exempt under section 47F(1) of the FOI Act. The factor against disclosure relating to the protection of an individual's right to privacy was given the most weight. The benefit to the public resulting from disclosure is outweighed by the benefit of withholding the information.



Shannon Bevan  
Authorised decision maker  
Position Number: 00003160  
FOI and Privacy Policy Section  
Ministerial, Executive and External Accountability Branch  
Department of Immigration and Border Protection  
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24 March 2014



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 14/01/00425

File Number ADF2014/1785

1. Internal email 1 – dated 13 January 2014

Folio	Description	Decision	Legislation
1	Information containing personal information	Exempt in Part	s.47F(1)
2		Release in full	

2. Internal email 2 – dated 8 January 2014

Folio	Description	Decision	Legislation
1-3	Information that is irrelevant to the request	Exempt in Part	s.22(1)(a)(ii)
4-6	Information that is irrelevant to the request	Exempt in Full	s.22(1)(a)(ii)
7	Information that is irrelevant to the request	Exempt in Part	s.22(1)(a)(ii)
8	Information that is irrelevant to the request	Exempt in Full	s.22(1)(a)(ii)



Australian Government

Department of Immigration and Border Protection

Attachment C

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.

#### 47F Public interest conditional exemptions—personal privacy

##### *General rule*

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
  - (a) the extent to which the information is well known;
  - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
  - (c) the availability of the information from publicly accessible sources;
  - (d) any other matters that the agency or Minister considers relevant.
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

##### *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).

**To:** Garry FLEMING[garry.fleming@immi.gov.au]  
**From:** Diana TRIONFI  
**Sent:** Mon 13/01/2014 12:15:59 AM  
**Subject:** FW: [DLM=For-Official-Use-Only]

For-Official-Use-Only

Garry – Anne just called me and I will come round and relay the conversation.

diana

Diana Trionfi  
Director

Migration Agents Policy Section

Visa Framework and Family Policy Branch

Department of Immigration and Border Protection

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For-Official-Use-Only

**From:** Erskine Rodan [mailto:e.rodan@erskinerodan.com.au]  
**Sent:** Monday, 13 January 2014 11:04 AM  
**To:** Diana TRIONFI  
**Subject:**

Hi Diane, Anne O'Donoghue s. 47F(1) is not coming to the 14<sup>th</sup> Feb meeting.

Given the Workshop's Agenda and also given that she is the Treasurer of the International Law Section of the Law Council (of which the Migration law committee is a sub committee she wishes to attend. The issues to be discussed by the Workshop are policy issues. Can you make space for her . Please. Erskine



**Erskine H. Rodan** - Partner

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**To:** Garry FLEMING[garry.fleming@immi.gov.au]  
**Cc:** Richard JOHNSON[Richard.JOHNSON@IMMI.gov.au]  
**From:** Diana TRIONFI  
**Sent:** Wed 8/01/2014 12:57:27 AM  
**Subject:** Workshop attendees [DLM=For-Official-Use-Only]


For-Official-Use-Only

Garry – for your consideration.

As a thought, this group could be a steering committee with working groups set up to manage specific aspects of the review.


I have already invited to the workshop (apart from yourself):

s. 22(1)(a)(ii)



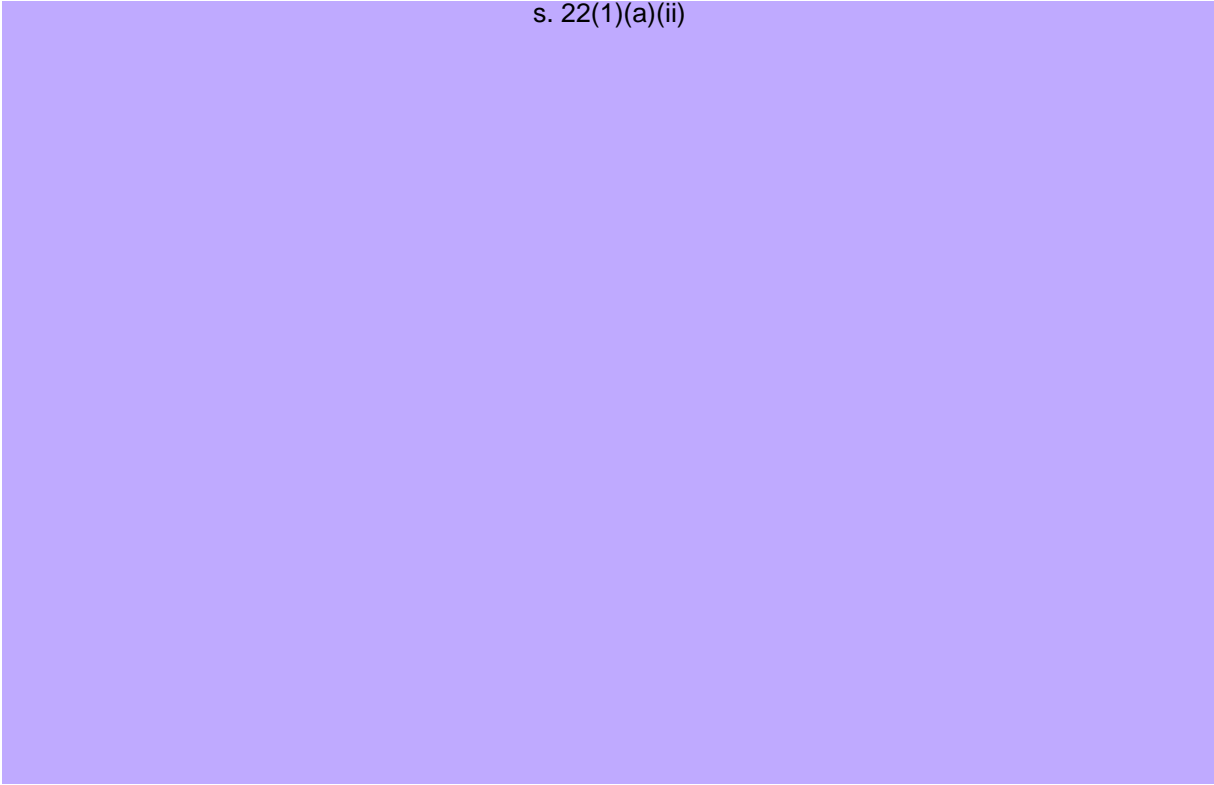
Others for your consideration:

s. 22(1)(a)(ii)



Released by DIBP under the  
Freedom of Information Act 1982

s. 22(1)(a)(ii)



Regards

Diana

Diana Trionfi  
Director

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## MIA Skilled Migration Policy and Procedures Committee

Committee members have the following areas of interest and speciality:

### GSM

s. 22(1)(a)(ii)

### Employer Sponsored

s. 22(1)(a)(ii)

### Business Skills


s. 22(1)(a)(ii)

*Committee members are keen to learn of issues and problems do with legislation, policy or processing procedures that Members are experiencing in these areas of the Skilled Migration Program and welcome comments by [email](#). The Committee will particularly interested in views on the 1 July changes' effects.*

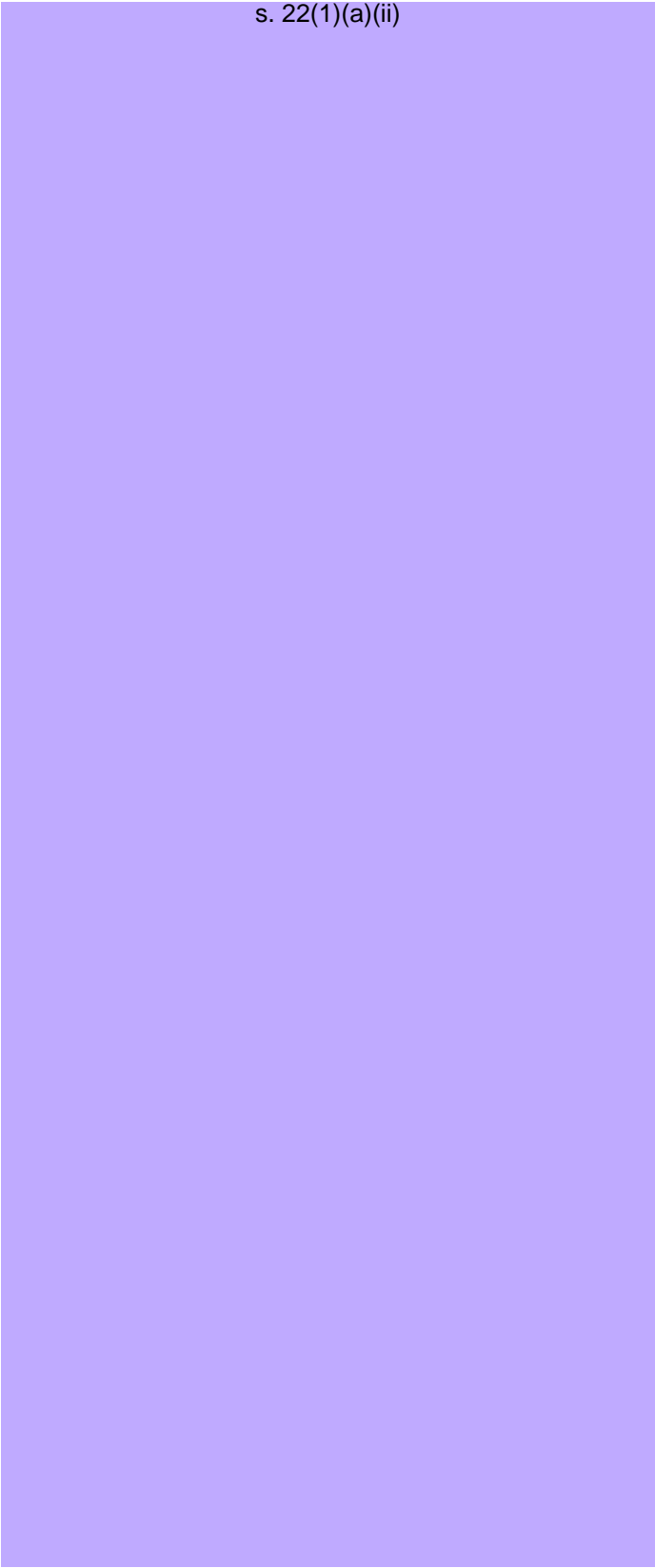
### MIGRATION LAW COMMITTEE 2013-15

### OFFICE BEARERS

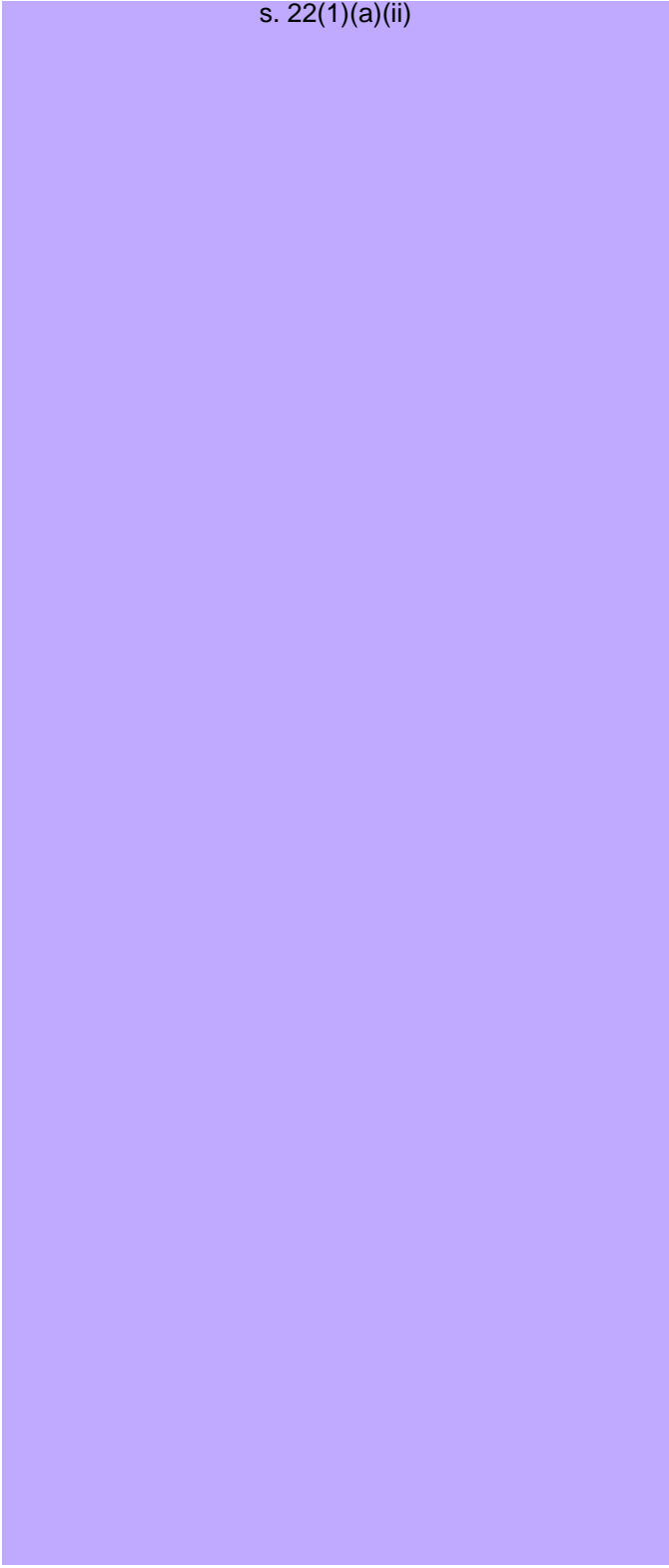
s. 22(1)(a)(ii)



s. 22(1)(a)(ii)



s. 22(1)(a)(ii)



s. 22(1)(a)(ii)

**Ms Anne O'Donoghue**

Steering Group Member

Migration Law Committee

ILS Executive Treasurer 2012-14

Chair

Sydney Conference Organising Committee

Principal Solicitor

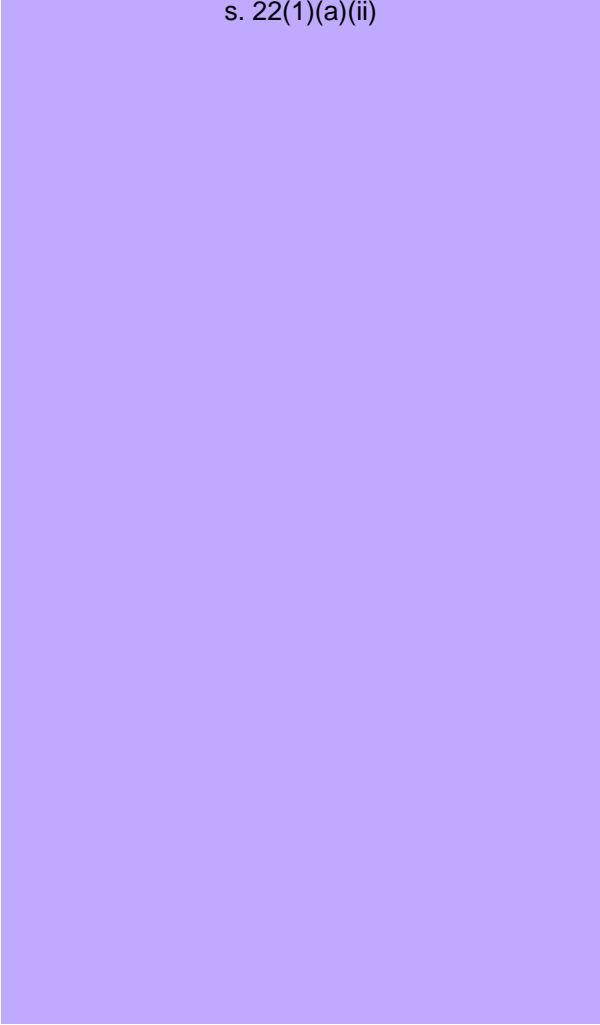
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s. 22(1)(a)(ii)



s. 22(1)(a)(ii)



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