



14 March 2018

s. 47F(1)  
BY EMAIL: s. 47F(1)

**In reply please quote:**

FOI Request: FA 17/12/00572  
File Number: ADF2017/134239

Dear s. 47F(1)

**Freedom of Information (FOI) request - Access Decision**

On 14 December 2017, the Department of Home Affairs (the Department) received a request for access to document under the *Freedom of Information Act 1982* (the FOI Act).

On 20 December 2017 the Home Affairs Portfolio, including the Department of Home Affairs, was formally established. The Department of Home Affairs includes the entirety of the Department of Immigration and Border Protection, the Australian Border Force and the Office of Transport Security from within the Department of Infrastructure and Regional Development. It also includes specific functions from the Attorney-General's Department, the Department of Social Services and the Department of the Prime Minister and Cabinet.

As such a decision has now been made on your request by the Department of Home Affairs (the Department).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

**1 Scope of request**

You have requested access to the following document:

- (a) *A list of departmental officers with delegation to cancel visas under s109 of the Migration Act 1958 as at 24 November 2017, identified by position number.*

On 12 February 2018 you provided further context to your request, as follows:

- (b) *The section of the Department my request relates to is the General Cancellations Network. If it assists, I can limit my request to the officers in the Visa Cancellation Unit – VIC. The request stems from a revelation that a number visa cancellations under s 109 of the Migration Act 1958 were made by an officer or officers without the requisite delegation.*

## 2 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 document or to amend or annotate records.

## 3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the document relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the document to which you sought access
- the Department's guidance material on the FOI Act

## 4 Document in scope of request

The Department has identified one document as falling within the scope of your request. This document was in the possession of the Department on 14 December 2017 when your request was received.

**Attachment A** is a schedule which describes the relevant document and sets out my decision in relation to it.

## 5 Decision

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

- Release one document in full

## 6 Reasons for Decision

Detailed reasons for my decision are set out below.

In response to further addressing part (a) of your request, the Department can advise the following:

- *The delegation of powers under the Migration Act are accorded on the basis of business area and level of position. Therefore, it is not possible to determine whether a particular person held the relevant delegation using position number alone.*

In further addressing part (b) of your request, the Department is able to advise the following:

- *Departmental systems indicate that on 24 November 2017 the General Cancellation Network made only one s109 cancellation decision. The Department of Home Affairs are able to confirm this decision was made lawfully and with the appropriate delegation according to the GIDAM 4 – Community Protection – Delegation and Authorisation 2017.*

## 7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

## 8 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:

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

OR

By mail to:  
Freedom of Information Section  
Department of Home Affairs  
PO Box 25  
BELCONNEN ACT 2617

### 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>.

## 9 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 Home Affairs as the relevant agency.

## 10 Contacting the FOI Section

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

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

**FOI Officer | Freedom of Information Section  
FOI, Privacy and Records Management Branch  
Corporate Services Division  
Department of Home Affairs**

**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS  
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982***

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No	Date of document	No. of pages	Description	Decision on release	
1.	20 June 2017	22	Migration (Minister) (GIDAM 4 Community Protection) Delegation and Authorisation 2017 (No.2)	Release in full	