



18 December 2018

**In reply please quote:**

FOI Request: FA 17/10/00230  
File Number: ADF2017/104854

Dear [REDACTED]

**Freedom of Information (FOI) request – Access Revised Decision**

The purpose of this letter is to provide you with a revised decision on your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The former Department of Immigration and Border Protection (DIBP) received your request for access to documents on 4 October 2017 and made a decision to refuse access on 3 November 2017.

On 3 November 2017 you requested an Information Commissioner review of the former DIBP's decision under section 54L of the FOI Act.

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

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

**1 Scope of request**

You have requested access to the following documents:

*'The letter of resignation of the surgeon-general of the ABF John Brayley.'*

**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 release and to refuse access to exempt documents.

### 3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- the Department's guidance material on the FOI Act
- the preliminary view issued by the Office of the Australia Information Commissioner on 30 October 2018
- your submissions made to the Office of the Australian Information Commissioner during the course of the Information Commissioner review
- 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 one document as falling within the scope of your request. The document was in the possession of the Department on 4 October 2017 when your request was received.

### 5 Decision

Section 55G of the FOI Act allows for a revocation or variation of an access refusal decision during a review by the Information Commissioner:

#### **55G Procedure in IC review—revocation or variation of access refusal decision**

*(1) An agency or Minister may vary (or set aside and substitute) an access refusal decision (the **original** decision) in relation to a request or an application under section 48 at any time during an IC review of the access refusal decision if the variation or substitution (the **revised** decision) would have an effect of:*

- (a) giving access to a document in accordance with the request; or*
- (b) relieving the IC review applicant from liability to pay a charge; or*
- (c) requiring a record of personal information to be amended or annotated in accordance with the application.*

*Note: When making the revised decision, a consultation requirement under section 26A (documents affecting Commonwealth-State relations etc.), 26AA (documents affecting Norfolk Island intergovernmental relations), 27 (business documents) or 27A (documents affecting personal privacy) may apply.*

*(2) If an agency or Minister varies (or sets aside and substitutes) an access refusal decision under subsection (1):*

- (a) the agency or Minister must, in writing, notify the Information Commissioner as soon as practicable after the agency or Minister makes the variation or substitution; and*
- (b) the Information Commissioner must deal with the IC review application for review of the original decision as if it were an IC review application for the review of the varied or substituted decision, subject otherwise to this Part.*

I have reviewed the document that falls within the scope of this request and I have considered the submissions made by you in relation to your reasons for requesting Information Commissioner Review.

I have now made a revised decision under section 55G(1)(a).

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

- Release one document, edited under 22(1)(a)(ii) of the FOI Act, only to the extent necessary to remove irrelevant material.

#### **5.1 Section 22 of the FOI Act – irrelevant to request**

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

The document within the scope of the request is an email chain, the first sections of which contain details of a departmental officer forwarding the email to another part of the Department. I consider this material to be administrative in nature and that it does not contain any information that could reasonably be regarded as relevant to your request.

I have therefore determined this material to be irrelevant to your request under section 22(1)(a)(ii) of the FOI Act. Accordingly I am releasing to you an edited copy of the document with the irrelevant material deleted pursuant to section 22(2) of the FOI Act.

The remainder of the document is being released to you in full as it is relevant to your request.

### **6 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.

### **7 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:

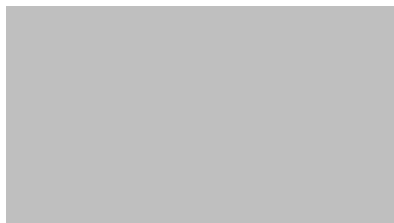
Phone 1300 363 992 (local call charge)

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 as the relevant agency.

## **8 Contact**

Should you wish to discuss my decision, please do not hesitate to contact the FOI Reviews Team via email at [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au).



**Authorised Decision Maker  
Department of Home Affairs**