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Freedom of Information

Policy Statement

This Policy Statement outlines the Department's requirements to ensure compliance with the provisions of the Freedom of Information Act 1982.

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Table of Contents

Freedom of Information	1
1. Introduction	3
2. Scope	3
2.1. In scope	3
2.2. Out of Scope	3
3. Glossary	3
4. Policy Statement	4
4.1. Freedom of Information Act	4
4.2. Access and amendment requests	4
4.3. Documents held by Contracted Service Providers	5
4.4. Decision makers	5
4.5. Review of decisions	6
5. Accountability and responsibilities	6
6. Statement of Expectation	6
7. Related Framework documents	7
8. References and legislation	7
9. Consultation	7
9.1. Internal consultation	7
9.2. External consultation	8
10. Document details	8
10.1. Document change control	8
10.2. Policy Statement approval	8

1. Introduction

The *Freedom of Information Act 1982* (the FOI Act) promotes accountability and transparency in Government by providing a legal framework for individuals to access information held by the Commonwealth. The Department of Home Affairs (the Department), including the Australian Border Force (ABF) is required to comply with the provisions of the FOI Act, including the requirement to publish information, provide access to documents and to amend personal information as requested.

2. Scope

2.1. In scope

This Policy Statement applies to:

- All employees of the Department, including ABF and persons engaged as consultants or contractors by the Department.
- All documents, physical and digital, in the possession or control of the Department.

2.2. Out of Scope

This policy does *not* apply to the release of information under legislation other than the FOI Act.

3. Glossary

Term	Acronym (if applicable)	Definition
Department of Home Affairs	the Department	For the purposes of this Policy Statement the Department represents the Department of Home Affairs.
Document		<p>A document includes any or any part of:</p> <ul style="list-style-type: none">- any paper or other material on which there is writing;- a map, plan, drawing or photograph;- any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;- any article or material from which sounds, images or writing are capable of being reproduced with or without the aid of any other article or device;- any article on which information has been stored or recorded, either mechanically or electronically;- any other record of information;- any copy, including any part of any copy, of a reproduction or duplicate of a thing listed above.

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<i>Freedom of Information Act 1982</i>	FOI Act	The FOI Act provides a legal framework to publish operation information, provide access to information or amendment to personal information held by government.
Australian Information Commissioner	IC	Leads the OAIC in delivering its functions across privacy, freedom of information, and government information, including providing external merits review, investigating FOI Complaints and administering the Information Publication Scheme.
Information Publication Scheme	IPS	The IPS supports a pro-disclosure culture across government. The Department's IPS obligations are addressed as part of PPCF framework.
Office of the Australian Information Commissioner	OAIC	The Office promotes the provision of public access to Australian Government information and the protection of individuals' personal information, including providing external merits review and investigating FOI and Privacy complaints.

4. Policy Statement

This policy statement outlines the requirements for managing requests received for access to documents or amendment to personal information in line with the provisions of the FOI Act.

All information, physical or digital, created or collected in the course of conducting business for the Department and/or information held on departmental systems may be subject to release under the FOI Act.

All information must be maintained in a manner consistent with the Department's Records Management Policy to ensure accurate and timely discovery to enable lawful release as required under the FOI Act.

4.1. Freedom of Information Act

The FOI Act provides the framework for:

- Providing access to a document held by the Department including defining what is exempt from disclosure.
- Updating personal details held by the Department when the document is incomplete, incorrect, out-of-date or misleading.
- Ensuring the Department publishes information which it routinely grants access to in response to FOI requests.
- Ensuring documents released under the FOI Act are published on the Department's web Disclosure log within the required time frame.
- Ensuring the Department maintains an Information Publication Scheme agency plan.

4.2. Access and amendment requests

When the Department receives and process a valid request for access or amendments, it will:

- Acknowledge the request within 14 days and register the request.

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- Process the request within 30 days unless an extension has been granted in accordance with the provisions of the FOI Act.
- Where the request relates partially or wholly to another agency, following consultation with, and acceptance by that agency, transfer the request to the relevant agency. The Department must advise the applicant of the transfer.
- Undertake all reasonable steps to search, identify and locate documents relevant to the scope of a particular request.
- Consult with the applicant to:
 - advise if preliminary assessment indicates that there may be a practical refusal reason
 - provide an estimate of charges
 - clarify scope if required
- As appropriate, apply charges in accordance with Freedom of Information (Charges) Regulations 1982.
- Consult with affected third parties.
- Confirm the identity of the applicant where a request for documents is for access to the FOI applicant's own personal information or, where a request relates business affairs, be satisfied of the relationship between the individual and the business.
- Issue to the applicant a formal Notice of Decision and provide the applicant, where practicable, with an electronic copy of the document in a format suitable to the material being released. Where the provision of a document is not practical (eg a document is a sound or visual recording), the Department may provide the applicant with a reasonable opportunity to inspect that document.
- Have regard to guidelines issued by:
 - The Office of the Information Commission
 - Department of the Prime Minister and Cabinet

4.3. Documents held by Contracted Service Providers

In line with the provisions of the *Archives Act 1983*, the Department retains ownership of Commonwealth Records collected, created or in the custody of contractors and their subcontractors engaged to provide services on behalf of the Department.

All contractors and their subcontractors are required to provide to the Department documents in their possession that would fall within the scope of an FOI request received by the Department.

4.4. Decision makers

The authority to make decisions under section 26 of the FOI Act is delegated by the Secretary to all SES, EL2s and all officers within the FOI Section of the Department.

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4.5. Review of decisions

The FOI Act provides for the review of the Department's decisions, either internally by another departmental decision maker, or externally by Information Commissioner.

While an FOI applicant may seek an internal review within 30 days of notification the Department may accept an internal review request received outside the initial 30 days.

5. Accountability and responsibilities

Position	Accountability and/or responsibility
Secretary	<ul style="list-style-type: none">Accountable for the Department's compliance with the FOI Act.Approves arrangements for officers within the Department to make decision under the FOI Act.
Senior Executive (SES Band 1-3)	<ul style="list-style-type: none">Promote awareness of and compliance with the FOI Act.Make decisions under the FOI Act
Section Heads (EL2)	<ul style="list-style-type: none">Authorised to make decisions under the FOI Act
Freedom of Information Section	<ul style="list-style-type: none">Administer all aspects of the FOI Act on behalf of the DepartmentOfficers at the APS4 to EL2 level are authorised to make decisions under the FOI Act.
Divisional Coordinators	<ul style="list-style-type: none">Manage and promote compliance with all aspects of the FOI process within their line areas.Promote processing FOI requests including ensuring a timely response to requests and maintaining engagement with the FOI section.Develop and action issues management plan relating to information being released.
Home Affairs workers	<ul style="list-style-type: none">Comply with departmental policies and procedures in relation to the collection, creation, storage and management of information, including correct use of systems.

6. Statement of Expectation

This Policy Statement under the PPCF sets out high-level guidance and principles, and outlines statutory, regulatory or organisational requirements.

It is expected that all officials who are subject to this Policy Statement will have due regard to it and will only depart from it if:

- the departure is reasonable and justified in the circumstances;
- all risks have been considered; and
- approval has been sought and responsibility accepted for documenting the justification for the decision.

Where this Policy Statement contains directions, officials who are subject to the statement must comply with these directions.

All records created as a result of this policy must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

Type of supporting documentation	Subject
Supporting Material	Guidelines issued by the Department of Prime Minister and Cabinet https://www.ag.gov.au/RightsAndProtections/FOI/Pages/Freedomofinformationguidelinesbefore1November2010.aspx
Supporting material	Information Commissioner Guidelines https://www.oaic.gov.au/freedom-of-information/foi-guidelines/
Policy Statement	TI-1094 Records Management Policy

8. References and legislation

- *FOI Act 1982*
- *FOI (Charges) Regulations 1982*
- *Archives Act 1983*

9. Consultation

Internal consultation

The following internal stakeholders were consulted in the development of this Policy Statement:

- Privacy Information Disclosure Section
- Records Management Section
- Legal Advice and Operational Support Branch

External consultation

The following external stakeholders were consulted in the development of this Policy Statement:

- Office of the Australian Information Commissioner

10. Document details

BCS Category/Function	Strategic Management and Governance
BCS Sub-Category/Sub-Function	Policy and Procedure Development
Period of Effect	Three years from date of original approval.

Document change control

Version number	Date of issue	Author(s)	Brief description of change
0.01		s. 22(1)(a)(ii)	Initial draft

Policy Statement approval

Document owner	Ben Wright, First Assistant Secretary Productivity and Compliance
Approval date	24 October 2019



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Templates – Letters, emails and submissions

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Template – Email to agency requesting permission to transfer request

Dear

A request has been made under the FOI Act for the following:

<Insert scope as written by client>

As this Department does not hold records of *<insert information or document type>* this *(part of the)* request appears to relate to documents that would be in the possession of your agency.

Please advise if you agree to the transfer of this *(part of the)* request.

If I have not received a response within 5 days of sending this email I will assume that the transfer has been refused.

I can be contacted on the number listed below.

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Template Transfer Letter notifying agency – transfer in full

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Transfer of request - Access

As per our correspondence/conversation of <date> in relation to the request for <access/amendment> to documents under the *Freedom of Information Act 1982* (FOI Act) received by this Department on <date> from <Applicant First name Surname>.

Pursuant to section 16 of the FOI Act, the Department is now transferring this request to your Department for action.

Copies of the FOI request and the letter advising the applicant that the request has been transferred are attached.

If you have any questions please contact me on the number listed below.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Email «EMail»

Attachment(s)

<<list Attachments here>>

Template Transfer Letter notifying applicant – transfer in full

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOFCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

Client ID «ApplicantClientID»

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Transfer of request - Access

OPTION – AGENT

«ApplicantFirstnameSurname» (the applicant) has authorised you to receive, on their behalf, correspondence about their request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

END OPTION

I refer to your request of <date of request> in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to documents relating to <subject of request>.

The documents relevant to your request are held by <name of contact person or agency where request is being transferred>.

Your request was transferred on <date of transfer> so that agency can make a decision on your request for access to their documents. The reason the documents were transferred is (insert reason)

The FOI officer in the <agency> will be writing to you directly concerning your request. If you want to make any enquiries relating to your request, please contact: <provide name and contact details>

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 9 am and 4 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Email «EMail»

Attachment(s)

<<list Attachments here>>

DRAFT

Template Transfer Letter notifying agency – transfer in part

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Partial transfer of request - Access

As per our correspondence/conversation of <date> in relation to the request for <access/amendment> to documents under the *Freedom of Information Act 1982* (FOI Act) received in this Department by <date> from <ApplicantFirstnameSurname>.

Pursuant to section 16 of the FOI Act, the Department is now transferring the part of the request that applies to documents held by your Department to you for action.

Copies of the FOI request and the letter advising the applicant that this part of the request has been transferred are attached.

If you have any questions please contact me on the number listed below.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Email «EMAIL»

Attachment(s)

<<list Attachments here>>

Template Transfer Letter notifying applicant – transfer in part

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOCTOITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

Client ID «ApplicantClientID»

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Acknowledgement of Freedom of Information request - Access

OPTION IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname» (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

END OPTION

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act) received on <<date>>. Your request has been allocated a FOI Request Number «FOIV2_Request_ADF_Number». Please include your FOI Request Number in all correspondence with the Freedom of Information Section.

Partial transfer of request

The documents relating to <specify part of request> are held by <name of contact person or agency where request is being transferred>.

This part of your request was transferred to <name of agency> on <date of transfer> so that agency can make a decision on your request for access to their documents.

The FOI officer in <name of agency> will be writing to you directly concerning your request. If you want to make any enquiries relating to your request, please contact: <provide name and contact details>

The remainder of your request will continue to be processed in this office. You will be advised when a decision has been made.

Please note that on 20 December 2017 the Home Affairs Portfolio, including the Department of Home Affairs, was formally established. For the purposes of the FOI Act, 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.

A request for access to documents held by the Department of Home Affairs will be limited to documents held by the Department, and will not include documents held by other agencies

within the wider Home Affairs portfolio, which remain separate agencies for the purposes of the FOI Act.

Further documentation

OPTION SELECT ALL RELEVANT

OPTION PHOTOGRAPHIC IDENTIFICATION

The Department is committed to maintaining your records to ensure that they are not released to a person who is not entitled to receive them. To help us to ensure this please provide a certified copy of some personal photographic identification. This identification could include any of the following: Current Drivers Licence, Passport or student card.

If you anticipate any problems providing a copy of personal identification, please telephone me immediately.

END OPTION

OPTION CONSENT

Section 47F(1) of the FOI Act provides that documents are exempt from release where this would involve unreasonable disclosure of personal information and be contrary to the public interest. As you are seeking access to documents containing information about _____ it will assist this office to make a decision on your request if you provide written consent from _____.

Where possible you should also provide certified photographic identification for _____. This identification could include any of the following: Current Drivers Licence, Passport or student card.

If you cannot obtain consent or photographic identification and you still wish to access the documents, you should write to this office setting out reasons why you believe their release would not be unreasonable.

If you anticipate any problems obtaining consent, please telephone me.

END OPTION

You should forward these documents within 14 days of the date of this letter to the following address:

Freedom of Information
Department of Home Affairs
PO Box
CITY STATE POST CODE

Or by email to foi.vic@homeaffairs.gov.au

If the documents have not been received within 14 days, a decision will be made on your request on the basis of the information held.

Processing times

The statutory time allowed under the FOI Act for processing requests is 30 days. Requests are generally processed in the order in which they are received.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 9 am and 4 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Fax «Fax»

Email «EMail»

Attachment(s)

<<list Attachments here>>

APPROPRIATE PARAGRAPHS – No reference in schedule for below?

OPTION – No scope provided

You have not provided any information about the documents you wish to access. You need to state the information you are requesting and identify the documents with specificity.

To assist the FOI Section in processing requests in a timely manner, we ask that you consider how you word the scope of your request. If you are seeking a specific file; and/or documents in connection to a specific contact that you had with the Department, it is greatly appreciated if you state that in the terms of your request. For example you could state that you are seeking the documents in connection to **you/your client's <...>**

Officer required to provide a suggested scope based on your observation from ICSE and ICSE offspring.

Eg you will provide a suggested scope similar to: *your most recently approve/refused protection visa file; your most recently approved/refused student visa file; ministerial file; visitor visa file XXXX.*

OPTION – Unable to identify client – personal information

You have not provided enough information about yourself to identify the documents you are requesting. Please provide the following information:

- Full name
- Date of birth
- File number if known
- Certified photographic identification for yourself

Please forward this information to the following address:

[Name of Officer]
Freedom of Information
Department of Home Affairs
<PO Box number>
<CITY STATE POSTCODE>

or

By email to **<foi.vic>@homeaffairs.gov.au>**

Please include the FOI request number listed at the top of this letter with the documents you forward.

END OPTION

OPTION – Non-specific request – personal information

The information you have provided is unspecific and the FOI Section is therefore unable to identify the documents you are requesting.

Applications lodged with this Department often include details of third parties. On occasion the files to which these documents are attached will not list the names of third parties in a readily searchable fashion, for example, where a visa applicant has been asked to provide the names of their parents and siblings who are not included in the application.

As the Department could hold records that contain information about you in this format, the FOI Section requires more information in order to identify these documents.

To assist the FOI Section in processing requests in a timely manner, we ask that you consider how you have worded the scope of your request. If you are seeking a specific file; and/or documents in connection to a specific contact that you had with the Department, it is greatly appreciated if you state that in the terms of your request. For example you could clarify that you are only seeking the documents in connection to your client's <...>

Officer required to provide a suggested scope based on your observation from ICSE and ICSE offspring.

Eg you will provide a suggested scope similar to: *your most recently approve/refused protection visa file; your most recently approved/refused student visa file; ministerial file; visitor visa file XXXX.*

END OPTION

PTION – Using broad terminology requesting all docs relating to the applicant

When you use the terminology of 'All documents' and/or 'including but not limited to' this makes the assessment of interpreting the scope of your request difficult. This is because you may have had multiple contacts with the Department for different purposes, and records could be located across various systems and departmental files. The retrieval of files can vary in the time that it takes to be received within the FOI Section. In some cases it can add a considerable amount of time to the processing of an FOI request.

To assist the FOI Section in processing requests in a timely manner, we ask that you consider how you have worded the scope of your request. If you are seeking a specific file; and/or documents in connection to a specific contact that you had with the Department, it is greatly appreciated if you state that in the terms of your request. For example you could clarify that you are only seeking the documents in connection to your client's <...>

Officer required to provide a suggested scope based on your observation from ICSE and ICSE offspring.

Eg you will provide a suggested scope similar to: *your most recently approve/refused protection visa file; your most recently approved/refused student visa file; ministerial file; visitor visa file XXXX.*

END OPTION

OPTION – Requesting 'all detention records'

In order to progress with this application please specify what you are requesting in relation to "detention records". Detention "records" may include everything held on CCMD and PSP reports where the client is noted which are not readily available on any files solely relating to the applicant alone, records held by third parties in which your client is mentioned, Global Feedback complaints and any ombudsman reports. In order to satisfy the wording of "detention records" at external accountability the Department would be required to undertake voluminous searches and requests for any material from every officer within the detention network. If you are seeking a specific file; and/or documents in connection to a specific incident, it is greatly appreciated if you state that in the terms of your request. For example you could clarify that you are only seeking the documents in connection to your detention dossier or any incident reports relating to my detention from XXXX to XXXX.

END OPTION

OPTION – Client requesting ‘entire file’

The Department does not hold one file regarding each client, but rather a separate file (electronic or paper), boxed document, electronic document or other record is created for every separate interaction that the applicant has with the Department.

To assist the FOI Section in processing requests in a timely manner, we ask that you consider how you have worded the scope of your request. If you are seeking a specific file; and/or documents in connection to a specific contact that you had with the Department, it is greatly appreciated if you state that in the terms of your request. For example you could clarify that you are only seeking the documents in connection to your client's <<...>>.

Officer required to provide a suggested scope based on your observation from ICSE and ICSE offspring.

Eg you will provide a suggested scope similar to: *your most recently approve/refused protection visa file; your most recently approved/refused student visa file; ministerial file; visitor visa file XXXX.*

OPTION – Documents previously released

A practical refusal reason exists under Section 24AA(1)(a)(i).

I believe that the work involved in processing your request would substantially and unreasonably divert the resources of this agency from its other operations as documents within the scope of your request have already been released on XXX to XXX

On this basis, I intend to refuse access to the documents you requested. However, before we make a final decision to do this, you have an opportunity to revise your request. This is called a ‘request consultation process’ as set out under section 24AB of the FOI Act.

You may wish to consider specifying the exact document(s) you wish to obtain that have not previously been assessed and released to you.

END OPTION

OPTION – 188/163/132 visa files – this option is available to FOI decision makers faced with files and boxes that are excessively voluminous

You have exercised a legally enforceable right to obtain documentation either reasonably held within your own personal possession, the possession of your business or possession of any representative assisting you for the purposes of your visa application.

The Department notes that you are seeking a wide ranging scope of documentation, predominantly documentation that was submitted as part of the visa application process. Given much of the supporting documentation submitted as part of the visa application process would reasonably reside with you or your business, you are able to access these documents administratively by accessing your personal records and/or business records which hold the documentation submitted to this department as part of the visa application process.

As these business documents you provided are captured within your FOI request, you are binding this agency to take measures to search and identify the documents, photocopy the document, then subsequently assess the documents pursuant to FOI legislation. The department are conducting these tasks concurrent to the fact these are documents originating from you, your business and/or documents residing within the possession of any previous representative that prepared the visa application.

It is my belief that the Department utilising public money for the purposes of discharging functions under the FOI Act 1982 concerning documents reasonably residing within your

possession or reasonably ascertainable by you is an unreasonable and substantial diversion of resources.

However, the Department considers that documents you may not reasonably hold a copy of, which a phrase encompassing such documents is as follows, are documents that could reasonably be pursued under FOI legislation and you may wish to consider requesting:

1. Departmental documents created for the purposes of handling the visa(s) which include the departmental application form(s), decision making notes, emails and other documents created by the department within the file to which these visas relate which I have not directly provided the department.

On this basis, I intend to refuse access to the documents you requested. However, before we make a final decision to do this, you have an opportunity to revise your request, withdraw the request or continue with the request as stated within your original correspondence.

This is called a 'request consultation process' as set out under section 24AB of the FOI Act.

END OPTION

OPTION – Non-specific request – business information

This Department currently employs several thousand people and it is possible that some of these people may have worked for your company and therefore personnel records held by this Department may contain documents which fall within the scope of your request. To undertake a search of this nature would substantially and unreasonably divert the resources of the agency from its other operations as the search would need to be done physically.

The Department also holds applications that have listed the places the visa applicant has worked. This is not in a readily searchable format. If a visa applicant has worked for your company but has never been sponsored by your company these documents will not be identifiable.

On this basis, I intend to refuse access to the documents you requested. However, before we make a final decision to do this, you have an opportunity to revise your request and advise the specific documents you are requesting or, if this is unknown, the nature of the documents you are requesting. If you do not wish to re-scope your request it may be possible for the above searches to be undertaken if you provide the names of all the people who work or have worked for your company. You have the option to withdraw the request or continue with the request as stated within your original correspondence. This is called a 'request consultation process' as set out under section 24AB of the FOI Act.

END OPTION

OPTION – Non-specific request – policy information

As you have requested all information about <policy area> the information is not readily identifiable. Often policy decisions will have a flow-on effect on other policy areas. These policy areas will be mentioned in reports, however files won't be titled to show which additional policy areas might be affected and therefore the information is not readily identifiable.

Further, the Department has been operating for over 65 years and undertaking a search for all documents related to a policy area for the last 20 years, which is the period prior to documents falling within the purview of the *Archives Act 1983*, would substantially and unreasonably divert the resources of the agency from its other operations.

On this basis, I intend to refuse access to the documents you requested. However, before we make a final decision to do this, you have an opportunity to revise your request by asking for a particular policy or the policy at a particular time, withdraw the request or continue with the

request as stated within your original correspondence. This is called a 'request consultation process' as set out under section 24AB of the FOI Act.

END OPTION

DRAFT

Template – Letter confirming new scope

<<Current Date>>

«SendToTitleFirstnameSurname»
«SendToTradingName»
«SendToAddress3»
«SENDOCTOITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»
Date of Birth «ApplicantDateOfBirth»
Client ID «ApplicantClientID»
FOI Request «CaseNumber»
File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Confirmation of scope of access request

OPTION – IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname», (the applicant), has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

END OPTION

I refer to our conversation on <date> in relation to the scope of your request.

You originally requested access to the following information:

<scope of request at time of application>

Based on our conversation, I am confirming that the new scope of your request is as follows:

<new scope as per conversation>

If you believe that this is the correct interpretation of the scope of your request you do not need to do anything further.

If you believe that I have misinterpreted our conversation and this does not reflect the agreed new scope of your request please contact me as soon as possible so that the correct documents can be identified, requested and assessed.

I can be contacted at the telephone number or email address below.

Please note, if you decide after you receive the decision for this request that the documents placed out of scope are required by you, you can lodge a fresh application requesting those documents. The FOI Act does not impose a fee for an FOI request.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Email «EMail»

DRAFT

Template – Request Consultation - withdrawn or invalid request

<<Current Date>>

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress3»

«SENDCITY» «SENDTOSTATE» «SENDCPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

Client ID «ApplicantClientID»

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Decision on request - Access

OPTION – IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname», (the applicant), has authorised you to receive correspondence about their Freedom of Information request on their behalf. Correspondence will not be sent directly to the applicant. In this letter references to 'you' and 'your' relate to the applicant.

END OPTION

This letter refers to an access request received under the *Freedom of Information Act 1982* (the FOI Act) received on <<date>>.

You requested access to the following information:

<scope of request at time of application>

On <<insert date>> you were sent a notification that a practical refusal reason existed in relation to this request and asked to provide a response within 14 days of the date of the letter.

OPTION WITHDRAWN BY CLIENT

Your response was received on <<insert date>> in which you advised that you wished to withdraw your request.

This request has been finalised in line with your response. No further action will be taken on this request. You may lodge a new request for access at any time.

END OPTION

OPTION DEEMED WITHDRAWN

You have not responded to this letter. As advised in the letter, if no response was received in the specified timeframe, your request will be taken to be withdrawn.

This request has been finalised as withdrawn. No further action will be taken on this request.

You may lodge a new request for access at any time.

END OPTION

OPTION REQUEST NOT REVISED 15(2)(b) INVALID

You have advised that you do not wish to revise the scope of your request. As it is not possible to identify the documents to which you are requesting access your request does not meet subsection 15(2)(b) and is therefore invalid.

No further action will be taken on this request.

You may lodge a new request for access at any time.

END OPTION

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

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

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act.

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to the Australian Information Commissioner using the following details:

Online:	www.oaic.gov.au
Post:	GPO Box 5218 Sydney NSW 2001
Fax:	+61 2 9284 9666
Email:	enquiries@oaic.gov.au

A complaint form is also available at www.oaic.gov.au.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 9 am and 4 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

«Section»

«Office»

Department of Home Affairs

Telephone «PhoneBH»

Email «EMAIL»

Access Acknowledgement Letter Template

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOFCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

Client ID «ApplicantClientID»

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Acknowledgement of Freedom of Information Access request

OPTION IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname» (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

END OPTION

This letter refers to an access request received by the Department of Home Affairs ('the Department') under the *Freedom of Information Act 1982* (the FOI Act) on «ReceivedDate», seeking access to:

«FOIV2_Docs_Other_text_field»

On <insert date> the Department sought to clarify the terms of your request. As per the advice received, the Department understands the scope of your request is now:

«FOIV2_Docs_Other_text_field»

Your request has been allocated FOI request number «CaseNumber». Please include your FOI request number in all correspondence with the Freedom of Information (FOI) Section.

Please note that on 20 December 2017 the Home Affairs Portfolio, including the Department of Home Affairs, was formally established. For the purposes of the FOI Act, the Department of Home Affairs includes the entirety of the former 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.

A request for access to documents held by the Department of Home Affairs will be limited to documents held by the Department and will not include documents held by

other agencies within the wider Home Affairs portfolio, which remain separate agencies for the purposes of the FOI Act.

Scope of Request – broad terminology

Please be aware that if you have used the terminology of 'All documents' and/or 'including but not limited to' this makes the assessment of interpreting the scope of your request difficult. This is because you may have had multiple contacts with the Department for different purposes, and records could be located across various systems and departmental files. The retrieval of files can vary in the time that it takes to be received within the FOI Section. In some cases it can add a considerable amount of time to the processing of an FOI request, for example if a file is located overseas and is in transit to Australia it can take a number of months before it reaches the FOI Section.

To assist the FOI Section in processing requests in a timely manner, we ask that you consider how you have worded the scope of your request. If you are seeking a specific file; and/or documents in connection to a specific contact that you had with the Department, it is greatly appreciated if you could contact us to clarify the terms of your request. For example you could clarify that you are only seeking the documents in connection to the visa application process for visa subclass

You may provide this information by writing to the Department at:

Email to: «OwnerLocationAddress3»

Or by mail at:

Freedom of Information
Department of Home Affairs
«OwnerLocationAddress4»

Further documentation required

The Department has identified that your access request requires further documentation to support the release of documents to you.

Identification

The Department is committed to maintaining your records to ensure that they are not released to a person who is not entitled to receive them. To help us do this, please provide a copy of your personal photographic identification. This identification could include any of the following: current drivers licence, passport or student card.

If you anticipate any problems providing a copy of your personal identification, please contact this office using the details provided in the acknowledgement letter.

Third party consent

Section 47F(1) of the FOI Act provides that documents are exempt from release where this would involve unreasonable disclosure of personal information. As you are seeking access to documents containing information about 3rdPartyName it will assist the Department to make a decision on your request if you provide written consent from 3rdPartyName.

Where possible, you should also provide photographic identification for 3rdPartyName. This identification could include any of the following: current Drivers Licence; Passport; or student card.

If you anticipate any problems obtaining consent or photographic identification, please contact me, using the details provided in the Acknowledgement letter.

If you cannot obtain consent or photographic identification from 3rdPartyName and you still wish to access their documents, you should write to this office setting out reasons why you believe the release would not be unreasonable or contrary to the public interest. In cases where consent cannot be obtained the Department may be required to consult the individual(s) concerned under section 27A of the FOI Act prior to making an access decision.

Timeframe to provide additional documents

Please forward these documents within 14 days of the date of this letter to the following address:

Scan and email to: foi.vic@homeaffairs.gov.au

Or by mail:
Freedom of Information
Department of Home Affairs
«OwnerLocationAddress4»

If the documents have not been received within 14 days, a decision will be made on your request on the basis of the information held.

Timeframe for request

The statutory timeframe provided under the FOI Act for processing requests is a standard 30 calendar days. FOI requests will generally be processed in the order that they are received.

Request for an extension of time

For this reason the Department seeks your agreement (under s.15AA of the FOI Act) to extend the timeframe for the processing of your request by 30 days. You may confirm your agreement to the extension of time by writing to the Department at:

Email to: foi.vic@homeaffairs.gov.au

Or by mail at:
Freedom of Information
Department of Home Affairs
«OwnerLocationAddress4»

If you agree to the extension of time please advise the Department within 14 days from the date of this letter. If you are unable or unwilling to provide an extension of time you are not required to respond to this letter.

Contacting the FOI Section

If you wish to discuss your access request you may contact the FOI Section using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 9 am and 4 pm

Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

DRAFT

Additional standard paragraphs Access

FEE TO BE REFUNDED

Following changes to the FOI Act, it is no longer a requirement to pay an application fee for a request to be valid. As such, the fee you provided was not required. In keeping with the requirements of the *Financial Management and Accountability Act 1997*, your fee has been receipted and a refund has been organised. You will receive the return of the fee separately.

CREDIT CARD NOT CHARGED

Following changes to the FOI Act, it is no longer a requirement to pay an application fee for a request to be valid. As the fee is not required, your credit card has not been charged.

RETURN OF MONEY ORDER/CHEQUE

Following changes to the FOI Act, there is no longer a requirement to pay an application fee for a request to be valid. As such, your money order/cheque is being returned. Please find enclosed money order/cheque number <insert number>.

CLIENT IS UNLAWFUL

Departmental records currently indicate that you are onshore in Australia and do not hold a current, valid visa. It is in your best interests to report in person to the nearest Department of Home Affairs office as soon as possible to have your status regularised.

Based on the postal address provided in your request form, your nearest office is:

<Insert office and address>

CONFIRMING SCOPE OF REQUEST

You originally requested access to documents as follows:

<insert scope as listed on application form>

As per your correspondence/conversation with <name of departmental officer> on <dd Month yyyy> the scope of your request is now:

<insert new scope as documented by departmental officer named above>

If you believe that this is incorrect please contact <name of departmental officer named above> on <telephone number> to discuss.

PARTIAL TRANSFER OF REQUEST

The documents relating to <specify part of request> are held by <name of agency>.

This part of your request was transferred to < name of contact person where request is being transferred > on <date of transfer> so that agency can make a decision on your request for access to their documents.

The FOI officer in <name of agency> will be writing to you directly concerning your request. If you want to make any enquiries relating to this part of your request, please contact: <provide name and contact details>

The remainder of your request will continue to be processed in this office. You will be advised when a decision has been made.

Template – Section 15AA request for agreed extension of time - email

SUBJECT – Extension of time to process FA YY/MM/Number

Body of email/letter

As per our discussion on <insert date> I am writing to request an extension of 30 days to make a decision on your FOI access request for <insert scope>.

As explained, the reason for the delay is as follows:

<insert reason for delay>

Once all the documents have been received, your request will be processed as soon as possible.

If you agree to this extension, the due date for a decision on your request will be <insert new date>.

Please respond by return email before <insert date prior to case being due>.

Please contact me if you have any questions in relation to this FOI request.

Thank you for your assistance in this matter.

Name
Position Number
Case Officer
Freedom of Information Melbourne
Department of Home Affairs
Telephone number: <insert telephone number>

Template – Section 15AA request for agreed extension of time – standard mail

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDCITY» «SENDTOSTATE» «SENDOPOSTCODE»

In reply please quote:

Client Name «ApplicantFirstnameMiddleSurname»

Date of Birth «ApplicantDateOfBirth»

Client ID «ApplicantClientID»

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request - extension of time

OPTION IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname» (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

END OPTION

As per our discussion on <insert date> I am writing to request an extension of 30 days to make a decision on your FOI access request for <insert scope>.

As explained, the reason for the delay is as follows:

<insert reason for delay>

Once all the documents have been received, your request will be processed as soon as possible. If you agree to this extension, the due date for a decision on your request will be <insert new date>.

Please complete the enclosed form and return it in the self-addressed envelope before <insert date prior to case being due>.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 9 am and 4 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachments:

Agreed extension of time

Reply Paid, addressed envelope

Attachment – Agreed Extension of time

Client Name «ApplicantFirstnameSurname»
Date of Birth «ApplicantDateOfBirth»
Client ID «ApplicantClientID»
FOI Request «CaseNumber»
File Number «FOIV2_Request_ADF_Number»

I agree to extend the timeframe for decision on my FOI access request by <insert number of days>.

The new due date for decision is <insert new date>.

Signed: _____
<Insert name of client>

Template – Consultation with a Foreign Government, agency or International Organisation

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDCITY» «SENDSTATE» «SENDPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation with a Foreign Government, authority of a Foreign Government or International Organisation

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your **government/authority/organisation**.

Consulting under the FOI Act

Subsection 15(7) of the FOI Act permits the Department to consult with any foreign government, authority of a foreign government or international organisation that may reasonably wish to contend that a document is an exempt document under subparagraph 33(a)(iii) or paragraph 33(b) of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under subparagraph 33(a)(iii) or paragraph 33(b) of the FOI Act.

Subparagraph 33(a)(iii) or paragraph 33(b) of the FOI Act contain provisions to exempt from disclosure certain documents containing information which may jeopardise the Commonwealth's relations with foreign governments, authorities of foreign governments or international organisations. A copy of section 33 of the FOI Act is attached for your reference.

What we need from you

If you believe disclosure of the attached documents would adversely affect the authority please write to me within 14 days from the date of this letter explaining your reasons. Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

OPTION DOCUMENT ALREADY PUBLISHED

I believe the attached document is exempt as it was communicated in confidence in line with paragraph 33(b) of the FOI Act. However I note that this document has been published and is publicly available at <<insert location>>.

If you consent to the document being released, I will release this document as part of the current request. If you believe release of the attached document would still adversely affect the authority please write to me within 14 days from the date of this letter explaining your reasons.

Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to the release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

END OPTION

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You have no right of review in relation to this decision.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 33 of the *Freedom of Information Act 1982*

Documents subject to consultation

33 – Documents affecting national security, defence and international relations.

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

(a) would or could reasonably 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.

(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 organisation to the Government of the Commonwealth, to an authority of the Commonwealth, to a person receiving the communication on behalf of the Commonwealth or an authority of the Commonwealth.

Template – Consultation business documents – Section 47

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENTOCITY» «SENDTOSTATE» «SENDOPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation in relation to trade secrets or commercially valuable information

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your business.

Consulting under the FOI Act

Subsection 27 of the FOI Act permits the Department to consult with any person or organisation concerned that may reasonably wish to contend that a document is an exempt document under section 47 of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under section 47 of the FOI Act.

Section 47 of the FOI Act contains provisions to exempt from disclosure certain documents containing information which would disclose trade secrets or any other information having a commercial value that would be, or could reasonably be expected to be destroyed or diminished if the information were disclosed. A copy of section 47 of the FOI Act is attached for your reference.

What we need from you

If you believe disclosure of the attached documents would disclose trade secrets or destroy or diminish the commercial value of this information please write to me within 14 days from the date of this letter explaining your reasons. Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You will then have a right of review of that decision. The documents will not be released until review or appeal opportunities have run out.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 47 of the *Freedom of Information Act 1982*
Documents subject to consultation

Freedom of Information Act 1982 (Cth)

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
- (a) trade secrets;
 - (b) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) Subsection (1) does not have effect in relation to a request by a person for access to a document:
- (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

Template – Consultation Commonwealth/State relations – Section 47B

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOCCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation in relation to documents affecting Commonwealth-State relations

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your **agency/authority**.

Consulting under the FOI Act

Subsection 26A of the FOI Act permits the Department to consult with the State concerned where the State may reasonably wish to contend that a document is an exempt document under section 47B of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under section 47B of the FOI Act.

Section 47B of the FOI Act contains provisions to exempt from disclosure certain documents containing information which would or could reasonably be expected to cause damage to relation between the Commonwealth and a State or divulge information communicated in confidence by the State to the Commonwealth. A copy of section 47B of the FOI Act is attached for your reference.

In addition, it must be shown that the release of the information would be contrary to the public interest as written at section 11A of the FOI Act. A copy of sections 11A and 11B of the FOI Act are attached for your reference.

What we need from you

If you believe disclosure of the attached documents would or be expected to cause damage to relations between the Commonwealth and a State or divulge information communicated in confidence by the State to the Commonwealth please write to me within 14 days from the date of this letter explaining your reasons for expecting damage or why you believe the information was communicated in confidence.

You should also provide any reasons that you believe would make the release of the information contrary to the public interest.

Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You will then have a right of review of that decision. The documents will not be released until review or appeal opportunities have run out.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 47B of the *Freedom of Information Act 1982*

Sections 11A and 11B of the *Freedom of Information Act 1982*

Documents subject to consultation

47B Public interest conditional exemptions—Commonwealth-State relations etc.

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

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or*
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, 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; or*
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or*
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, 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 an authority of the Commonwealth; or*
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or*
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.*

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

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.*

Guidelines

- (5) *In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.*

Template – Consultation Commonwealth/Norfolk Island/State relations – Section 47B

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENTOCITY» «SENDTOSTATE» «SENDOPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation in relation to documents affecting Commonwealth-Norfolk Island-State relations

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your **agency/authority**.

Consulting under the FOI Act

Subsection 26AA of the FOI Act permits the Department to consult with the State concerned where the State may reasonably wish to contend that a document is an exempt document under section 47B of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under section 47B of the FOI Act.

Section 47B of the FOI Act contains provisions to exempt from disclosure certain documents containing information which would or could reasonably be expected to cause damage to relations between the Commonwealth and Norfolk Island or Norfolk Island and a State or divulge information communicated in confidence by Norfolk Island to the Commonwealth or by a State to Norfolk Island. A copy of section 47B of the FOI Act is attached for your reference.

In addition, it must be shown that the release of the information would be contrary to the public interest as written at section 11A of the FOI Act. A copy of sections 11A and 11B of the FOI Act are attached for your reference.

What we need from you

If you believe disclosure of the attached documents would or be expected to cause damage to relations between the Commonwealth and Norfolk Island or Norfolk Island and a State or divulge information communicated in confidence by Norfolk Island to the Commonwealth or by a State to Norfolk Island please write to me within 14 days from the date of this letter explaining your reasons for expecting damage or why you believe the information was communicated in confidence.

You should also provide any reasons that you believe would make the release of the information contrary to the public interest.

Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You will then have a right of review of that decision. The documents will not be released until review or appeal opportunities have run out.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 47B of the *Freedom of Information Act 1982*

Sections 11A and 11B of the *Freedom of Information Act 1982*

Documents subject to consultation

47B Public interest conditional exemptions—Commonwealth-State relations etc.

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

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or*
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, 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; or*
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or*
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, 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 an authority of the Commonwealth; or*
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or*
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.*

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

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.*

Guidelines

- (5) *In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.*

Template – Consultation Personal Information – 47F

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOCCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation in relation to documents affecting Commonwealth-Norfolk Island-State relations

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your personal information.

Consulting under the FOI Act

Subsection 27A of the FOI Act permits the Department to consult with a person or the person's legal personal representative where the person concerned might reasonably wish to contend that a document is an exempt document under section 47F of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under section 47F of the FOI Act.

Section 47F of the FOI Act contains provisions to exempt from disclosure certain documents containing information which would involve the unreasonable disclosure of personal information about any person (including a deceased person). A copy of section 47F of the FOI Act is attached for your reference.

In addition, it must be shown that the release of the information would be contrary to the public interest as written at section 11A of the FOI Act. A copy of sections 11A and 11B of the FOI Act are attached for your reference.

What we need from you

If you believe disclosure of the attached documents would involve the unreasonable disclosure of personal information about any person (including a deceased person) please write to me within 14 days from the date of this letter explaining your reasons.

You should also provide any reasons that you believe would make the release of the information contrary to the public interest.

Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You will then have a right of review of that decision. The documents will not be released until review or appeal opportunities have run out.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 47F of the *Freedom of Information Act 1982*
Sections 11A and 11B of the *Freedom of Information Act 1982*
Documents subject to consultation

47F Public interest conditional exemptions—personal privacy

- (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.
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

Access given to qualified person instead

- (4) Subsection (5) applies if:
 - (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
 - (b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.
- (5) The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:
 - (a) carries on the same occupation, of a kind mentioned in the definition of **qualified person** in subsection (7), as the first-mentioned qualified person; and
 - (b) is to be nominated by the applicant.
- (6) The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
- (7) In this section:

qualified person means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

 - (a) a medical practitioner;
 - (b) a psychiatrist;
 - (c) a psychologist;
 - (d) a counsellor;
 - (e) a social worker.

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

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.*

Guidelines

- (5) *In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.*

Template – Consultation business documents – Section 47G

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDOCCITY» «SENDTOSTATE» «SENDTOPOSTCODE»

In reply please quote:

FOI Request: «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear <<Contact Person>>

Freedom of Information Request - Consultation in relation to business, commercial or financial affairs

This letter refers to a request received under the *Freedom of Information Act 1982* (the FOI Act). The attached documents relating to this request contain information concerning your business.

Consulting under the FOI Act

Subsection 27 of the FOI Act permits the Department to consult with any person or organisation concerned that may reasonably wish to contend that a document is an exempt document under section 47G of the FOI Act.

The purpose of this letter is to provide you with the opportunity to make a submission as to whether the attached documents should be exempt under section 47G of the FOI Act.

Section 47G of the FOI Act contains provisions to exempt from disclosure certain documents containing information which would or could reasonably be expected to adversely affect a person or organisation in the undertaking of a lawful business, professional, commercial or financial affairs or prejudice the future supply of information for the purpose of the administration of a law of the Commonwealth or Territory or matters administered by an agency. A copy of section 47G of the FOI Act is attached for your reference.

In addition, it must be shown that the release of the information would be contrary to the public interest as written at section 11A of the FOI Act. A copy of sections 11A and 11B of the FOI Act are attached for your reference.

What we need from you

If you believe disclosure of the attached documents would or could adversely affect the undertaking of a lawful business, professional, commercial or financial affairs or stop you from providing information for the purpose of the administration of a law of the Commonwealth or Territory or matters administered by an agency please write to me within 14 days from the date of this letter explaining your reasons.

You should also provide any reasons that you believe would make the release of the information contrary to the public interest.

Please send your response to me at the following address:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

I will take these reasons into account when making a decision whether to release the information. If you choose not to make any comments regarding these documents I will presume that you have no objection to their release.

The FOI Act allows certain details or information to be deleted from documents where an exemption may apply, and the rest of the document to be disclosed. If you do object to the release of some of the attached documents, please consider whether the deletion of any specific details from the documents would eliminate or substantially reduce your objection.

The authority's rights

If I make a decision to release documents despite your objections I will inform you of my decision. You will then have a right of review of that decision. The documents will not be released until review or appeal opportunities have run out.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)

Section 47G of the *Freedom of Information Act 1982*

Sections 11A and 11B of the *Freedom of Information Act 1982*

Documents subject to consultation

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 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.
- (3) Subsection (1) does not have effect in relation to a request by a person for access to a document:

 - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (4) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.
- (5) For the purposes of subsection (1), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

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

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.*

Guidelines

- (5) *In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.*

Template – Notification to client of consultation

«Date»

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress1»

«SENDCITY» «SENDTOSTATE» «SENDCPOSTCODE»

In reply please quote:

Client Name: «ApplicantFirstnameMiddleSurname»

Date of Birth: «ApplicantDateOfBirth»

Client ID : «ApplicantClientID»

FOI Request : «CaseNumber»

File Number: «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Consultation Notification

OPTION IF SENDING DECISION TO AN AGENT

«ApplicantFirstnameSurname» (the applicant) has authorised you to receive, on their behalf, correspondence about their Freedom of Information request. Correspondence will not be sent directly to the applicant. In this letter, references to 'you' relate to the applicant.

END OPTION

I refer to your request of <insert date> in which you sought access under the *Freedom of Information Act 1982* (the FOI Act) to documents relating to:

<scope>.

Processing of the request has identified documents that are relevant to the request which may concern relations with foreign governments or international agencies/Commonwealth-State relations / Commonwealth-Norfolk Island-State relations/ the business, commercial or financial affairs of an organisation / the personal privacy of an individual.

In these circumstances, the Department may consult the organisation or individual concerned under section 15 (7) or 26A or 26AA or 27 or 27A of the FOI Act to about the possible release of the documents to the applicants. The FOI Act provides agencies with an additional 30 days to carry out these consultations. The due date for your FOI request is now date.

If the organisation / individual / agency makes submissions that the document should be exempt under section 33, 47, 47B, 47F, 47G of the FOI Act, the Department is required to take those submissions into account. Release of documents to applicants is then subject to the exercise of review rights by the organisation.

At the conclusion of these consultations, the Department will write to inform you of its decision in relation to the request.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Template – Decision record – Affected 3rd party

DECISION RECORD

Request Details

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Documents in scope

1. Departmental file xxxx/xxxxx – containing x folios.
2. Departmental file xxxx/xxxxx – containing x folios.
3. Electronic records <<if applicable>>

Information considered

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. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The Department's FOI handbook; and
- Your response to the consultation letter dated <<insert date>>

Reasons for decision

I have considered the documents within the scope of the consultation and decided to release in part or in full as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

<<The arguments listed here will be a reverse argument to a decision to exempt. The argument must include any information provided by the affected 3rd party in relation to why the documents should be exempt.>>

«Case Officer Firstname Surname»

Position number

FOI Officer

Freedom of Information Melbourne

Department of Home Affairs

<<Current Date>>

Template – Decision – Documents to be released against objection – review rights

<<Current Date>>

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress3»

«SENDCITY» «SENDTOSTATE» «SENDCODE»

In reply please quote:

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Decision on consultation

This letter refers to the consultation letter sent to you on <<date sent>> seeking your response in relation to the release under the *Freedom of Information Act 1982* (the FOI Act) to documents related to <<you, your business, your agency>>. The documents in question are as follows:

<<list documents>>

Your response to this letter was received on <<date received>>.

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. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (Decision Record);
- The Information Commissioner guidelines;
- The Department's Freedom of Information handbook;
- Your response received <<date received>>.

OPTION RELEASE IN PART

My decision is to release, in part, the documents which are the subject of this consultation. Please see the attached Decision Record and Schedule of Documents for information on those documents which have been released as part of this decision.

END OPTION

OPTION RELEASED IN FULL

My decision is to release in full the documents which are the subject of this consultation. Please see the attached Decision Record which will explain why these documents have been released.

END OPTION

Please note, the documents will not be sent to the FOI applicant until your review and appeal opportunities have run out.

Review rights

Internal review

If you disagree with my decision, you have the right to apply for an internal review by the Department of a primary decision to refuse access to documents you have requested.

If you wish to make a request for internal review this must be sent within 30 days of being notified of the decision. Where possible please attach reasons why you believe 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:

Freedom of Information
Department of Home Affairs
Postal Address
CITY STATE POSTCODE

Or email: foi.vic@homeaffairs.gov.au

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218 Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at www.oaic.gov.au.

How to make a complaint about the handling of this FOI request

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled this request under the FOI Act.

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to the Australian Information Commissioner using the details above. A complaint form is also available at www.oaic.gov.au.

If you are unhappy with the Department's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process which has been outlined in the previous section.

Contact the FOI section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm

Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

Telephone «PhoneBH»
Email «EMail»

Attachment(s)
Decision Record
Schedule of Documents

DRAFT

Template – Decision – Documents to be released against objection – NO review rights

<<Current Date>>

«SendToTitleFirstnameSurname»

«SendToTradingName»

«SendToAddress3»

«SENDCITY» «SENDSTATE» «SENDPOSTCODE»

In reply please quote:

FOI Request «CaseNumber»

File Number «FOIV2_Request_ADF_Number»

Dear «SendToTitle» «SendToSurname»

Freedom of Information request – Decision on consultation

This letter refers to the consultation letter sent to you on <<date sent>> seeking your response in relation to the release under the *Freedom of Information Act 1982* (the FOI Act) to documents related to <<you, your business, your agency>>. The documents in question are as follows:

<<list documents>>

Your response to this letter was received on <<date received>>.

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. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (Decision Record);
- The Information Commissioner guidelines;
- The Department's Freedom of Information handbook;
- Your response received <<date received>>.

OPTION RELEASE IN PART

My decision is to release, in part, the documents which are the subject of this consultation. Please see the attached Decision Record and Schedule of Documents for information on those documents which have been released as part of this decision.

END OPTION

OPTION RELEASED IN FULL

My decision is to release in full the documents which are the subject of this consultation. Please see the attached Decision Record which will explain why these documents have been released.

END OPTION

Please note, as explained in the consultation letter, you do not have a right of review of this decision.

How to make a complaint about the handling of this FOI request

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled this request under the FOI Act.

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to the Australian Information Commissioner using the details above. A complaint form is also available at www.oaic.gov.au.

If you are unhappy with the Department's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process which has been outlined in the previous section.

Contacting the FOI section

If you wish to discuss this matter, I can be contacted using the details provided below.

Contacting the Department

You can contact us with a general enquiry in a number of ways including by email, through our website, by telephone through our Service Centres or offices around the world, or in person. In Australia you can call 13 18 81 between 8.30 am and 4.30 pm Monday to Friday. Details on contacting our offices outside Australia are available on our website at www.homeaffairs.gov.au.

Yours sincerely

«Case Officer Firstname Surname»

Position number

FOI Officer

Freedom of Information Melbourne

Department of Home Affairs

Telephone «PhoneBH»

Email «EMail»

Attachment(s)

Decision Record

Schedule of Documents

Template – Schedule of Documents

SCHEDULE OF DOCUMENTS TO DECISION RECORD

Client Name «ApplicantFirstnameMiddleSurname»
Date of Birth «ApplicantDateOfBirth»
Client ID «ApplicantClientID»
FOI Request «CaseNumber»
File Number «FOIV2_Request_ADF_Number»

For the collation of this FOI request only, all files and documents within the scope have been folioed with an underlined number in the top right hand corner of each page.

1. Paper departmental file:

Folio	Description	Decision	Legislation
	Third party biodata information, unrelated to the applicant		

2. Electronic departmental file:

Folio	Description	Decision	Legislation
	Third party biodata information, unrelated to the applicant		

3. Other documents; << insert other records such as loose documents, Trim files, ICSE records that are within the scope of the request>>

Document Number	Number of pages	Description	Decision	Legislation
Eg: TRIM file ADF----/--		Consultation emails		
		Electronic documents extracted from multiple electronic sources		

Template – Decision record

DECISION RECORD

Client Details

Client Name «ApplicantFirstnameMiddleSurname»
Date of Birth «ApplicantDateOfBirth»
Client ID «ApplicantClientID»
FOI Request «CaseNumber»
File Number «FOIV2_Request_ADF_Number»

Documents in scope

1. Departmental file xxxx/xxxxx – containing x folios.
2. Departmental file xxxx/xxxxx – containing x folios.
3. Electronic records <<if applicable>>

Information considered

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. In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's guidelines relating to access to documents held by government;
- The Department's FOI handbook

Reasons for decision

I have considered the files within the scope of your request and applied exemptions in part or in full to documents as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.

****Free text - include legislation and base paragraphs for any exemptions and refusals used here****

(Ensure that the information from section 22 giving you the power to delete exempt material is included where you use an exemption)

«Case Officer Firstname Surname»
Position number
FOI Officer
Freedom of Information Melbourne
Department of Home Affairs

<<Current Date>>

Template – Section 7 – Exempt agencies and persons

7 Exemption of certain persons and bodies

(2A) An agency is exempt from the operation of this Act in relation to the following documents:

*(a) a document (an **intelligence agency document**) that has originated with, or has been received from, any of the following:*

- (i) the Australian Secret Intelligence Service;*
- (ii) the Australian Security Intelligence Organisation;*
- (iii) the Inspector-General of Intelligence and Security;*
- (iv) the Office of National Assessments;*
- (v) the Defence Imagery and Geospatial Organisation;*
- (vi) the Defence Intelligence Organisation;*
- (vii) the Defence Signals Directorate;*

(b) a document that contains a summary of, or an extract or information from, an intelligence agency document, to the extent that it contains such a summary, extract or information.

The documents that I have refused access to under section 7(2A) are documents that have been provided by organisations that are not subject to the requirements of the FOI Act. Section 7 of the FOI Act provides that certain organisations or documents are not subject to the requirements of the FOI Act. This means that you have no legal right to obtain access to the documents originating from those agencies.

Or

The documents that I have refused access to under section 7(2A) are documents that contain extracts or summaries from an intelligence agency document. Section 7 of the FOI Act provides that certain organisations or documents are not subject to the requirements of the FOI Act. This means that you have no legal right to obtain access to the documents originating from those agencies.

Template – Section 12 – FOI Act does not apply

Subsection 12(1) of the FOI Act provides that the FOI Act does not apply to certain documents as follows:

12 Part not to apply to certain documents

(1) A person is not entitled to obtain access under this Part to:

- (a) a document, or a copy of a document, which is, under the Archives Act 1983, within the open access period within the meaning of that Act unless the document contains personal information (including personal information about a deceased person); or
- (b) a document that is open to public access, as part of a public register or otherwise, in accordance with another enactment, where that access is subject to a fee or other charge; or
- (ba) a document that is open to public access, as part of a land title register, in accordance with a law of a State or Territory where that access is subject to a fee or other charge; or
- (c) a document that is available for purchase by the public in accordance with arrangements made by an agency.

OPTION ARCHIVES DOCUMENTS 12(1)(a)

The documents you have requested are under the *Archives Act 1983*, within the open access period. You are not entitled to access these documents under the FOI Act.

You can apply for access directly to National Archives Australia as follows:

The National Archives of Australia
PO Box 7425
CANBERRA MAIL CENTRE ACT 2610

Telephone: 1300 886 881
Fax: 1300 886 882
Website: www.naa.gov.au

END OPTION

OPTION PUBLIC REGISTER FEE PAYABLE 12(1)(b)

The document you have requested would be available for a fee from <<country in which the event took place>>. You are not entitled to access this document under the FOI Act.

You can contact the relevant consulate to discuss how you can obtain this document. Telephone numbers and address details for consulates within Australia can be found in a telephone directory or on the internet.

END OPTION

OPTION AVAILABLE FOR A FEE FROM THE DEPARTMENT 12(1)(c)

The document you have requested is available for a fee from this Department. You are not entitled to access this document under the FOI Act.

To obtain a <<insert type of document>> you should complete the form <<insert form number>> and follow the instructions on the form. You can download this form from our website at www.homeaffairs.gov.au

END OPTION

Template – Out of scope – redacted as per section 22

22 Deletion of exempt matter or irrelevant material

- (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.

OPTION – MODIFIED COPY PARTIAL EXEMPTIONS

A number of documents contain information that is exempt under one or more sections of the FOI Act. I am able to provide you with an edited copy of those documents under section 22(1)(b). You can identify those documents in the schedule of documents with the words 'Exempt in part' or 'Refused in part' in the decision column.

OPTION – IRRELEVANT MATERIAL

The documents that were removed/redacted under section 22(1)(a)(ii) of the FOI Act are those considered irrelevant to your request.

The Department stores documents in many formats and the documents you have requested have been stored with other documents of a similar nature that are not part of your request.

Or

Investigations conducted by the Department often relate to more than one person or entity. You have requested access to information about yourself, the information on this file that relates to persons other than yourself is not in the scope of your request.

Or

At times documents are incorrectly stored on a file. That has happened in this instance. This document does not relate to you or your application for a visa.

Template – Section 24A – Documents cannot be found or do not exist

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.

OPTION DOCUMENTS CANNOT BE FOUND

In relation to **name of document** I have taken the following actions and received the following responses:

- Requested document from current location and received a written response that the document is not there and cannot be located
- Contacted the last person known to have possessed this document and received a written response that the document is not there and cannot be located
- Posted an All Staff message/Newsflash on the Department's internal mail system and received no favourable responses
- **List any further action taken**

As the document cannot be found, I am refusing your request for access.

END OPTION

OPTION DOCUMENT DOES NOT EXIST

In relation to **name of document** I have taken the following actions and received the following responses:

- Searched the following departmental databases:
 - Integrated Client Services Environment (ICSE)
 - ICSE Offspring
 - TRIM – the Department's record management system
 - Movement records
- Contacted the following business areas:
 - **List any business areas contacted**

As the document does not exist, I am refusing your request for access.

END OPTION

OPTION DOCUMENT NOT FORWARDED UNDER TERMS OF CONTRACT

The document you have requested is in the possession of a company which has been contracted to undertake the provision of that service for this Department. I have taken the following steps to obtain the document:

- *List steps taken*

The company has not provided the document in response to my requests.

As the document has not been received by this Department I am refusing your request for access.

END OPTION

DRAFT

Template – Section 25 – Information as to existence of certain documents

25 Information as to existence of certain documents

- (1) Nothing in this Act shall be taken to require an agency or Minister to give information as to the existence or non-existence of a document where information as to the existence or non-existence of that document, if included in a document of an agency, would cause the last-mentioned document to be an exempt document by virtue of section 33 or subsection 37(1).
- (2) Where a request relates to a document that is, or if it existed would be, of a kind referred to in subsection (1), the agency or Minister dealing with the request may give notice in writing to the applicant that the agency or the Minister, as the case may be, neither confirms nor denies the existence, as a document of the agency or an official document of the Minister, of such a document but that, assuming the existence of such a document, it would be an exempt document under section 33 or subsection 37(1) and, where such a notice is given:
- (a) section 26 applies as if the decision to give such a notice were a decision referred to in that section; and
 - (b) the decision shall, for the purposes of Part VI, be deemed to be a decision refusing to grant access to the document in accordance with the request for the reason that the document would, if it existed, be an exempt document under section 33 or subsection 37(1), as the case may be.

You have requested access to the following:

<Insert scope>

I neither confirm nor deny that such a document exists however assuming that the document does exist I believe that it would be exempt under <choose either section 33 or subsection 37(1)> for the following reason:

The very nature of the document you have requested is <insert type of document>. This type of document is exempt in the following circumstances:

- List circumstances

I believe, based on your request that any document within the scope of this request would meet this exemption.

Template – Section 33 – Documents affecting nation security etc

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).

OPTION Section 33(a)(i) – SECURITY OF THE COMMONWEALTH

I have decided that documents that would fall within the scope of this request would be exempt under section 33(a)(i) as they concern the security of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's security.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information and may reveal methods that are used to gather intelligence information.

END OPTION

OPTION Section 33(a)(ii) – DEFENCE OF THE COMMONWEALTH

I have decided that the documents that would fall within the scope of this request would be exempt under section 33(a)(ii) as they concern the defence of the Commonwealth, the disclosure of which could reasonably be expected to cause damage to Australia's safety.

In my opinion the expectation of damage to the protection of Australia and its population is a reasonable one, having paid regard to the nature of the information. I am of the view that releasing the material would contribute to a lessening of the value of the information.

END OPTION

OPTION - Section 33(a)(iii) – INTERNATIONAL RELATIONS

I have decided that the documents identified in the Schedule as exempt under section 33(a)(iii) are documents concerning international relations between Australia and foreign governments, the disclosure of which could reasonably be expected to cause damage to Australia's relations with those foreign governments.

In my opinion the expectation of damage that would be caused is a reasonable one, having paid regard to the nature of the information and the context of the submission in which the information is contained, and the nature and significance of Australia's relations with its regional partners. I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that foreign governments place on the Australian government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by foreign governments.

END OPTION

OPTION – Section 33(b) – INFORMATION PROVIDED IN CONFIDENCE

I have decided that the documents identified in the Schedule as exempt under section 33(b) are documents containing material which was provided in confidence to the Commonwealth by or on behalf of a foreign government or international organization.

The nature of confidential communication is that it is only provided to the person receiving the information and is not intended to be shared without the approval of the provider of the information. I am satisfied that the documents in question contain information that was provided in confidence.

END OPTION

DRAFT

Template – Section 34 – Cabinet documents

34 Cabinet documents

- (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.

OPTION – SECTION 34(1)(a) – to be or has been submitted to Cabinet and was brought into existence for dominant purpose

The documents I have exempted under section 34(1)(a) of the FOI Act were brought into existence for the dominant purpose of submission for the consideration of the Cabinet and have been submitted or are proposed to be submitted to the Cabinet.

END OPTION

OPTION – Section 34(1)(b) – OFFICIAL RECORD OF THE CABINET

The documents I have exempted under section 34(1)(b) of the FOI Act are an official record of the Cabinet.

END OPTION

OPTION – Section 34(1)(c) – BRIEFING A MINISTER

The documents I have exempted under section 34(1)(c) of the FOI Act were brought into existence for the dominant purpose of briefing the Minister in relation to a Cabinet document.

END OPTION

OPTION – Section 34(1)(d) – DRAFT CABINET DOCUMENTS

The documents I have exempted under section 34(1)(d) of the FOI Act are draft copies of documents which <<delete as appropriate: were brought into existence for the dominant purpose of submission for the consideration of the Cabinet and have been submitted or are proposed to be submitted to the Cabinet. Or, are an official record of the Cabinet. Or, were brought into existence for the dominant purpose of briefing the Minister in relation to a Cabinet document. >>

END OPTION

OPTION – Section 34(2) – COPY OR EXTRACT OF CABINET DOCUMENT

The documents I have exempted under section 34(2) of the FOI Act contain a copy or extract from a document which <<delete as appropriate: was brought into existence for the dominant purpose of submission for the consideration of the Cabinet and have been submitted or are proposed to be submitted to the Cabinet. Or, is an official record of the Cabinet. Or, was brought into existence for the dominant purpose of briefing the Minister in relation to a Cabinet document. >>

END OPTION

OPTION – Section 34(3) – UNDISCLOSED CABINET DELIBERATIONS OR
DECISION

The documents I have exempted under section 34(3) of the FOI Act contain information that would reveal a Cabinet deliberation or decision. I have conducted checks and believe that this information has not been officially disclosed.

END OPTION

DRAFT

Template – Section 37 – Documents affecting the enforcement of law

37 Documents affecting enforcement of law and protection of public safety

- (1) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the conduct of an investigation of a breach, or possible breach, of the law, or a failure, or possible failure, to comply with a law relating to taxation or prejudice the enforcement or proper administration of the law in a particular instance;
 - (b) disclose, or enable a person to ascertain, the existence or identity of a confidential source of information, or the non-existence of a confidential source of information, in relation to the enforcement or administration of the law; or
 - (c) endanger the life or physical safety of any person.
- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
- (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (c) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

OPTION - Section 37(1)(a) – PREJUDICE AN ONGOING INVESTIGATION

The documents which I have exempted under section 37(1)(a) are documents which, if disclosed, would prejudice the investigation of a possible breach of the law.

The investigation in this matter is currently ongoing.

I believe disclosure of this information would reasonably compromise this investigation by revealing the information that has been gathered. It is important that these investigations are kept confidential to prevent individuals from providing false information during the investigation or circumventing any future checks that may be done by the Department.

END OPTION

OPTION - Section 37(1)(b) – DISCLOSE THE EXISTENCE OR IDENTITY OF A CONFIDENTIAL SOURCE OF INFORMATION

Section 37(1)(b) provides that a document will be exempt if its disclosure under the FOI Act would disclose or enable a person to ascertain the existence or identity of a confidential source of information or the non-existence of a confidential source of information in relation to the enforcement or administration of the law.

I believe that the release of these documents may disclose the confidential source of the information and that the identity of the confidential source may be ascertainable from the contents of the documents. The information was supplied to the Department on an expectation that the identity of the confider would remain confidential.

The Department has a policy of not disclosing the identity of persons providing information to the Department in the absence of their consent or unless there are compelling reasons for so doing. The Department relies on persons or organisations to supply information to it so that it can enforce migration law. If the Department were

to disclose the identity of such suppliers it may discourage individuals from providing such information to the Department in the future and would be detrimental to the Department in enforcing the law.

On that basis I am refusing you access under section 37(1)(b) to the information in the documents.

END OPTION

OPTION – Section 37(1)(c) – ENDANGER THE LIFE OR PHYSICAL SAFETY OF ANY PERSON

The documents I have exempted under section 37(1)(c) of the FOI Act contain sensitive information. I have discussed this information and the possible consequences of release of the information with the appropriate business area and I am satisfied that the release of this information may endanger the life or physical safety of a person.

On that basis I am refusing you access to these documents.

END OPTION

OPTION – Section 37(2)(a) – PREJUDICE A FAIR TRIAL

OPTION - Section 37(2)(b) – PREJUDICE EFFECTIVENESS OF LAWFUL METHODS OF INVESTIGATION

The information which I have exempted under section 37(2)(b) is information which, if disclosed, would reveal lawful methods or procedures used by the Department to investigate complaints and would be reasonably likely to prejudice the effectiveness of those methods or procedures.

I believe disclosure of this information would reasonably compromise the Department's investigation strategy by revealing the Department's methods of investigating issues and in so doing would compromise the Department's ability to successfully utilise such methods or procedures in the future.

It is important that these processes are kept confidential to prevent persons from circumventing these procedures, or from providing false information during these investigations. Release of this information would prejudice the effectiveness of the referral process, and the attainment of true and correct information.

END OPTION

Template – Section 38 – Documents to which the secrecy provisions apply

38 Documents to which secrecy provisions apply

- (1) Subject to subsection (1A), a document is an exempt document if:
- (a) disclosure of the document, or information contained in the document, is prohibited under a provision of an enactment; and
 - (b) either:
 - (i) that provision is specified in Schedule 3; or
 - (ii) this section is expressly applied to the document, or information, by that provision, or by another provision of that or any other enactment.
- (1A) A person's right of access to a document under section 11 or 22 is not affected merely because the document is an exempt document under subsection (1) of this section if disclosure of the document, or information contained in the document, to that person is not prohibited by the enactment concerned or any other enactment.
- (2) Subject to subsection (3), if a person requests access to a document, this section does not apply in relation to the document so far as it contains personal information about the person.
- (3) This section applies in relation to a document so far as it contains personal information about a person if:
- (a) the person requests access to the document; and
 - (b) disclosure of the document, or information contained in the document, is prohibited under section 503A of the Migration Act 1958 as affected by section 503D of that Act.
- (4) In this section:

enactment includes a Norfolk Island enactment.

OPTION – 38(1) – s503 Migration Act

I have made a decision not to grant access to these documents as I am of the opinion that these documents are exempt documents under section 38 of the FOI Act. The release of the documents is prohibited under section 503A as affected by section 503D of the *Migration Act 1958*.

The information contained within the documents has been communicated to an authorised migration officer by a gazetted agency on condition that it be treated as confidential information and the information is relevant to the exercise of a power under section 501, 501A, 501B or 501C.

END OPTION

OPTION – 38(1) – GENERIC

I have made a decision not to grant access to these documents as I am of the opinion that these documents are exempt documents under section 38 of the FOI Act. The release of the documents is prohibited under a provision of an enactment specified in Schedule 3 of the FOI Act.

I am satisfied that there is no personal information contained in this document.

END OPTION

Template – Section 42 – Legal Professional Privilege

42 Documents subject to legal professional privilege

- (1) *A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) *A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.*
- (3) *A document is not an exempt document under subsection (1) by reason only that:*
 - (a) *the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1);*
and
 - (b) *the information is operational information of an agency.*

*Note: For **operational information**, see section 8A.*

The documents identified in the schedule of documents as being exempt under section 42(1) of the FOI Act are documents that contain information subject to legal professional privilege.

For a document to be exempt under section 42(1) I must be satisfied that the documents would be privileged from production in legal proceedings on the ground of legal professional privilege and that real harm would result from disclosure of this information.

A document is privileged on the ground of legal professional privilege if, amongst other things, it is a confidential communication between a person and his or her solicitor or barrister brought into existence for the dominant purpose of seeking or giving advice or for the purpose of providing legal services in connection with proceedings.

The documents considered exempt under section 42(1) were raised for the dominant purposes of giving or seeking legal advice, and are confidential communication between departmental legal officers and the client in which information was conveyed or requested for the purpose of legal advice.

I have considered these facts in conjunction with section 42(1) of the FOI Act. The departmental legal adviser in response to a request prepared the documents concerned by the Department for legal advice. The Department, as the client, does not agree to waive its privilege in relation to the document because of the effect this could have on the conduct of its legal affairs.

I am satisfied that at this time the Department has not waived its claim to legal professional privilege in relation to this document and that the document is not solely operational information of the agency.

Consequently, having regard to all of these matters, I have decided to refuse access to the material indicated in the Schedule, in whole, under section 42(1) of the FOI Act.

Template – Section 45 – documents communicated in confidence

45 Documents containing material obtained in confidence

- (1) *A document is an exempt document if its disclosure under this Act would found an action, by a person (other than an agency, the Commonwealth or Norfolk Island), for breach of confidence.*
- (2) *Subsection (1) does not apply to a document to which subsection 47C(1) (deliberative processes) applies (or would apply, but for subsection 47C(2) or (3)), that is prepared by a Minister, a member of the staff of a Minister, or an officer or employee of an agency, in the course of his or her duties, or by a prescribed authority or Norfolk Island authority in the performance of its functions, for purposes relating to the affairs of an agency or a Department of State unless the disclosure of the document would constitute a breach of confidence owed to a person or body other than:*
 - (a) *a person in the capacity of Minister, member of the staff of a Minister or officer of an agency; or*
 - (b) *an agency, the Commonwealth or Norfolk Island.*

For documents to be exempted either in full or in part (with deletions made under section 22 of the FOI Act) under section 45 I must be satisfied that;

- the information is specific in nature and inherently confidential;
- the information was communicated and received on the basis of a mutual understanding of confidence;
- any disclosure of the information would amount to an unauthorised use of that information; and
- actual or threatened harm would flow from the misuse of the information.

In my opinion the documents in the schedule listed as exempt under this section contain information of a specific nature that is inherently confidential in that it is not widely known and was conveyed to the Department by a third party on a basis of a mutual understanding that the information was confidential and would not be disclosed to any other party.

I therefore consider that disclosure of this information pursuant to your request under the FOI Act would be unauthorised and sufficient for the party who provided the information to found an action against this Department for breach of confidence.

Template – Section 46 – Contempt of Parliament or contempt of court

46 Documents disclosure of which would be contempt of Parliament or contempt of court

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;*
- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or*
- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.*

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Template – Section 47 – Trade secrets or commercially valuable information

47 Documents disclosing trade secrets or commercially valuable information

- (1) A document is an exempt document if its disclosure under this Act would disclose:
- (c) trade secrets;
 - (d) any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed.
- (2) Subsection (1) does not have effect in relation to a request by a person for access to a document:
- (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
- (3) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.

OPTION – 47(1)(a) – Trade secrets

In my opinion, the documents that I have identified as being exempt under section 47(1)(a) contain information that would be considered a trade secret specific to that organisation.

The information relates to the lawful business, commercial and financial affairs of an organisation. It is also my view that the information, if it were to be released, would, or could adversely affect the organisation's ability to compete in the open market. In that context, the organisation would have an expectation that the Department would not disclose information about their business affairs.

I am satisfied that this is not your business, that you are not the proprietor, organisation or acting on behalf of the proprietor or organisation.

END OPTION

OPTION – 47(1)(b) – Commercial value

In my opinion, the documents that I have identified as being exempt under section 47(1)(b) contain information that would have a commercial value for an organisation.

The information relates to the lawful business, commercial and financial affairs of an organisation. It is also my view that the information, if it were to be released, would, or could adversely affect the organisation's commercial affairs. In that context, the organisation would have an expectation that the Department would not disclose information about their business affairs.

I am satisfied that this is not your business, that you are not the proprietor, organisation or acting on behalf of the proprietor or organisation.

END OPTION

Template – Section 47A - Electoral rolls and related documents

47A Electoral rolls and related documents

(1) In this section:

Electoral Act means the Commonwealth Electoral Act 1918.

electoral roll means:

- (a) a Roll of the electors of:
 - (i) a State or Territory; or
 - (ii) a Division (within the meaning of the Electoral Act); or
 - (iii) a Subdivision (within the meaning of the Electoral Act); prepared under the Electoral Act; or
 - (b) any part of a Roll referred to in paragraph (a); or
 - (c) an electoral roll prepared under the Legislative Assembly Act 1979 of Norfolk Island; or
 - (d) any part of an electoral roll referred to in paragraph (c).
- (2) Subject to this section, a document is an exempt document if it is:
- (a) an electoral roll; or
 - (b) a print, or a copy of a print, of an electoral roll; or
 - (c) a microfiche of an electoral roll; or
 - (d) a copy on tape or disk of an electoral roll; or
 - (e) a document that:
 - (i) sets out particulars of only one elector; and
 - (ii) was used to prepare an electoral roll; or
 - (f) a document that:
 - (i) is a copy of a document referred to in paragraph (e); or
 - (ii) contains only copies of documents referred to in paragraph (e); or
 - (g) a document (including a habitation index within the meaning of the Electoral Act) that:
 - (i) sets out particulars of electors; and
 - (ii) was derived from an electoral roll.
- (3) The part of an electoral roll that sets out the particulars of an elector is not an exempt document in relation to the elector.
- (4) Any print, copy of a print, microfiche, tape or disk that sets out or reproduces only the particulars entered on an electoral roll in respect of an elector is not an exempt document in relation to the elector.
- (5) A document that sets out only the particulars of one elector and:
- (a) is a copy of a document referred to in paragraph (2)(e); or
 - (b) is a copy, with deletions, of a document referred to in paragraph (2)(e), (f) or (g);
- is not an exempt document in relation to the elector.

Template – Section 47B – Commonwealth-State relations

47B Public interest conditional exemptions—Commonwealth-State relations etc.

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

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or*
- (b) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, 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; or*
- (c) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island; or*
- (d) would divulge information or matter communicated in confidence by or on behalf of the Government of Norfolk Island or an authority of Norfolk Island, 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 an authority of the Commonwealth; or*
- (e) would, or could reasonably be expected to, cause damage to relations between Norfolk Island and a State; or*
- (f) would divulge information or matter communicated in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of Norfolk Island, to an authority of Norfolk Island or to a person receiving the communication on behalf of Norfolk Island or of an authority of Norfolk Island.*

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

OPTION – Section 47B(a) – Commonwealth/State relations

I have decided that the documents identified in the Schedule as exempt under section 47B(a) are documents that would or could reasonably be expected to, cause damage to relations between the Commonwealth and a State.

In my opinion the expectation of damage that would be caused is a reasonable one, having paid regard to the nature of the information and the context of the submission in which the information is contained, and the nature and significance of the Commonwealth's relations with its State partners. I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that State governments place on the Commonwealth government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by States.

Having formed the view that release of the documents would or could reasonably be expected to cause damage to relations between the Commonwealth and a State I then considered whether the release would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;

- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- The need for Commonwealth and State to be able to work closely together to the benefit of the Australian public;
- The Commonwealth's ability to administer its laws without the cooperation of State authorities;
- The documents relate specifically to one case and do not affect the interpretation or administration of a policy in relation to a cohort group.

Given the possible effect on the ability of Commonwealth and State to work together, I have given more weight to those factors that favour non-disclosure.

On balance I have decided that the public interest in the non-disclosure of the documents out-weighs the public interest in disclosing the documents, therefore the release would be contrary to the public interest and the documents are exempt under section 47B of the FOI Act.

END OPTION

OPTION – Section 47B(b) – Confidential information Commonwealth/State

I have decided that the documents identified in the Schedule as exempt under section 47B(b) are documents that would divulge information or matter communicated in confidence by a State to the Commonwealth.

I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that State governments place on the Commonwealth government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by States.

Having formed the view that the release of the documents would reveal information or matter communicated in confidence by the State to the Commonwealth I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- When providing information in confidence there is an inherent expectation that the confidence will be maintained.
- The need for Commonwealth and State to be able to work closely together to the benefit of the Australian public;
- The Commonwealth's ability to administer its laws without the cooperation of State authorities;
- The documents relate specifically to one case and do not affect the interpretation or administration of a policy in relation to a cohort group.

Given the possible effect on the ability of Commonwealth and State to work together, I have given more weight to those factors that favour non-disclosure.

On balance I have decided that the public interest in the non-disclosure of the documents out-weighs the public interest in disclosing the documents, therefore the release would be contrary to the public interest and the documents are exempt under section 47B of the FOI Act.

END OPTION

OPTION – Section 47B(c) – Commonwealth/Norfolk Island relations

I have decided that the documents identified in the Schedule as exempt under section 47B(c) are documents that would or could reasonably be expected to, cause damage to relations between the Commonwealth and Norfolk Island.

In my opinion the expectation of damage that would be caused is a reasonable one, having paid regard to the nature of the information and the context of the submission in which the information is contained, and the nature and significance of the Commonwealth's relations with Norfolk Island. I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that the Government of Norfolk Island place on the Commonwealth government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by Norfolk Island.

Having formed the view that release of the documents would or could reasonably be expected to cause damage to relations between the Commonwealth and Norfolk Island I then considered whether the release would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- The need for Commonwealth and Norfolk Island to be able to work closely together to the benefit of the Australian public;
- The Commonwealth's ability to administer its laws without the cooperation of Norfolk Island authorities;
- The documents relate specifically to one case and do not affect the interpretation or administration of a policy in relation to a cohort group.

Given the possible effect on the ability of Commonwealth and Norfolk Island to work together, I have given more weight to those factors that favour non-disclosure.

On balance I have decided that the public interest in the non-disclosure of the documents out-weighs the public interest in disclosing the documents, therefore the release would be contrary to the public interest and the documents are exempt under section 47B of the FOI Act.

END OPTION

OPTION – Section 47B(d) – Confidential information Commonwealth/Norfolk Island

I have decided that the documents identified in the Schedule as exempt under section 47B(d) are documents that would divulge information or matter communicated in confidence by Norfolk Island to the Commonwealth.

I am of the view that releasing the material I have exempted under this part would contribute to a lessening of confidence that the Government of Norfolk Island place on the Commonwealth government, which could reasonably be expected to result in a reduction of the quality and quantity of information provided by Norfolk Island.

Having formed the view that the release of the documents would reveal information or matter communicated in confidence by Norfolk Island to the Commonwealth I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- When providing information in confidence there is an inherent expectation that the confidence will be maintained.
- The need for Commonwealth and Norfolk Island to be able to work closely together to the benefit of the Australian public;
- The Commonwealth's ability to administer its laws without the cooperation of Norfolk Island authorities;
- The documents relate specifically to one case and do not affect the interpretation or administration of a policy in relation to a cohort group.

Given the possible effect on the ability of Commonwealth and Norfolk Island to work together, I have given more weight to those factors that favour non-disclosure.

On balance I have decided that the public interest in the non-disclosure of the documents out-weighs the public interest in disclosing the documents, therefore the release would be contrary to the public interest and the documents are exempt under section 47B of the FOI Act.

END OPTION

Template – Section 47C – deliberative processes

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) 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).

- (3) This section does not apply to any of the following:
- (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
 - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

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

The documents I have exempted under section 47C are deliberative documents. They contain advice and recommendation prepared for the deliberative processes of <<this Department/or the Minister/or the Government of the Commonwealth>>.

The information contained in the documents is not operational information or purely factual material.

Having formed the view that the release of the documents would reveal deliberative documents I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision

- Inform debate on a matter of public importance
- The need for openness and accountability of the Department's operations

On the other hand I considered the following in favour of non-disclosure:

- The decision to which the documents refer is still under deliberation
- An unfair advantage could be gained by knowledge of how the options were assessed
- The reason for decision has been provided in another document

I have given the possibility of the gain of an unfair advantage the most weight and am satisfied therefore the release would be contrary to the public interest and the documents are exempt under section 47C of the FOI Act.

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Template – Section 47D – Financial or property interests

47D Public interest conditional exemptions—financial or property interests of the Commonwealth or Norfolk Island

A document is conditionally exempt if its disclosure under this Act would have a substantial adverse effect on the financial or property interests of the Commonwealth, of Norfolk Island or of an agency.

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

The documents I have exempted under section 47D relate to the commercial activities of the Department. The release of these documents would have a substantial adverse effect on the financial or property interests of the Commonwealth.

Having formed the view that the release of the documents would have a substantial adverse effect on the financial or property interests of the Commonwealth I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.

On the other hand I considered the following in favour of non-disclosure:

- Prejudice the competitive commercial activities of the Department;
- Provide an unfair advantage in relation to lawful tender process;
- Affect the Department's ability to use public money effectively.

The Department's responsibility to use public money lawfully and effectively has been given the most weight. I am satisfied therefore the release would be contrary to the public interest and the documents are exempt under section 47D of the FOI Act.

Template – Section 47E – Certain operations of agencies

47E Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;*
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;*
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;*
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.*

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

OPTION – SECTION 47E(a) – Effectiveness of tests

For a document to be exempt under section 47E(a), I must be satisfied that there is a reasonable expectation that its disclosure will prejudice the effectiveness of procedures or methods for the conduct of tests and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the effectiveness of the operations of this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- An unfair advantage could be gained by knowledge of the procedures and methods for tests;
- The Department's responsibility as an agency in relation to the Whole of Government response to identity fraud.

Releasing information about the procedures or methods of tests may enable applicants to circumvent certain processes in the future. This would result in the Department having to continually change its processes at a cost to the Department. I have given this the most weight. I therefore believe that releasing this information would be contrary to the public interest.

END OPTION

OPTION – SECTION 47E(b) – Attainment of the objects of particular tests

For a document to be exempt under section 47E(b), I must be satisfied that there is a reasonable expectation that its disclosure will prejudice the attainment of the objects of particular tests, examinations or audits and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to prejudice the attainment of the objects of particular tests conducted by this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;
- A person or the general public is entitled to have access to documents containing decisions which affect them. Disclosure may reveal the reasons for decision;
- Inform debate on a matter of public importance; and
- The need for openness and accountability of the Department's operations.
- The extent to which the information is known by the public.

On the other hand I considered the following in favour of non-disclosure:

- An unfair advantage could be gained by knowledge of the operations of the Department;
- The results of the test, examination or audit are rendered void.

If a test cannot provide a guide to the object of that test then the test itself becomes void. This would result in the Department having to continually change its processes at a cost to the Department. I have given this the most weight. I therefore believe that releasing this information would be contrary to the public interest.

END OPTION

OPTION – SECTION 47E(c) – Management or assessment of personnel

For a document to be exempt under section 47E(c), I must be satisfied that there is a reasonable expectation that its disclosure will result in a substantial adverse effect on the management or assessment of personnel by the Commonwealth and that there is no overriding public interest in favour of disclosure.

In my opinion the documents listed in the Schedule as exempt under this section could reasonably be expected, if disclosed, to substantially adversely affect the management or assessment of personnel by this Department.

Having formed this view I then considered whether release of the documents would be contrary to the public interest.

I considered the following factors in favour of disclosure:

- There is a general public interest in making information held by the Government accessible to the public;