



11 October 2017

In reply please quote:

FOI Request: FA 17/07/00862
File Number: ADF2017/79452

Dear [REDACTED]

Freedom of Information – Decision on Access

I refer to your email dated 25 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:

"Reports, Senate Estimates Briefings, ministerial/departmental briefings and attachments, internal correspondence (in relation to latter please limit to the Department Secretary), in relation to:

1. *The number of visitors on either:*
 - a. *student visas*
 - b. *working holidaymaker visas*
 - c. *bridging visas or*
 - d. *s457 visas*

who have been discovered or believed to have engaged in prostitution activity while in Australia each year for the last three years. Information about the cancellation of visas because of prostitution related activity would be useful in fulfilling this aspect of my request.

Relevant data for the past three financial years 2014/15, 2015/16 and 2016/17.

2. *The number of applications received each year by Immigration for any of the already mentioned visas classes where the purpose of the visit is prostitution, escort or massage related activity. I am interested in the annual statistics on this issue for the last three years.*

Relevant data for the past three financial years 2014/15, 2015/16 and 2016/17.

3. *Any report to senior management and/or the minister's office produced in the last two years about the extent and use of either*
- a. *student visas*
 - b. *working holidaymaker visas*
 - c. *bridging visas or*
 - d. *s457 visas*
- for the transport and employment of prostitutes and sex workers in Australia.*

Relevant data for 1 July 2015 to 30 June 2017.

If the document refers to CCTV footage or photos and they're not attached to that document, can you please undertake additional searches."

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 Information considered

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
- Advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

4 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.

5 Documents in scope of request

The Department has identified four (4) documents that fall within the scope of your request. A Schedule of Documents is located at **Attachment A**.

5.1 Section 17 of the FOI Act - Requests involving use of computers

Section 17 of the FOI Act provides that where an agency can produce a written document containing the information in discrete form by the use of a computer, and the work required would not substantially and unreasonably divert resources of the agency from its other operations, the agency shall deal with the request as if it were a request for access to a written document so produced.

The Department has created two (2) of the documents that fall within the scope of your request by the use of computer systems.

6 Decision on access

My decision is to release the four (4) documents within the scope of your request in full with irrelevant material removed.

6.1 *Part 1 – Statistics relating to temporary visa holders engaged in prostitution activity*

No discrete document currently exists in the possession of the Department that contains the data you have sought in part 1 of your request.

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains the number of illegal workers locating within the personal and other services (sex industry) (Document 3). My decision is to release this document in full.

In relation to the cancellations component of your request, prostitution related activity is not a recordable offence type on the Department's cancellation-related systems. Whilst the data you have requested may exist within the Department's computer systems, the work required to produce that data would interfere unreasonably with the operations of the Department. I am satisfied that the Department is not required to produce a document by use a computer under section 17 of the FOI Act.

Access to this part of the information you have requested is therefore refused under section 24A(1) of the FOI Act.

6.2 *Part 2 – Statistics relating to temporary visa applications received where the purpose of the visit is prostitution, escort or massage related activity*

No discrete document currently exists in the possession of the Department that contains the data you have sought in part 2 of your request.

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains the requested information regarding massage related activity (Document 4). The Department is not able to produce the data from its computer systems in relation to prostitution or escort related activity as the data is not captured by the Department in a way that could be reported on

My decision is to release this document in full.

6.3 *Part 3 – Reports relating to temporary visa use for transport or employment of prostitutes and sex workers.*

The Department has undertaken reasonable searches to identify any documents that would be relevant. After consulting with the relevant business areas, I am satisfied that all relevant documents (electronic or hard copy) in possession of the Department that fall within the scope of your request have been provided to you at **Attachment B**.

6.4 *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 31 July 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 all staff, contained in documents that fall within scope of an FOI request.

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

7 Your Review Rights

Internal Review

If you disagree with my decision, you have the right to apply for an internal review by the Department of my decision. Any request for internal review should be made within 30 days or such further period as the agency allows following notification of the decision. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker.

Applications for review should be sent to:

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

Or by email to: 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>.

8 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 Immigration and Border Protection as the relevant agency.

9 Contact

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


Authorised Decision Maker
Caseload Assurance Branch
Freedom of Information Section
Department of Immigration and Border Protection

Attachments

- Attachment A – Schedule of Documents
- Attachment B – Documents released



Attachment A

SCHEDULE OF DOCUMENTS TO DECISION RECORD

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No.	Date of document	No. of pages	Description	Decision on release	
1	24 May 17	7	Meeting Brief	Released in full Irrelevant material removed	s 22(1)(a)(ii)
2	26 May 17	3	Talking Points	Released in full	
3	7 Jul 16	1	Statistics Report	Released in full	
4	3 Aug 17	1	Statistics Report	Released in full	