



Attachment A

DECISION RECORD

Request Details

FOI Request FA 16/05/01391
File Number ADF2016/21293

Scope of request

1. On 16 May 2016 you requested:

documents containing information, produced in the last 12 months, about:

- a) any reports and/or evaluations and/or assessments and/or advice about the need for a new "visa risk assessment capability";*
- b) any reports and/or evaluations and/or assessments and/or advice about visas cancelled or refused on character grounds, and*
- c) any reports and/or evaluations and/or assessments and/or advice about significant and premium investor visas and the migrants applying for them.'*

2. On 23 June 2016 the Department issued you with a notice under s.24AB (practical refusal reason) in relation to the request.

3. On 19 July 2016 you agreed to revise the scope of the request to the following:

- a) high level reports and/or briefings and/or submissions for executives and/or the Minister's Office, including for Senate Estimates, that were produced in the last 12 months about the need for a new "visa risk assessment capability".*
- b) data showing the number of visas cancelled or refused on character grounds, by category, for each of the three financial years from 1 July 2013 to June 30 2016.*
- c) data showing the numbers of visas cancelled or refused due to fraud, by visa category, including but not limited to significant and premium investor visas, for each of the three financial years from 1 July 2013 to June 30 2016.*

Authority to make decision

4. 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 Departmental records.

Information considered

5. In reaching my decision, I have considered the following:
- The *Freedom of Information Act 1982*;
 - The documents as listed in the Schedule of Documents;
 - Consultations with relevant business areas;
 - Consultations with the Department of Prime Minister and Cabinet; and
 - The Australian Information Commissioner's guidelines relating to access to documents held by government; and consultations with relevant Departmental business areas.

Documents in scope and refusal of access to documents which do not exist

6. There are six documents within the scope of your request. These documents are detailed in the Schedule of Documents (Attachment B).

Part a) of the request

7. Documents 1, 2, 3, 4 and 5 are relevant to **Part a)** of your request.

Parts b) of the request

8. No discrete documents were found to exist in relation to **Part b)** of your request.
9. As required under s.17 of the FOI Act, the Department considered whether a document could be produced from systems to address the scope of this part of your request.
10. Visas cancelled under character grounds: following consultation with the relevant business areas, document 6 was produced. This document provides character related visa cancellations by visa subclass over the three financial years 2013-2016.
11. Visas refused on character grounds: the relevant business area has advised that it is unable to provide reliable reporting by refusal reason as the precise reason/s for refusal is not always entered into systems in a way that allows automated reporting. Instead, manual analysis of a large number of individual records and free text data would be required to produce accurate figures. This would be an unreasonable diversion of the Department's resources. I am therefore satisfied that this information does not exist in a discrete document/s and access is therefore refused to this part of your request under s.24A(1) of the FOI Act.

Part c) of the request

12. No discrete documents were found to exist in relation to **Part c)** of your request.
13. As required under s.17 of the FOI Act, the Department considered whether a document could be produced from systems to address the scope of this part of your request.
14. Visas cancelled due to fraud: the relevant business area advised that there were nil cancellations recorded as relating only to fraud during this period.
15. Visas refused due to fraud: the relevant business area has advised that it is unable to provide reliable reporting by refusal reason as the precise reason/s for refusal is not always entered into systems in a way that allows automated reporting. Instead, manual analysis of a large number of individual records and free text data would be required to produce accurate figures. This would be an unreasonable diversion of the Department's resources. I am therefore satisfied that this information does not exist in a discrete document/s and access is therefore refused to this part of your request under s.24A(1) of the FOI Act.

Decisions on documents in scope

16. Section 22(2) of the FOI 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.
17. 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 FOI Act).
18. 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 FOI Act.

Exempted material

19. The Schedule of Documents (Attachment B) details the exemptions that have been applied to the documents found to be within scope of your request. Exemptions were applied on the following grounds:


Section 33(a)(i) – Security of the Commonwealth

20. Documents 2, 3, 4 and 5 have been exempted from release in full on the basis that they contain information the disclosure of which would, or could, reasonably be expected to, cause damage to the security of the Commonwealth.
21. The exempted documents contain:
 - detailed analysis of security measures built into Australia's visa processing operations;
 - discussion of ways to strengthen Australia's visa processing operations, including through various intelligence and systems initiatives; and
 - detail of projects underway or yet to commence which will enhance security measures in Australia's visa system.
22. Release of this information into the public domain could assist those parties who seek to bypass Australian visa security measures for the purpose of undertaking activity within Australia that is hostile to Australia's interests. This would reasonably be expected to cause damage to Australia's security and I have therefore exempted the documents in full under s.33(a)(i).

Section 34(1) – Cabinet Documents

23. Documents 1, 2, 3, 4 and 5 have been exempted in full on the basis that they fall within the exemption categories under the FOI Act for Cabinet related documents. These exemptions were consulted with and supported by the Department of Prime Minister and Cabinet:
 - Document 1 is exempted under s.34(1)(c) on the basis that it was created for the dominant purpose of briefing a Minister about documents that had been or were proposed to be submitted to Cabinet for consideration. Although the allocation of funding to DIBP for Visa Risk Assessment was announced by the Minister for Immigration and Border Protection on 12 May 2016, the detail of the Cabinet's deliberation or decision has not been officially disclosed or published.

- Document 2 is exempted under s.34(1)(a) on the basis that it was submitted to Cabinet for its consideration and it was brought into existence for the dominant purpose of submission for consideration by the Cabinet. The document and its attachments do not consist only of purely factual information and the document/its attachments have never been official disclosed.
- Document 3 is exempted under s.34(3) on the basis that it contains information the disclosure of which would reveal a Cabinet deliberation or decision which has not been officially disclosed.
- Document 4 is exempted under s.34(3) on the basis that it contains information the disclosure of which would reveal a Cabinet deliberation or decision which has not been officially disclosed.
- Document 5 is exempted under s.34(1)(c) on the basis that it was created for the dominant purpose of briefing a Minister about documents that had been or were proposed to be submitted to Cabinet for consideration.



Authorised decision maker
Department of Immigration and Border Protection
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28 October 2016



Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 16/05/01391
File Number ADF2016/21293

No.	Date of document	Folios	Description	Decision on release	Applicable part/s of the FOI Act
1.	23/12/2015	n/a	Submission (including attachments) to Minister for Immigration and Border Protection	Exempt in full	s.34(1)(c)
2.	24/12/2015	n/a	Document and attachments prepared for Cabinet Consideration regarding <i>Visa Risk Assessment</i>	Exempt in full	s.33(a)(i) s.34(1)(a)
3.	18/03/2016	n/a	Inter-Agency Meeting Brief for Departmental senior executive	Exempt in full	s.33(a)(i) s.34(3)
4.	12/04/2016	n/a	Meeting Brief for Departmental senior executive in preparation for Cabinet discussion	Exempt in full	s.33(a)(i) s.34(3)
5.	21/04/2016	n/a	Submission (including attachments) to Minister for Immigration and Border Protection	Exempt in full	s.33(a)(i) s.34(1)(c)
6.	-	1-3	Statistical report (<i>s501 character related visa cancellations by visa subclass</i>) - created to address FOI request	Released in full	n/a



Attachment C – Extract of relevant legislation (FOI Act)

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).

17 Requests involving use of computers etc.

(1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.

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.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

33 Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
 - (i) the security of the Commonwealth;
 - (ii) the defence of the Commonwealth; or
 - (iii) the international relations of the Commonwealth; or
- (b) would divulge any information or matter communicated in confidence by or on behalf of a foreign government, an authority of a foreign government or an international organization to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

Note: See also subsection 4(10).

34 Cabinet documents

General rules

- (1) A document is an exempt document if:
 - (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
 - (b) it is an official record of the Cabinet; or
 - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
 - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

Exceptions

- (4) A document is not an exempt document only because it is attached to a document to which subsection (1), (2) or (3) applies.

Note: However, the attachment itself may be an exempt document.

- (5) A document by which a decision of the Cabinet is officially published is not an exempt document.

(6) Information in a document to which subsection (1), (2) or (3) applies is not exempt matter because of this section if the information consists of purely factual material, unless:

- (a) the disclosure of the information would reveal a Cabinet deliberation or decision; and
- (b) the existence of the deliberation or decision has not been officially disclosed.