



25 September 2018

[Redacted]

**In reply please quote:**

FOI Request: FA 18/07/00105  
File Number: ADF2018/15135

Dear [Redacted]

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

On 2 July 2018, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

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 documents:

1. EOI data for 190 Visa during FY16/17 and 17/18. One chart for 3 month period. Showing them in tables indicating population, mark and state, only require data on VIC and NSW.
2. EOI data for occupation ANZCO 252411 and 252511 for any permanent visa (including pathway visa) during FY 16/17 and 17/18. showing in tables, indicating population, mark and visa type.
3. Internal guide on how to assess the visa subclass 190 and 189.
4. How many invitations for visa subclass 189 and 190 are issued during FY16/17 and 17/18 and how many 189 and 190 visas are granted during above time interval?

On 16 July 2018 you agreed to revise the scope of your request to the following documents:

1. EOI data for 190 Visa during FY16/17 and 17/18. One chart for every 3 month period. Showing them in tables indicating population, mark and state, only require data on VIC and NSW.
2. EOI data for occupation ANZCO 252411 and 252511 for any permanent visa (including pathway visa – visa subclasses 186 187 189 190 489 887) during FY 16/17 and 17/18. Showing in tables, indicating population, total points score and visa subclass.

3. *Internal guide on how to assess the visa subclass 190 and 189.*

4. *How many applications for visa subclass 189 and 190 are issued during FY16/17 and 17/18 and how many 189 and 190 visas are granted during the whole of 16/17 and 17/18?*

## **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 documents or to amend or annotate records.

## **3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your 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 documents to which you sought access

## **4 Documents in scope of request**

The Department has identified eight documents as falling within the scope of your request. These documents were in the possession of the Department on 2 July 2018 when your request was received.

In addition, in accordance with section 17 of the FOI Act, the Department has used its computer system to produce three documents that contains information that falls within the scope of your request. The data produced in these documents existed in the possession of the Department on 2 July 2018 when your FOI request was received.

## **5 Decision**

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

- Release six documents in full
- Exempt two documents in full from disclosure

## **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

My findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

### **6.1 Section 47C of the FOI Act – Deliberative Processes**

Section 47C of the FOI Act provides that a document is conditionally exempt if its disclosure would disclose 'deliberative matter'. Deliberative matter includes opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the deliberative processes of an agency. 'Deliberative processes' have

previously been described as ‘the process of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.’

The information does not fall within any of the exclusions in subsections 47C(2) and (3) of the FOI Act.

The documents are related to question 3 of the request for Subclass 190 and Subclass 189, which are currently under review and cannot be released until the deliberative process has been completed.

I have decided that the information is conditionally exempt under section 47C 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 in that regard below

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

As I have decided that parts of the documents 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 documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does not seem to have the character of public importance. The matter has a very limited scope and, in my view, would be of interest to a very narrow section of the public.
- I consider that no insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

Disclosure of the documents 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 documents:

- Disclosure of the conditionally exempt information under s.47C of the FOI Act could reasonably be expected to prejudice the ability of the Department to review or create policies and/or procedures, in relation to assessment of applicants for visa Subclasses 189 and 190. I consider that the disclosure of this type of deliberative material may hinder similar future policy and document updates and decision making processes. This is a factor which I consider strongly weighs against disclosure.

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.

## **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).

