



6 September 2017

BY EMAIL: [REDACTED]

**In reply please quote:**

FOI Request: FA 17/06/00587

File Number: ADF2017/64255

Dear [REDACTED]

**Freedom of Information – Decision on Access**

I refer to your email dated 20 July 2017 in which you requested access to documents held by the Department of Immigration and Border Protection (the Department) under the *Freedom of Information Act 1982* (the FOI Act).

**1 Scope of Request**

You have requested access to the following documents held by the Department:

*Copies of the Department's policies and procedures regarding the movement of clients between detention centres, specifically what the Department means by 'operational requirements/reasons' when moving clients between centres.*

This letter is to notify you of the Department's decision on access to the documents subject to your request.

**2 Authority to make decision**

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

**3 Relevant material**

In reaching my decision, I have considered the following:

- the terms of your request;
- the documents relevant to your request;
- the FOI Act;
- Guidelines published by the Office of the Australian Information Commissioner under s 93A of the FOI Act, and
- 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 one document that falls within the scope of your request. This document was in the possession of Department on 20 July 2017 when your FOI request was received.

A schedule of this document is at **ATTACHMENT A** for your reference.

#### **5 Decision on access**

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

- Release one document in part with deletions.

#### **6 Reasons for Decision**

I am satisfied that I have been provided with all the documents that are relevant to your request. Attachment A sets out the decision on access and where appropriate, refers to various sections of the FOI Act. My reasoning in relation to the application of each section to particular documents is set out below.

##### **6.1 Section 22 of the FOI Act – irrelevant to request**

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 20 June 2017, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that parts of the document would disclose information that could reasonably be regarded as irrelevant to your request, and have therefore prepared an edited copy of the document, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

##### **6.2 Section 37 of the FOI Act - Documents Affecting Enforcement of Law and Protection of Public Safety**

Section 37(2)(b) of the FOI Act provides that documents are exempt from disclosure if its disclosure would, or could reasonably be expected to 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 could reasonably likely to, prejudice the effectiveness of those methods or procedures.

I consider that parts of the document would, or could reasonably be expected to disclose lawful methods or procedures for preventing or detecting breaches or evasions of the law and that disclosure would, or would reasonably likely to, prejudice the effectiveness of those methods or procedures.

It is noted that the Department's role includes managing the security and integrity of Australia's borders. The Department leads the management of risks to Australia's border in close collaboration with other government agencies, including State and Federal law enforcement agencies. As such, the Department's role includes law enforcement functions.

The disclosure of information within these documents would be reasonably likely to impact on ongoing investigative methodology and relationships both domestically and internationally that support Australian government investigative capabilities. The release of this information would prejudice the effectiveness of those methods or procedures, assisting endeavours to evade them and thereby reducing the ability of the Department and other law enforcement agencies to protect the borders of Australia.

I have decided that this information is exempt from disclosure under Section 37(2)(b) of the FOI Act.

## **7 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 parts of the document 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 material exempted under s.47E(d) in the document consists of detention compliance strategy and risk management procedures relating to certain detainee risk categories. Release of this information would allow parties to circumvent the Department's risk mitigation strategies, subsequently reducing the effectiveness of compliance activities within its detention centres.

In addition, there is information that would disclose direct contact details for operational areas within this Department that are not otherwise publicly available. I consider that the disclosure of this information could reasonably be expected to result in potential vexatious communications and general public inquiries being directed to these contact points, which these operational areas are not resourced to manage. The Department has established channels of communication for members of the public into the Department, and I consider there is no public interest in disclosing these operational contact details. Given the operational focus of these business areas, I am of the view that such a diversion of their resources to manage potentially vexatious communications and general inquiries into the Department could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

Accordingly, I have decided that 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 at paragraph 7.1 – *The public interest test*.

### **7.1 The public interest – section 11A of the FOI Act**

As I have decided that parts of the document 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 document would promote the objects of the FOI Act.
- I consider that the subject matter of the document does have the character of public importance and that there may be broad public interest in the document.
- I consider that no insights into public expenditure will be provided through examination of the document.
- I am satisfied that you do not require access to the document in order to access your own personal information.

Disclosure of all aspects of the document would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within the Department, promote scrutiny of government decision making or reveal the reasoning for a government decision. I consider these considerations as neutral.

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

- I consider that the ability of the Department to maintain effective detention compliance activities and prevention strategies to be in the public interest. This is a factor which I consider strongly weighs against disclosure.
- I consider that the ability of the Department to utilise email addresses and telephone numbers, which are not at risk of being maliciously targeted to be in the public interest.

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 is not in the public interest and therefore exempt from disclosure under the FOI Act.

## 8 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.

## 9 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:

Freedom of Information Section  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

OR

By email to: [foi.reviews@border.gov.au](mailto:foi.reviews@border.gov.au)

### 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 Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

## 10 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](mailto: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 Immigration and Border Protection as the relevant agency.

## 11 Contact

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@border.gov.au](mailto:foi@border.gov.au).



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

## ATTACHMENT A

### Schedule of Documents

FOI request: FA 17/06/00587

File Number: ADF2017/64255

	Date of document	No. of pages	Description	Decision on release	
1.	2 September 2016	33	Assessment and Placement of Detainees in Immigration Detention Facilities in Australia – Standard Operating Procedure	Partial release	s.22(1)(a)(ii) s.37(2)(b) s.47E(d)