



9 January 2019

In reply please quote:

FOI Request: FA 18/08/00299

File Number: ADF2018/171021

Dear

Freedom of Information (FOI) request - Access Decision

On 5 August 2018, the Department of Home Affairs (the Department) received a request for access to document under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Documents in scope of request

You have requested access to the following documents:

- 1. I am seeking to find out how many applications have been made under the Entrepreneurial Activity Business Innovation and Investment (Provisional) Visa (subclass 188) since 1 July 2016.*
- 2. I would also like to know how many applications have been successful.*
- 3. And I would like any publicly available details of the content of these applications.*

On 22 October 2018 we emailed you to request clarification of point 3 of your request. We did not receive a response from you.

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access document or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the document 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)
- advice from Departmental officers with responsibility for matters relating to the document to which you sought access

4 Document in scope of request

In accordance with section 17 of the FOI Act, the Department has used its computer system to produce one document that contains information that falls within the scope of parts 1 and 2 of your request. The data produced in the document existed in the possession of the Department on 5 August 2018 when your FOI request was received.

In relation to part 3 of your request, the Department has understood that you are seeking to access the content of the applications made under the Entrepreneurial Activity Business Innovation and Investment (Provisional) Visa (subclass 188) since 1 July 2016, to the extent that this information is publicly available or publicly accessible.

The Department is subject to obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. The information contained within individual visa applications would consist of personal information. This information would not be publicly available or accessible through publicly available resources.

As such, having regard to your request I am satisfied that the Department would not hold any information that would be relevant to part 3 of your request.

5 Decision

The decision in relation to the document in the possession of the Department which falls within the scope of parts 1 and 2 of your request is to release one document in full.

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Section 24A of the FOI Act provides that the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document and the Department is satisfied that the document does not exist.

I am satisfied that the Department has undertaken reasonable searches in relation to part 3 of your request and that no documents that would be relevant to that part of your request were in the possession of the Department on 5 August 2018 when your FOI request was received.

As such I am refusing access to part 3 of your request based on the application of section 24A of the FOI Act.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: foi.reviews@homeaffairs.gov.au

OR

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at

**Authorised Decision Maker
Department of Home Affairs**