



Australian Government
Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Details

FOI Request FA 13/11/00743-R1
File Number ADF2013/38289

Background to your original request

In your original request (received on Tuesday 19 November 2013) you sought access under the Act to the following documents:

'...the document entitled "Migration Agents/Authorised recipients of Concern List A and List B" as used by Immigration and held by the Partner Migration Integrity Liaison Officer or any other officer.

I would also like any documents which explain the reasoning behind the migration agents/ authorised recipients being on this list and any documents which show the process in which any complaints/allegations which have caused these agents to be put on the lists have been put to those agents for their response. I would also like any documents showing how long the lists have been in use.'

The Department's response to your FOI request

On 16 December 2013, Ms Nolte-Crimp advised you that she had exempted in full the one document that fell within the scope of the first element of your request and refused the second element of your request on the grounds that no documents existed that fell within that part of your request.

Your request for review

On 19 December 2013, you emailed the Department, requesting:

I would like a review of the decision because I consider it in the public interest that it be revealed that the department has a little black list of agents whose applications are viewed in a different way to those lodged by other agents. I have not asked for the risk assessments or visa assessment information just the list.

I would also like a review of the decision that said that there are no documents which explain why agents would be on that list. It is reasonable to assume that the department must have some policy or methodology or complaints list that would prompt the inclusion of migration agents on the list.

Documents in scope

The Department holds 20 documents that I believe are in scope. I have listed them in the Schedule of Documents attached to this decision.

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone 02 6264 1111 • Facsimile 02 6225 6970 • Website: www.immi.gov.au

Decision and reasons for decision

I am authorised under Section 23 of the *Freedom of Information Act 1982* (the Act) to make a decision on your FOI request for internal review of the decision made by Ms Nolte-Crimp on 16 December 2013. My role is to make a fresh decision (s.54C(3) of the Act), taking into account the relevant information.

I have exempted some documents in full and released the remainder with irrelevant or exempt material deleted under s.22 of the Act.

In reaching my decision, I have considered the following:

- your views and advice;
- the Act;
- the FOI Guidelines published by the Office of the Information Commissioner (IC Guidelines);
- where relevant, the *AGS Freedom of Information Guidelines* - Department of PM&C 2009 (PM&C Guidelines);
- the views of relevant third parties; and
- advice from the relevant business areas within the Department.

Prior to explaining my reasons for applying the exemptions to the documents, I thought it would assist if I explained the operation of s.22 to deleting exempt or irrelevant material.

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

Section 22(2) of the 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 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 Act.

Conditionally exempt documents

The documents I have considered fall under a range of 'conditional' exemptions in the Act. Therefore, I will explain what a 'conditionally exempt' document is before discussing the individual exemptions I have applied.

The Act was amended in November 2010 to impose a new public interest test on all 'conditionally exempt' information, including personal information. The 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.

The public interest test

Factors weighing in favour of release

In weighing up the public interest test, s.11B(3) of the Act states that a decision maker **must** consider whether disclosure of the personal information would:

- (a) promote the objects of the Act; or*
- (b) inform debate on a matter of public importance; or*
- (c) promote effective oversight of public expenditure; or*
- (d) allow a person to access his or her personal information.*

The objects of the Act, set out in s.3(1) are to give the Australian community access to information held by the Government of the Commonwealth by providing, amongst other things, for a right of access to documents. The intention of Parliament is to promote Australia's representative democracy by increasing public participation in Government processes, with a view to promoting better-informed decision-making and increasing scrutiny, discussion, comment and review of the Government's activities

Factors weighing against release

The Act does not contain any factors 'against' disclosure. However, the Act states that, if the Australian Information Commissioner has issued Guidelines (IC Guidelines) that set out factors weighing against disclosure, then the decision maker must also consider those factors when weighing the public interest (s.11B(5) of the Act).

The Information Commissioner has since issued Guidelines that contain a **non-exhaustive** list of factors that a decision maker **must** consider when weighing whether it is contrary to the public interest to release 'conditionally exempt' information (paragraph 6.29 of the IC Guidelines).

The elements that weigh against disclosure are:

Whether disclosure of the personal information could reasonably be expected to:

- (a) prejudice the protection of an individual's right to privacy, including where:*
 - i. the personal information is that of a child, where the applicant is the child's parent, and disclosure of the information is reasonably considered not to be in the child's best interests*
 - ii. the personal information is that of a deceased individual where the applicant is a close family member (a close family member is generally a spouse or partner, adult child or parent of the deceased, or other person who was ordinarily a member of the person's household) and the disclosure of the information could reasonably be expected to affect the deceased person's privacy if that person were alive.*
- (b) prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct*
- (c) prejudice security, law enforcement, public health or public safety*
- (d) impede the administration of justice generally, including procedural fairness*

- (e) *impede the administration of justice for an individual*
- (f) *impede the protection of the environment*
- (g) *impede the flow of information to the police or another law enforcement or regulatory agency*
- (h) *prejudice an agency's ability to obtain confidential information*
- (i) *prejudice an agency's ability to obtain similar information in the future*
- (j) *prejudice the competitive commercial activities of an agency*
- (k) *harm the interests of an individual or group of individuals*
- (l) *prejudice the conduct of investigations, audits or reviews by the Ombudsman or Auditor-General*
- (m) *prejudice the management function of an agency*
- (n) *prejudice the effectiveness of testing or auditing procedures*

I will now consider each conditional exemptions that I have applied in my decision.

s.47C – deliberative documents

A document is 'conditionally exempt' under s.47C of the Act if

'...its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded; or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of...an agency...'

The information that I have exempted under s.47C(1) comprise risk matrices, risk tiering tools and descriptions of how the matrices (and by inference, the tools) are 'used' – being Documents 1,2, 3, 4, 5, 10, 13, 16 and 19 (the 'deliberative' documents).

The relevant business area has advised that the risk tiering tools are used to assess whether an application in the Partner Migration Programme is considered to be a 'high' risk. A number of factors are considered when assessing the applications. 'High risk' applications are processed by more senior and experienced officers, with the understanding that greater scrutiny will be applied to a number of factors for the 'high risk' applications. I am not obliged to disclose those factors as that would amount to disclosing exempt information (s.26(2) of the Act).

The PM&C Guidelines (paragraph 7.2.1) note that *'the deliberative processes of an agency, a Minister or the Government are the thinking, reflecting, deliberating, consultation and recommendation that occur prior to a decision, or before or while undertaking a course of action'*. Further, *'deliberation suggests not only collective discussion but collective acquisition and exchange of facts preliminary to an ultimate decision'*.

I am satisfied that the risk tiering matrices and tools were and currently are used to collect and exchange 'facts' about the risk level of specific applications for visas. The purpose of the tools was and is to assist the Department to identify a particular class of applications early in the application process and to ensure that those applications attract the correct level of expertise. As a result, I am satisfied that the tools are used as part of the 'thinking process' of

the Department. I am also satisfied that the advice on how to use the tools was critical to this deliberative process.

Consequently, I am satisfied that the information I have identified as exempt under section 47C(1) meets the description of 'deliberative matter' in the Act and is conditionally exempt. Therefore, I must now consider whether its release would be contrary to the public interest.

Public interest test - factors favouring disclosure

I have considered, below, the factors as set out in s.11B(3) of the Act and discussed previously.

I am satisfied that the release of the documents would promote the objects of the Act as it would provide access to information held by Government and that this factor weighs in favour of the release not being 'contrary to the public interest'.

However, I am not satisfied that the release would inform debate on a matter of public importance. The use of risk assessment tools in the governance of organisations is not controversial – http://en.wikipedia.org/wiki/Risk_assessment . On balance, this factor does not weigh in favour of release.

Further, I am not satisfied that the release of the deliberative documents would promote the effective oversight of public expenditure. I note that one of the reasons the risk tiering tools were developed was to make the most effective and efficient use of the Department's resources. It is my view that the release of the information could have a detrimental impact on the efficiency of the programme. Therefore, this factor also does not weigh in favour of release.

Finally, the release of the information would not 'allow' you to access your own information. This factor does not weigh in favour of release.

In summary, only the first public interest factor weighs in favour of release.

Factors weighing against disclosure

As discussed above, the IC Guidelines contain a list of 'non-exhaustive' factors that must be considered when determining if release of a document is against the public interest (s.11B(5) of the Act). The factors focus on the 'prejudice' caused by the release of the information. I note that the agency may also consider other relevant factors not listed in the IC's Guidelines.

The PM&C Guidelines (para 7.3.4), when discussing the public interest test relating to deliberative documents in the pre-reform version of s.47C (then s.36) noted:

'...Underlying all the relevant public interest factors that could be invoked against disclosure under this exemption provision is the need to consider the extent to which disclosure of the documents would be likely to impede or have an adverse effect upon the official administration of the agency concerned...'

In this case, I am satisfied that the release of the deliberative documents as identified would prejudice the effectiveness of the Partner Migration Programme because it would require the Department to cease using the current tools and to develop new ones which may not be as

effective as the current ones. It would stop the Department from undertaking an important step in the deliberative process, which is to gather relevant evidence relating to applications in the Partner Migration Programme and to assess that information against the risks inherent in the application process.

I have accorded significant weight to that consideration. As a result, on balance, I am satisfied that release of the information on the documents would be contrary to the public interest and that the information I have deleted in the documents under section 47C(1) of the Act is exempt information. In addition, I am satisfied that the documents I have exempted in full under s.47C(1) are exempt documents.

s. 47F - Personal information

A document is ‘conditionally exempt’ under s.47F(1) of the Act if its release would involve the *‘unreasonable disclose of personal information about any person, including a deceased person’*.

For information or documents to be exempt under this provision, the information in the documents must meet the definition of ‘personal information’ in s.4(1) of the Act and I must be satisfied that the release of the information is ‘unreasonable’.

Factors that may be considered when determining whether release is ‘unreasonable’ include the nature of the information; the circumstances in which it was obtained; the likelihood of it being information that the person concerned would not wish to have disclosed without consent; and whether the information has any current relevance.

I have applied this exemption to all documents excluding Documents 1, 2, 3, 7, 16 and 19. The information I have identified as exempt under s.47F(1) comprises names of migration agents, the name of an employee of a third party business, the name of an applicant to the Department, mobile telephone numbers of departmental employees and the signature of an employee of the Migration Review Tribunal.

I am satisfied that the information in question is ‘personal information’ and I am satisfied that the release of this information would be ‘unreasonable’ in the context of the request.

Therefore, I am satisfied that the conditional exemption in s.47F(1) applies to the documents containing ‘personal’ information. As a result, I must consider the application of the public interest test in s.11B of the Act to determine whether the release of the information in the documents would be ‘contrary to the public interest’.

Factors favouring disclosure

I have considered, below, the factors as set out in s.11B(3) of the Act, discussed previously.

I am satisfied that the release of the documents would promote the objects of the Act as it would provide access to information held by Government and that this factor weighs in favour of the release not being ‘contrary to the public interest’.

However, I am satisfied that the release of the personal information contained in the relevant documents would not have any bearing on or relevance to any matter of public debate. Therefore this factor does not weigh in favour of release.

Further, I am satisfied that the release of the personal information is irrelevant to the effective oversight of public expenditure. Therefore, this factor does not weigh in favour of release.

Finally, the release of the documents containing third parties' personal information would not allow you to access your own information. This factor does not weigh in favour of release.

In summary, only the first public interest factor weighs in favour of release.

Factors weighing against disclosure

As discussed previously, the IC has issued Guidelines that contain a list of factors weighing against disclosure which must be considered under s.11B(5) of the Act.

I consider that these factors are relevant to the personal information in the identified documents:

- prejudice the protection of an individual's right to privacy;
- prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and
- could reasonably be expected to harm the interests of an individual or group of individuals.

I have accorded these three factors significant weight. Therefore, on balance I am satisfied that releasing the personal information in the documents would be contrary to the public interest and that the information I have deleted in the documents under section 47F(1) of the Act is exempt from release under the Act.

s. 47G - business exemption

A document is conditionally exempt under s.47G(1)(a) if its release would, amongst other things, disclose information concerning a person's business affairs and the disclosure could be expected to affect the person adversely in those business affairs. As discussed above, a conditionally exempt document must be released under the Act unless the release would be 'contrary to the public interest'.

I have identified information in Documents 5, 6, 7, 8, 11, 12, 17, 18 and 20 that I consider to be information concerning a range of third parties' business affairs where the disclosure of the business information could adversely affect those people in their business affairs.

I note that I have not been able to consult with the migration agents/authorised recipients on the lists in Documents 5, 11, 17 and 20 and so have formed the view that it would be unreasonable to release their business information to you.

In addition, I have consulted with the third party business owner (Documents 6, 7, 8, 12 and 18) and can advise you that the owner of the information objected to its release. Consequently, I have formed the view that the information in the documents that I have deleted as exempt information under s.47G(1)(a) is conditionally exempt information.

Therefore, I must consider the application of the public interest test to that information.

Factors favouring disclosure

I have considered the factors as set out in s.11B(3) of the Act and discussed previously.

I am satisfied that the release of the documents would promote the objects of the Act as it would provide access to information held by Government and that this factor weighs in favour of the release not being 'contrary to the public interest'.

However, I am not satisfied that the release of the business information contained in the relevant documents would have any bearing or relevance to any matter of public debate. Therefore this factor does not weigh in favour of release.

Further, I am not satisfied that the release of the business information is relevant to the effective oversight of public expenditure. Therefore, this factor also does not weigh in favour of release.

Finally, the release of the documents containing third parties' business information would not allow you to access your own information. This factor does not weigh in favour of release.

In summary, only the first public interest factor weighs in favour of release.

Factors weighing against disclosure

As discussed previously, the IC has issued Guidelines that contain a list of factors weighing against disclosure, which must be considered under s.11B(5) of the Act.

I consider that these factors are relevant to the business information in the identified documents:

- prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct; and
- could reasonably be expected to harm the interests of an individual or group of individuals.

On balance I am satisfied that releasing the business information in the documents would be contrary to the public interest. Consequently, I am satisfied that the information I have deleted in the documents as exempt under section 47G(1)(a) of the Act is exempt information.



Angela O'Neil
Assistant Director
Freedom of Information and Privacy Policy Section
Department of Immigration and Border Protection

28 February 2014



Australian Government
Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request 13/11/00743-R1; File Number ADF2013/38289

Document Number	Page number	Description	Decision	Legislation
1	1-3	Risk Matrix – July 2009.	Release with exempt material deleted	s.47C(1) s.22(1)(a)(i)
2	4-6	Risk Matrix – July 2009.	Release with exempt material deleted	s.47C(1) s.22(1)(a)(i)
3	7	Risk Matrix – August 2009.	Release with exempt material deleted	s.47C(1) s.22(1)(a)(i)
4	8-10	27/05/2011 - Email from Fiona McCulloch, Director, Program Delivery Partner Migration (Temporary and Provisional) with attachment.	Release with exempt material deleted.	s.47C(1) s.47F(1) s.22(1)(a)(i)
5	11	27/05/2011 - attachment to Document 4 – Excel spreadsheet containing Preliminary Risk Assessment Tool and Migration Agents/Authorised Recipients of Concern List.	Release with exempt material deleted	s.47C(1) s.47F(1) s.47G(1)(a) s.22(1)(a)(i)
6	12-15	25/10/2013 - email from 3 rd party to Garry Fleming, Acting Deputy Secretary Policy and Programme Management Group attaching documents.	Release with exempt and irrelevant material deleted.	s.47F(1) s.47G(1)(a) s.22(1)(a)(i) s.22(1)(a)(ii)
7	16	Attachment to Document 6 - 3 rd party business logo.	Release with exempt material deleted.	s.47G(1)(a) s.22(1)(a)(i)

Attachment B continued

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request 13/11/00743-R1; File Number ADF2013/38289

Document Number	Page number	Description	Decision	Legislation
8	17	Attachment to Document 6 - Letter from Migration Review Tribunal to 3 rd party (authorised recipient).	Release with exempt material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i)
9	18	Attachment to Document 6 – Letter from Migration Review Tribunal to 3 rd party (applicant).	Release with exempt material deleted.	s.47F(1) s.22(1)(a)(i)
10	19	Attachment to Document 6 – Partner Program Risk Tiering Tool UK820 with details filled in	Exempt in full.	s.47C(1) s.47F(1)
11	20	Attachment to Document 6 - Migration Agents/Authorised Recipients of Concern List A & List B.	Release with exempt material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i)
12	21-24	25/10/2013 – email from Garry Fleming to Diana Trionfi forwarding complaint from 3 rd party - includes two attachments.	Release with exempt and irrelevant material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i) s.22(1)(a)(ii)
13	25	Attachment to Document 12 – Partner Program Risk Tiering Tool UK 820 with personal details filled in – duplicate of Document 10	Exempt in full	s.47C(1) s.47F(1)
14	26	Attachment to Document 12 – letter from Migration Review Tribunal to 3 rd party – duplicate of Document 9.	Release with exempt material deleted.	s.47F(1) s.22(1)(a)(i)

Attachment B continued

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request 13/11/00743-R1; File Number ADF2013/38289

Document Number	Page number	Description	Decision	Legislation
15	27-28	25/10/2013 – email from Diana Trionfi to Garry Fleming attaching version of Risk Tiering Tool.	Release with exempt material deleted.	s.47F(1) s.22(1)(a)(i)
16	29	Attachment to Document 15 – Risk Tiering Tool design date 04/13	Exempt in full	s.47C(1)
17	30-35	04/11/2013 – email from Diana Trionfi to Garry Fleming – advice about use of Tool and Lists A and B.	Release with exempt and irrelevant material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i) s.22(1)(a)(ii)
18	36-37	13/11/2013 – email from Acting Deputy Secretary Policy and Programme Management Group to 3 rd party business responding to complaint.	Release with exempt and irrelevant material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i) s.22(1)(a)(ii)
19	38	Risk Tiering Tool UK820 – with attachment.	Exempt in full	s.47C(1)
20	39	Attachment to Document 19 - Migration Agents/Authorised Recipients of Concern List A & List B.	Release with exempt material deleted.	s.47F(1) s.47G(1) s.22(1)(a)(i)



Australian Government
Department of Immigration and Border Protection

Attachment C

EXTRACT OF RELEVANT LEGISLATION

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better-informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.

- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of *exempt document* in subsection 4(1).

11B Public interest exemptions—factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include 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.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (aa) access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;

- (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.

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.

...

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and

- (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
 - (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii); including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (1).
- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

47C Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (***deliberative matter***) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:
- (a) an agency; or
 - (b) a Minister; or
 - (c) the Government of the Commonwealth; or
 - (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
- (a) operational information (see section 8A);
 - (b) purely factual material.

Note: An agency must publish its operational information (see section 8).

...

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.

...

47G Public interest conditional exemptions—business

- (1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:
 - (a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
 - (b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.
- (2) Subsection (1) does not apply to trade secrets or other information to which section 47 applies.

...

54 Internal review—access refusal decision

- (1) This section applies if an access refusal decision is made in relation to a request to an agency for access to a document, other than a decision made personally by the principal officer of the agency or the responsible Minister.
- (2) The applicant in relation to the request may apply under this Part for the review (the *internal review*) of the access refusal decision.

54B Internal review—application for review

- (1) An application for internal review must be in writing and must be made:
 - (a) within 30 days, or such further period as the agency allows, after the day the decision is notified to the applicant for internal review (the *internal review applicant*); or
 - (b) in the case of an access refusal decision of a kind mentioned in paragraph 53A(b), (c) or (f), within whichever of the following is the longer period:
 - (i) 30 days, or such further period as the agency allows, after the day the decision is notified to the internal review applicant;
 - (ii) 15 days after the day the access referred to in that paragraph was given (or purported to be given).

...

54C Internal review—decision on internal review

Scope

- (1) This section applies if an application for internal review of an access refusal decision or an access grant decision (the *original decision*) is made in accordance with this Part.

Decision

- (2) The agency must, as soon as practicable, arrange for a person (other than the person who made the original decision) to review the decision.
- (3) The person must make a fresh decision on behalf of the agency within 30 days after the day on which the application was received by, or on behalf of, the agency.

Notice of decision

- (4) Section 26 extends to a decision made under this section.

s. 47C(1)

s. 47C(1)

s. 47C(1)

s. 47C(1)

s. 47C(1)

From: [Fiona McCulloch](#)
To: [Ann Kemeny](#); [Lynette Schneider](#); [Andrew Woodham](#); [Ewan Wiblin](#); [Robert Day](#); [Megan Scott](#); [Rosemary Wilmot](#); [Angelo Fitsioris](#)
cc: [Jason Carpenter](#); [Partner Migration Integrity Liaison](#); [DIAC Family Section](#)
Subject: Partner Visa Preliminary Risk Assessment Tool- comments by 6 June [SEC=IN-CONFIDENCE:DIAC]
Date: 27/05/2011 02:32 PM
Signed by: CN=Fiona McCulloch/OU=NSW/O=IMMI/C=AU
Attachments: [Risk Matrix - Preliminary Risk Assessment \(V1.4a\).xls](#)

Hi all - as you know we have been working on developing a tool which helps us to efficiently identify from within our Partner (Temporary) caseload [s. 47C\(1\)](#). We wanted to be able to identify from within the caseload the "low risk" cases and "high risk" cases, so that we could:

- stream low risk to less experienced assessors and high risk to more experienced assessors, which is both a QC strategy and a cost-effectiveness strategy

[s. 47C\(1\)](#)

The tool is points based, and assigns points based on a range of features which we consider, based on assessor experience and application and outcome trends, are risk flags, eg:

[s. 47C\(1\)](#)

s. 47C(1)

The tool is designed to be used by admin staff at APS3 at time of lodgement of the application (at the same time that they are perusing for need for SRS referral), and the selected flags have been identified as features which can be ascertained from a quick examination s.

47C(1)

The dots assist allocators to quickly identify on the shelf cases in the pipeline suitable for allocation to less experienced and more experienced assessors respectively.

We have given the tool a test drive in the Sydney team, and the staff who have used it have indicated that it is easy to use, and takes around 5 minutes per case (1.6% of our total allocated minutes). This is a good investment I feel in the subsequent return, s. 47C(1)

I would like to invite each of you now if you wish, to provide feedback on the tool before we roll it out for general use. Partner team managers might like to get their admin staff to test-drive it on a few incoming cases. I am interested in your feedback in relation to other risk flags that you might consider appropriate to include, or whether you consider that any of the proposed flags are inappropriate. If there are other agents or authorised recipients who should be included please advise also.



Part B of the strategy is of course to provide clear guidance to

assessors

s. 47C(1)

This document is a work in progress, I will send out the draft shortly, but is based on the existing risk profile tool that was developed some time back by not sure who, maybe Family Policy? I would also appreciate your feedback on these draft guidelines, when they are distributed, but they needn't hold up your feedback on the tool itself, which I would appreciate if possible by Monday 6 June. If you wish to provide feedback but need more time, please let me know.

Thanks and regards, Fiona

.....
 Fiona McCulloch
 Director, Program Delivery
 Partner Migration (Temporary and Provisional)
 Department of Immigration and Citizenship

(T) 02 8862 6437

(F) 02 8862 6055

s. 47F(1)

(E) fiona.mcculloch@immi.gov.au

We welcome your feedback on our services - please use the following link: <http://www.immi.gov.au/contacts/forms/services/services-form.htm>

s. 47C(1)

MIGRATION AGENTS / AUTHORISED RECIPIENTS OF CONCERN

s.47F(1), s.47G(1)(a)

E-mail Message

From: s. 47F(1)
To: Garry FLEMING [SMTP:garry.fleming@immi.gov.au]
Cc: s. 47G(1)(a)
Sent: 25/10/2013 at 11:58 AM
Received: 25/10/2013 at 11:59 AM
Subject: RE: Confidential Enquiry

Attachments: image002.png
image004.jpg
image006.jpg
image008.jpg
image010.jpg
image012.jpg
Letter from MRT 29.08.13 (P1).pdf
scan@ s. 47G(1)(a) 20131025_115012.pdf

Dear Mr Fleming,

As per s. 47G(1)(a) request, please find enclosed a scanned copy of the "partner program risk tiering tool - UK 820" form, which seems to be a standard form used to determine the "level of scrutiny that should be applied to a case", as mentioned in the document.

Also enclosed is the cover letter received with the copy of the documents.

Please let us know should you require any further information to proceed on this matter.

Thank you.

Kind regards,

s. 47F(1)

HYPERLINK

s. 47G(1)(a)

Released by DIBP under the
Freedom of Information Act 1982

s. 47G(1)(a)

From: s. 47G(1)(a)
Sent: Thursday, 24 October 2013 9:51 PM
To: Garry FLEMING
Cc: s. 47F(1)
Subject: Re: Confidential Enquiry

Dear Gary,

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

On the other matter, I will ask s. 47F(1) to send you the FOI file request details tomorrow as I will be in Canberra.

I look forward to having this matter resolved expeditiously.

s. 47G(1)(a)

Sent from my iPad

On Oct 24, 2013, at 8:11 PM, "Garry FLEMING" wrote:

s. 47G(1)(a)

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

On the other matter, grateful if you would advise the FOI request involved... not

Released by DIBP under the
Freedom of Information Act 1982

sure I can track it down without it.

Garry

Sent with Good (HYPERLINK "<http://www.good.com>"www.good.com)

-----Original Message-----

From: s. 47G(1)(a)

s. 47G(1)(a)

Sent: Thursday, October 24, 2013 06:15 PM AUS Eastern Standard Time

To: Garry FLEMING

Subject: Confidential Enquiry

Dear Gary,

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

On another matter, I am attaching a document which was obtained via a freedom of information request on a client's matter. I believe this document was released to me in error. I am concerned that I would be placed on any list of concern. More particularly List B. I am truly astounded by this and would like an explanation.

Please look into this matter for me and provide a response .

Many thanks

s. 47G(1)(a)

HYPERLINK "<http://>

s. 47G(1)(a)

Released by DIBP under the
Freedom of Information Act 1982

s. 47G(1)(a)

Important Notice: If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information. Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIAC respects your privacy and has obligations under the Privacy Act 1988. The official departmental privacy policy can be viewed on the department's website at HYPERLINK "http://www.immi.gov.au"www.immi.gov.au. See: http://www.immi.gov.au/functional/privacy.htm

Released by DIBP under the
Freedom of Information Act 1982

s. 47G(1)(a)



Australian Government
Migration Review Tribunal

MRT case number: **s. 47F(1)**

27 August 2013

s. 47G(1)(a)

Dear **s. 47G(1)(a)**

ACCESS TO WRITTEN MATERIAL – FULL ACCESS – s. 47F(1)
s. 47F(1)

The tribunal has received a request for access to written material relating to the application for review made by **s. 47F(1)** of a decision to refuse to grant a Partner (Temporary) (Class UK) visa.

The enclosed documents are given to you as the authorised recipient of the applicant. As the authorised recipient, the tribunal is required to give you, instead of the applicant, any document that it would otherwise have given to the applicant.

By providing you with these documents, the tribunal is taken to have given the documents to the applicant. You should ensure that the applicant is informed of this letter as soon as possible.

If you have any questions about this letter, please contact me on the number listed below, or telephone the tribunal's national enquiry line on 1300 361 969. For language assistance, please contact the Translating and Interpreting Service (TIS) on 131 450.

Yours sincerely,
s. 47F(1)

Mark Binotto
 TRIBUNAL OFFICER
 Telephone: 02 9276 5231

Attachment
 Letter to applicant



Australian Government
Migration Review Tribunal

MRT case number: s. 47F(1)

27 August 2013

Dear s. 47F(1)

ACCESS TO WRITTEN MATERIAL – FULL ACCESS – s. 47F(1)
s. 47F(1)

I am writing regarding your request, received on 12 August 2013, for access to written material relating to your application for review of a decision to refuse to grant a Partner (Temporary) (Class UK) visa.

The written materials you requested are included in:

- Department of Immigration and Citizenship's file s. 47F(1)

Access to all of the above materials has been granted and copies are enclosed.

If you have any questions, please contact me on the number listed below, or telephone the tribunal's national enquiry line on 1300 361 969. For language assistance, please contact the Translating and Interpreting Service (TIS) on 131 450.

Yours sincerely
s. 47F(1)

Mark Binotto
TRIBUNAL OFFICER
Telephone: 02 9276 5231

Attachments
Materials released

s. 47F(1), s. 47C(1)

DIAC-IN-CONFIDENCE

MIGRATION AGENTS / AUTHORISED RECIPIENTS OF CONCERN

LIST A

Name

Business Name

MARN

s. 47F(1), s. 47G(1)(a)

LIST B

Name

Business Name

MARN

s. 47F(1), s. 47G(1)(a)

DIAC-IN-CONFIDENCE

Released by DIBP under the
Freedom of Information Act 1982

Diana TRIONFI

From: Garry FLEMING
Sent: Friday, 25 October 2013 12:09 PM
To: Diana TRIONFI; Linda ROSSITER; Richard JOHNSON
Subject: FW: Confidential Enquiry [SEC=UNCLASSIFIED]
Attachments: Letter from MRT 29.08.13 (P1).pdf; scan s. 47G(1)(a) 20131025_115012.pdf

UNCLASSIFIED

Diana/Richard – I'll pop down to have a bit of a chat about how we progress this.

Linda – Looks like it was a release of departmental material by the MRT; and it may have been done outside of the FOI context.

Garry Fleming
 Acting Deputy Secretary
 Policy and Programme Management Group
 Department of Immigration and Border Protection
 Telephone: (02) 6264 1234
 Mobile: s. 47F(1)
 Email: garry.fleming@immi.gov.au

UNCLASSIFIED

From: s. 47F(1)
Sent: Friday, 25 October 2013 11:58 AM
To: Garry FLEMING
Cc: s. 47G(1)(a)
Subject: RE: Confidential Enquiry

Dear Mr Fleming,

As per s. 47G(1)(a) request, please find enclosed a scanned copy of the "partner program risk tiering tool – 820" form, which seems to be a standard form used to determine the "level of scrutiny that should be applied to a case", as mentioned in the document.

Also enclosed is the cover letter received with the copy of the documents.

Please let us know should you require any further information to proceed on this matter.

Thank you.

Kind regards,

s. 47F(1)

From: s. 47G(1)(a)
 Sent: Thursday, 24 October 2013 9:51 PM
 To: Garry FLEMING
 Cc: s. 47F(1)
 Subject: Re: Confidential Enquiry

Dear Gary,

Thanks for your prompt reply. All the attendees of the mail meeting that I spoke to considered the meeting to be most beneficial and a new positioning for the future.

On the other matter, I will ask s. 47F(1) to send you the FOI file request details tomorrow as I will be in Canberra.

I look forward to having this matter resolved expeditiously.

s. 47G(1)(a)

Sent from my iPad

On Oct 24, 2013, at 8:11 PM, "Garry FLEMING" <garry.fleming@immi.gov.au> wrote:

s. 47G(1)(a)

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

Released by DIBP under the
 Freedom of Information Act 1982

On the other matter, grateful if you would advise the FOI request involved... not sure I can track it down without it.

Garry

Sent with Good (www.good.com)

-----Original Message-----

From: s. 47G(1)(a)

Sent: Thursday, October 24, 2013 06:15 PM AUS Eastern Standard Time

To: Garry FLEMING

Subject: Confidential Enquiry

Dear Gary,

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

On another matter, I am attaching a document which was obtained via a freedom of information request on a client's matter. I believe this document was released to me in error. I am concerned that I would be placed on any list of concern. More particularly List B. I am truly astounded by this and would like an explanation.

Please look into this matter for me and provide a response .

Many thanks

s. 47G(1)(a)

Released by DIBP under the
Freedom of Information Act 1982

<image001.gif><image002.jpg>

s. 47G(1)(a)

Important Notice: If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information. Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIAC respects your privacy and has obligations under the Privacy Act 1988. The official departmental privacy policy can be viewed on the department's website at www.immi.gov.au. See: <http://www.immi.gov.au/functional/privacy.htm>

Released by DIBP under the
Freedom of Information Act 1982

s. 47C(1), s. 47F(1)

Released by DIBP under the
Freedom of Information Act 1982



Australian Government
Migration Review Tribunal

MRT case number: **s. 47F(1)**

27 August 2013

Dear **s. 47F(1)**

ACCESS TO WRITTEN MATERIAL - FULL ACCESS -
s. 47F(1)

s. 47F(1)

I am writing regarding your request, received on 12 August 2013, for access to written material relating to your application for review of a decision to refuse to grant a Partner (Temporary) (Class UK) visa.

The written materials you requested are included in:

- Department of Immigration and Citizenship's file **s. 47F(1)**

Access to all of the above materials has been granted and copies are enclosed.

If you have any questions, please contact me on the number listed below, or telephone the tribunal's national enquiry line on 1300 361 969. For language assistance, please contact the Translating and Interpreting Service (TIS) on 131 450.

Yours sincerely
s. 47F(1)

Mark Binotto
TRIBUNAL OFFICER
Telephone: 02 9276 5231

Attachments
Materials released

Diana TRIONFI

From: Diana TRIONFI
Sent: Friday, 25 October 2013 4:01 PM
To: Garry FLEMING
Cc: Richard JOHNSON
Subject: FW: Partner risk tiering tool [SEC=UNCLASSIFIED]
Attachments: Risk Tiering Tool 2013-09.pdf

UNCLASSIFIED

Garry

Attached is an email from Rosemary Wilmot regarding the risk tiering tool. I will follow up with her on the lists A and B on the form.

diana

Diana Trionfi
 Director
 Migration Agents Policy Section
 Visa Framework and Family Policy Branch
 Department of Immigration and Border Protection

T: +61 (0)2 6198 7111
 M: s. 47F(1)
 E: diana.trionfi@immi.gov.au

UNCLASSIFIED

From: Rosemary WILMOT
Sent: Friday, 25 October 2013 3:34 PM
To: Diana TRIONFI
Cc: Angela D'SILVA; Louise WALTON; Michael KELLY; Susan LUCACEVICH
Subject: Partner risk tiering tool [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Diana,

Please find attached the current version of the risk tiering tool used by Temporary Partner processing centres. There is no second page to this document.

The tool is a work management tool, used by the administration units when receipting applications, to determine where cases should work flow. Cases are streamed to junior or senior case officers depending on risk, complexity and sensitivity.

The page is completed by hand and pinned to a case file until it is allocated to a case officer who then removes and destroys the document. It is not a decision making tool.

I am advised that this document has had local variations made to it from time to time in the past if there are particular matters that need to be drawn to the attention of the admin staff or sensitive cases that need to be flagged for the managers' attention.

I am copying in the managers of the four Temporary Partner processing centres as a reminder to check that the risk tiering tool is being used and destroyed appropriately and is not attached to a case file.

Please let me know if you need further information.

regards

Rosemary Wilmot
Deputy Global Manager, Family Visas and
Director, Partner Migration Program
Department of Immigration and Border Protection
Telephone: (03) 8682 2394
Mobile: s. 47F(1)
Email: rosemary.wilmot@immi.gov.au

UNCLASSIFIED

s. 47C(1)

Released by DIBP under the
Freedom of Information Act 1982

Diana TRIONFI

From: Diana TRIONFI
Sent: Monday, 4 November 2013 6:39 PM
To: Garry FLEMING
Cc: Richard JOHNSON
Subject: FW: Confidential Enquiry [SEC=UNCLASSIFIED]

UNCLASSIFIED

Garry

I have been in contact with Rosemary Wilmot regarding the Partner Program Risk Tiering Tool. Her understanding is that the tool is still being used but that the once attached list A and B is no longer attached. Rosemary is still working on how point one on the tool is considered if there is no list.

I have also been in contact with Catherine Genn, A/g Director, Risk Tiering and Immigration Network section, she was unaware of this tool. I will be working more closely with Catherine in the future.

We have commenced an audit of our Safeguard profiles and the Agent of Interest comments on ICSE to ensure they are current.

I have made some comments under the questions below to assist with your response to Anne. Please let me know if you require more information.

Diana

1. when and how was this document created?

The document was originally created in the mid-2010.

2. was there independent evidence relied upon for the creation of this list?

The list were based on information available to the department.

3. Were the parties on this list given an opportunity to comment of any adverse information?

No, the information is confidential and informs the workflow of an application, the agent information is only one of 10 components.

4. How frequently was this list used as a tool in case assessment?

Never. The tool is a workflow tool which ensures that the visa processing officer assessing the visa application is at the appropriate level. It is not a decision making tool, the consideration of the application is not altered by the tool, only who will assess the application.

5. Was this list only used for Partner visas for did it operate across the whole of the Department?

Yes

6. Does DIBP know the extent of possible damage done to the agent's reputation and disadvantage in case assessment?

Released by DIBP under the
Freedom of Information Act 1982

All the information on the tool assist with workflow of a visa application, the information is not used in the assessment of that application. As is appropriate and lawful, the decision maker bases their final decision on the information provided in the visa application.

7. How long has this list been operational?

Since 2010.

8. Did DIBP have a process in place to regularly review the names on this list to make sure that information is current and accurate.

As required. The Migration Agents Section is working with the Risk Tiering unit in the department to ensure that all the information relating to agents within department systems is current.

Diana Trionfi
Director
Migration Agents Policy Section
Visa Framework and Family Policy Branch
Department of Immigration and Border Protection

T: +61 (0)2 6198 7111
M: +61 (0) s. 47F(1)
E: diana.trionfi@immi.gov.au

UNCLASSIFIED

From: Garry FLEMING
Sent: Tuesday, 29 October 2013 12:17 PM
To: Diana TRIONFI
Cc: Richard JOHNSON
Subject: FW: Confidential Enquiry [SEC=UNCLASSIFIED]

UNCLASSIFIED

All very good questions...

Garry Fleming
First Assistant Secretary
Migration and Citizenship Policy Division
Department of Immigration and Border Protection
Telephone: (02) 6264 1888
Mobile: s. 47F(1)
Email: garry.fleming@immi.gov.au

UNCLASSIFIED

From: s. 47G(1)(a)
Sent: Tuesday, 29 October 2013 12:11 PM

Released by DIBP under the
Freedom of Information Act 1982

To: Garry FLEMING

Subject: RE: Confidential Enquiry [SEC=UNCLASSIFIED]

Dear Gary,

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

On the other matter, it really does raise the following concerns to say the least:

1. when and how was this document created?
2. was there independent evidence relied upon for the creation of this list?
3. Were the parties on this list given an opportunity to comment of any adverse information?
4. How frequently was this list used as a tool in case assessment?
5. Was this list only used for Partner visas for did it operate across the whole of the Department?
6. Does DIBP know the extent of possible damage done to the agent's reputation and disadvantage in case assessment?
7. How long has this list been operational?
8. Did DIBP have a process in place to regularly review the names on this list to make sure that information is current and accurate.

These are just a few of my concerns however, I am sure that there are many others.

Look forward to your further comments and thank you for your prompt response.

s. 47G(1)(a)

From: Garry FLEMING [<mailto:garry.fleming@immi.gov.au>]

Sent: Tuesday, 29 October 2013 11:50 AM

To: s. 47G(1)(a)

Cc: s. 47F(1)

Subject: RE: Confidential Enquiry [SEC=UNCLASSIFIED]

Released by DIBP under the
Freedom of Information Act 1982

UNCLASSIFIED

s. 47G(1)(a)

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

On the other matter, I can confirm that I received the material. It certainly has raised a lot of questions that we are following up on. I hope to have a substantive explanation for you sorted out within the next few days.

Regards

Garry Fleming
 First Assistant Secretary
 Migration and Citizenship Policy Division
 Department of Immigration and Border Protection
 Telephone: (02) 6264 1888
 Mobile: s. 47F(1)
 Email: garry.fleming@immi.gov.au

UNCLASSIFIED

From: s. 47G(1)(a)
Sent: Monday, 28 October 2013 12:26 PM
To: Garry FLEMING
Cc: s. 47F(1)
Subject: FW: Confidential Enquiry

Dear Gary,

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

On another matter, please advise how you are going with my enquiry. I arranged for s. 47F(1) to send you the material your required on Friday.

s. 47G(1)(a)

Released by DIBP under the
 Freedom of Information Act 1982

s. 47G(1)(a)

From: Garry FLEMING [<mailto:garry.fleming@immi.gov.au>]

Sent: Thursday, 24 October 2013 8:11 PM

To: s. 47G(1)(a)

Subject: RE: Confidential Enquiry

s. 47G(1)(a)

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

On the other matter, grateful if you would advise the FOI request involved... not sure I can track it down without it.

Garry

Sent with Good (www.good.com)

-----Original Message-----

From: s. 47G(1)(a)

Sent: Thursday, October 24, 2013 06:15 PM AUS Eastern Standard Time

To: Garry FLEMING

Subject: Confidential Enquiry

Dear Gary,

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

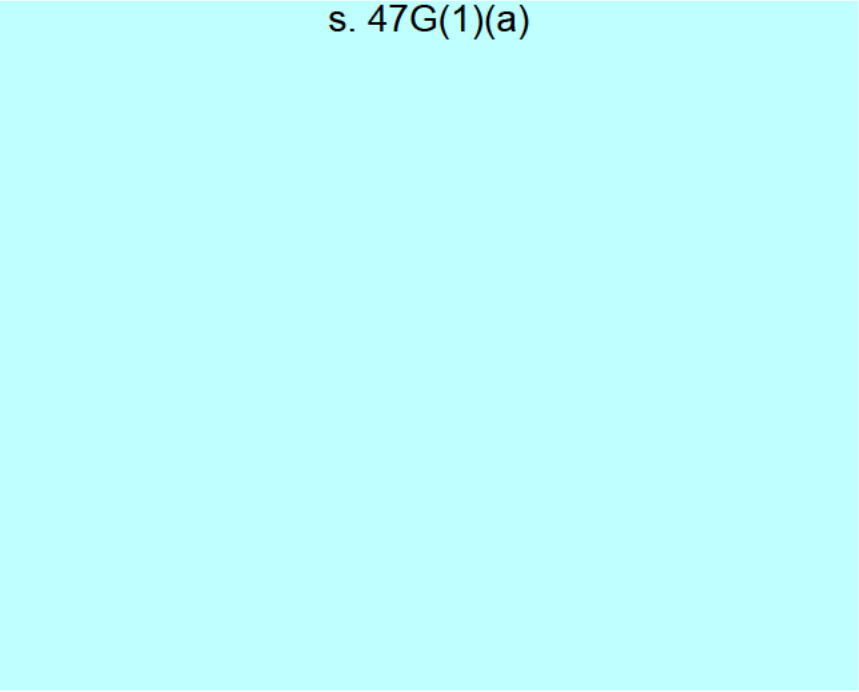
On another matter, I am attaching a document which was obtained via a freedom of information request on a client's matter. I believe this document was released to me in error. I am concerned that I would be placed on any list of concern. More particularly List B. I am truly astounded by this and would like an explanation. Please look into this matter for me and provide a response .

Many thanks

s. 47G(1)(a)

Released by DIBP under the
Freedom of Information Act 1982

s. 47G(1)(a)



Important Notice: If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information. Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIAC respects your privacy and has obligations under the Privacy Act 1988. The official departmental privacy policy can be viewed on the department's website at www.immi.gov.au. See: <http://www.immi.gov.au/functional/privacy.htm>

Released by DIBP under the
Freedom of Information Act 1982

Anna PULCIANI

From: Garry FLEMING
Sent: Wednesday, 13 November 2013 5:23 PM
To: s. 47G(1)(a)
Subject: RE: Confidential Enquiry [SEC=UNCLASSIFIED]

UNCLASSIFIED

s. 47G(1)(a)

Apologies for the delay in getting back to you with a substantive response on this matter.

First of all, please let me assure you that the list of agents had no impact on case assessments nor on case officers' views of an agent's reputation. The risk scoring instrument was a tool used by administrative teams only to assist in allocating cases to case officers of particular classification levels and experience and it appears to have been used only in Partner processing.

Nevertheless, it is of concern to me that the list was being used without appropriate oversight and control to ensure accuracy and currency. Indeed, you should never have been on such a list... while you were 'flagged' on our processing system at one point, this was only as a mechanism to alert officers to a system error whereby the system was not recognising you as a registered migration agent. There was never any suggestion that you lacked integrity and I apologise on behalf of the department for any perception otherwise.

The list has been removed.

If the department uses an assessment of migration agents to risk tier cases, we will ensure that lists or ratings are accurate and appropriately maintained. Indeed, there may be an opportunity here for the notion we discussed of having 'Platinum Card' agents, whose cases are tiered towards low risk / lightest touch processing. I look forward to the department further developing that concept together with the migration advice industry and its peak bodies.

Garry Fleming
 First Assistant Secretary
 Migration and Citizenship Policy Division
 Department of Immigration and Border Protection
 Telephone: (02) 6264 1888
 Mobile: s. 47F(1)
 Email: garry.fleming@immi.gov.au

-----Original Message-----

From: s. 47G(1)(a)
Sent: Thursday, October 24, 2013 06:15 PM AUS Eastern Standard Time
To: Garry FLEMING
Subject: Confidential Enquiry

Dear Gary,

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

Released by DIBP under the
 Freedom of Information Act 1982

On another matter, I am attaching a document which was obtained via a freedom of information request on a ³⁷ client's matter. I believe this document was released to me in error. I am concerned that I would be placed on any list of concern. More particularly List B. I am truly astounded by this and would like an explanation. Please look into this matter for me and provide a response .

Many thanks

s. 47G(1)(a)

Important Notice: If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information. Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIAC respects your privacy and has obligations under the Privacy Act 1988. The official departmental privacy policy can be viewed on the department's website at www.immi.gov.au. See: <http://www.immi.gov.au/functional/privacy.htm>

UNCLASSIFIED

MIGRATION AGENTS / AUTHORISED RECIPIENTS OF CONCERN

LIST A

Name

Business Name

MARN

s. 47F(1), s. 47G(1)(a)

LIST B

Name

Business Name

MARN

s. 47F(1), s. 47G(1)(a)