



21 December 2018

[Redacted]

**In reply please quote:**

FOI Request: FA 18/02/00013-R1  
File Number: ADF2018/13617

Dear [Redacted]

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

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**

On 30 January 2018, you sought access to the following documents:

*‘...summary documents for each of the past five financial or calendar years (i.e. for comparison or to show trend) detailing the composition of the Movement Alert List by reason for listing and, separately, nationality.’*

**2 Original Decision**

The Department identified one document as falling within the scope of your request. That document was in the possession of Department on 30 January 2018, when your original FOI request was received.

On 20 April 2018, the original decision maker decided to:

- Release one document in full.

You were notified of this decision on 27 April 2018.

**3 Request for Internal Review**

On 3 May 2018, you requested that the Department review its original decision. The terms of your review request were as follows:

*‘I write seeking an internal review of the decision not to release data on nationality, which was within scope and has previously been released by the department under FOI laws.’*

#### **4 Internal Review Decision**

The Department identified one document as falling within the scope of your internal review request. That document was in the possession of Department on 3 May 2018, when your request for internal review was received.

On 4 September 2018, the internal review decision maker decided to:

- Release one document in full, being the breakdown of totals of IMMI DAL by Nationality of Holder.

You were notified of this decision on 7 September 2018.

#### **5 Request for IC review**

On 15 November 2018, the IC notified the Department of your application for IC review of internal review decision FA 18/02/00013-R1. The IC provided the Department with your comments as to why you think the internal review decision is wrong, as follows:

*'On 30 January 2018 I sought "summary documents for each of the past five financial or calendar years (i.e. for comparison or to show trend) detailing the composition of the Movement Alert List by reason for listing and, separately, nationality." I had sought, and received, this information previously. Belatedly, on 27 April 2018, the department made a decision and provided documents for the first element of my request (composition) but nothing on the second element of my request (nationality). I sought to clarify this with the FOI section and the media section without response.*

*On 3 May 2018 I sought an internal review of the decision. Belatedly, on 4 September 2018, the department made a decision on the internal review and decided to "release one document in full, being the breakdown of totals on IMMI DAL by Nationality of Holder". However, this was not the information that was sought and was inconsistent with the previously released information. Again, attempts to resolve this through the FOI and media sections proved unsuccessful.*

*The information released initially related to the Movement Alert List and contained numbers of individuals (923,345). For reasons unknown to me, the information released on review related to the Document Alert List and contained a much larger number of suspect documents (1,165,777). It was also undated.'*

#### **6 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 departmental records.

#### **7 Relevant material**

In reaching my decision, I have considered the following:

- Your application to the IC for review of the Department's internal review decision FA 18/02/00013-R1;
- The Department's original decision in relation to FA 18/02/00013, and the document released with that decision;
- The Department's internal review decision FA 18/02/00013-R1, and the document released with that decision;

- Advice from departmental officers with responsibility for matters relating to the documents to which you sought access;
- Additional material recently identified as falling within the scope of your request (not identified during internal review FA 18/02/00013-R1);
- The FOI Act; and
- The Australian Information Commissioner's guidelines relating to the interpretation, operation and administration of the FOI Act (the FOI Guidelines).

## 8 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 two documents in full, being the breakdown of totals on IMMI PAL by Citizenship, and the breakdown of totals on IMMI DAL by Nationality of Holder.

Under section 17 of the FOI Act, the Department has used its available computer systems to produce a discrete document that contains data relating to the composition of the Person Alert List (PAL).

I am satisfied that this additional discrete document falls within the scope of your request for internal review, and was in the possession of the Department on 3 May 2018, when your internal review request was received.

## **9 How to make a complaint about the handling of your FOI request**

You may complain to the Office of the Australian Information Commissioner (OAIC) if you have concerns about how the Department has handled your request. There is no particular form required to make a complaint to the OAIC. Requests should be in writing, should identify the Department as the relevant agency, and should provide the grounds on which it is considered that the Department's actions should be investigated.

Further information about how to submit a complaint is available at:  
[www.oaic.gov.au](http://www.oaic.gov.au)

Enquiries to the OAIC can be directed to:

Phone 1300 363 992 (local call charge)  
Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

## **10 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.

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

Yours sincerely,



Authorised Decision Maker  
Department of Home Affairs