



2 July 2019



**In reply please quote:**

FOI Request: FA 19/01/00276  
File Number: ADF2019/40575

Dear 

**Freedom of Information (FOI) request - Access Decision**

On 8 January 2019, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

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

**1 Scope of request**

You have requested access to the following documents:

*Any emails or documents discussing FOI request FA 17/04/00432 [relating to the release of interview questions from two applicant interviews in 2012 - media article of 8 Jan 2019 refers: <https://www.buzzfeed.com/hannahryan/two-men-seeking-australias-protection-from-lgbt-persecution>].*

**2 Authority to make decision**

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

**3 Relevant material**

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to the request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

#### **4 Documents in scope of request**

The Department has identified 80 documents as falling within the scope of your request. These documents were in the possession of the Department on 8 January 2019 when your request was received.

**Attachment A** is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

#### **5 Decision**

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

- Release relevant information in 64 documents in full
- Release 16 documents in part with deletions

#### **6 Reasons for Decision**

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

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

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

On 9 January 2019, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that parts of documents marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request. In addition, exempt information has also been identified. I have therefore prepared an edited copy of the documents, with the exempt and irrelevant material deleted pursuant to section 22 of the FOI Act.

Details of the exempt information is referenced below.

##### **6.2 Section 47F of the FOI Act – Personal Privacy**

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure under the FOI Act would involve the unreasonable disclosure of personal information of any person. 'Personal information' means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of the information marked 's47F' in the documents would disclose personal information relating to third parties. The information within the documents would reasonably identify a person, either through names, positions or descriptions of their role or employment circumstance.

The FOI Act states that, when deciding whether the disclosure of the personal information would be 'unreasonable', I must have regard to four factors set out in s.47F(2) of the FOI Act. I have therefore considered each of these factors below:

- *the extent to which the information is well known;*
- *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;*
- *the availability of the information from publicly available resources;*
- *any other matters that I consider relevant.*

The information relating to the third parties is not well known and would only be known to a limited group of people with a business need to know. As this information is only known to a limited group of people, the individuals concerned are not generally known to be associated with the matters discussed in the document. This information is not available from publicly accessible sources.

I am satisfied that the disclosure of the information within the documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that the information referred to above is conditionally exempt under section 47F of the FOI Act. Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard below.

### **6.3 The public interest – section 11A of the FOI Act**

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part. In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being 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.

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents does have the character of public importance and that there may be broad public interest in the documents.
- I consider that no insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

I have also considered the following factors that weigh against the release of the conditionally exempt information in the documents:

- Disclosure of the personal information which is conditionally exempt under **section 47F** of the FOI Act could reasonably be expected to prejudice the protection of those individuals' right to privacy.
- The Department is committed to complying with its obligations under the *Privacy Act 1988*, which sets out standards and obligations that regulate how the Department must handle and manage personal information. It is firmly in the public interest that the Department uphold the rights of individuals to their own privacy and meets its obligations under the Privacy Act. I consider that non-compliance with the Department's statutory obligations concerning the protection of personal information would be contrary to the public interest and that this factor weighs strongly against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
- 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.

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the documents would be contrary to the public interest and it is therefore exempt from disclosure under the FOI Act.

## 7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Series/C2004A02562>. If you are unable to access the legislation through this website, please contact our office for a copy.

## 8 Your Review Rights

### Internal Review'

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

Applications for review should be sent to:

By email to: [foi.reviews@homeaffairs.gov.au](mailto:foi.reviews@homeaffairs.gov.au)

OR

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

### Review by the Office of the Australian Information Commissioner

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

## 9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request. Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

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

## 10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at [foi@homeaffairs.gov.au](mailto:foi@homeaffairs.gov.au).



**Authorised Decision Maker  
Department of Home Affairs**

**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS  
REQUEST UNDER FREEDOM OF INFORMATION ACT 1982**

**FOI request:** FA 19/01/00276  
**File Number:** ADF2019/40575

	<b>Date of document</b>	<b>No. of pages</b>	<b>Description</b>	<b>Decision on release</b>	
1.	19.04.2017	2	Transfer of FOI Request received 11 April 2017 - Our ref: 2016/17 46	Exempt in part	47F(1), 22(1)(a)(ii)
2.	18.04.2017	1	FOI Alert - New request received by the Department	Relevant information released in full	22(1)(a)(ii)
3.	13.04.2017	3	New FOI Request – Seeking documents	Relevant information released in full	22(1)(a)(ii)
4.	03.05.2017	3	RE: FOI Request – Seeking documents	Relevant information released in full	22(1)(a)(ii)
5.	05.05.2017	2	FW: New FOI Request – Seeking documents	Exempt in part	47F(1), 22(1)(a)(ii)
6.	11.05.2017	3	RE: FOI Request – Seeking decision maker	Relevant information released in full	22(1)(a)(ii)
7.	11.05.2017	5	RE: FOI Request – Seeking decision maker	Relevant information released in full	22(1)(a)(ii)
8.	15.05.2017	6	RE: FOI Request – Seeking decision maker	Relevant information released in full	22(1)(a)(ii)
9.	16.05.2017	7	RE: Decision for signing	Relevant information released in full	22(1)(a)(ii)
10.	16.05.2017	8	RE: FOI Request – Seeking decision maker	Relevant information released in full	22(1)(a)(ii)
11.	16.05.2017	7	RE: Decision for signing	Relevant information released in full	22(1)(a)(ii)
12.	17.05.2017	2	FOI Alert - Pending FOI decision	Relevant information released in full	22(1)(a)(ii)
13.	05.06.2017	2	MR17/00265 - Notice of IC review and request for documents	Relevant information released in full	22(1)(a)(ii)

	Date of document	No. of pages	Description	Decision on release	
14.	06.06.2017	3	Referral of IC review - MR17/00265 - Notice of IC review and request for documents	Relevant information released in full	22(1)(a)(ii)
15.	07.06.2017	4	Response to OAIC - MR17/00265 - Notice of IC review and request for documents	Relevant information released in full	22(1)(a)(ii)
16.	07.06.2017	4	RE: Referral of IC review - MR17/00265 - Notice of IC review and request for documents	Relevant information released in full	22(1)(a)(ii)
17.	18.12.2017	6	RE: Decision for signing	Relevant information released in full	22(1)(a)(ii)
18.	15.12.2017	1	Assistance please	Relevant information released in full	22(1)(a)(ii)
19.	13.12.2017	3	MR17/00265 - Request redacted transcript - due date COB - 15-12-17	Relevant information released in full	22(1)(a)(ii)
20.	30.11.2017	2	Recordings: MR17/00265 - Request for documents	Relevant information released in full	22(1)(a)(ii)
21.	03.11.2017	2	RE: Interview recordings	Relevant information released in full	22(1)(a)(ii)
22.	17.01.2018	4	RE: MR17/00265 - Request redacted transcript - due date COB - 30-01-18	Relevant information released in full	22(1)(a)(ii)
23.	06.04.2018	5	Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018	Relevant information released in full	22(1)(a)(ii)
24.	27.04.2018	2	Request for assistance/clarification - Review of FOI decision MR 17/00265	Relevant information released in full	22(1)(a)(ii)
25.	30.04.2018	7	RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018	Relevant information released in full	22(1)(a)(ii)
26.	01.05.2018	3	RE: Request for assistance/clarification - Review of FOI decision MR 17/00265	Relevant information released in full	22(1)(a)(ii)
27.	02.05.2018	4	FW: New FOI Request – Seeking documents	Exempt in part	47F(1), 22(1)(a)(ii)
28.	02.05.2018	9	our ref - MR17/00265 - Your ref - FA 17/04/00432 - EOT to 9-05-18	Relevant information released in full	22(1)(a)(ii)



	Date of document	No. of pages	Description	Decision on release	
29.	09.05.2018	11	RE: New FOI Request – Seeking documents	Relevant information released in full	22(1)(a)(ii)
30.	09.05.2018	9	FA 17/04/00432 - MR17/00265 - Department's further submission	Relevant information released in full	22(1)(a)(ii)
31.	10.07.2018	12	RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018	Relevant information released in full	22(1)(a)(ii)
32.	30.07.2018	1	FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Relevant information released in full	22(1)(a)(ii)
33.	07.08.2018	12	FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18	Relevant information released in full	22(1)(a)(ii)
34.	10.08.2018	2	RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Exempt in part	47F(1), 22(1)(a)(ii)
35.	-	3	Media Handling Strategy	Exempt in part	47F(1), 22(1)(a)(ii)
36.	-	4	FOI request related to assessing LGBTI claims – Background and Talking Points	Exempt in part	47F(1), 22(1)(a)(ii)
37.	23.08.2018	7	Talking Points	Exempt in part	47F(1), 22(1)(a)(ii)
38.	23.08.2018	3	FOI Alert - External Review - Pending Revised FOI Decision	Relevant information released in full	22(1)(a)(ii)
39.	04.09.2018	15	RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision	Relevant information released in full	22(1)(a)(ii)
40.	06.09.2018	2	RE: FOI Request FA17/04/00432 - Disclosure Log	Relevant information released in full	22(1)(a)(ii)
41.	13.11.2018	17	RE: FA 17/04/00432 - MR17/00265 - IC review closed - advice on exempt material requested - by COB 14/11/18	Relevant information released in full	22(1)(a)(ii)
42.	02.01.2019	1	Documents released for FOI request FA 18/02/00432	Exempt in part	47F(1)
43.	03.01.2019	1	FW: Documents released for FOI request FA 18/02/00432	Exempt in part	47F(1), 22(1)(a)(ii)
44.	04.01.2019	1	RE: Documents released for FOI request FA 18/02/00432	Exempt in part	47F(1), 22(1)(a)(ii)

	Date of document	No. of pages	Description	Decision on release	
45.	07.01.2019	1	FOR ADVICE: Media request for comment	Relevant information released in full	22(1)(a)(ii)
46.	07.01.2019	3	FW: FOI Request FA17/04/00432 - Disclosure Log	Relevant information released in full	22(1)(a)(ii)
47.	03.07.2018	9	FW: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 Attachment - RE: Statement of facts / chronology of events for recent FOI request (refer document 48 below)	Relevant information released in full	22(1)(a)(ii)
48.	11.05.2018	3	RE: Statement of facts / chronology of events for recent FOI request	Exempt in part	47F(1), 22(1)(a)(ii)
49.	03.09.2018	1	FW: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched	Relevant information released in full	22(1)(a)(ii)
50.	07.08.2018	1	FW: Sensitive FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)
51.	11.05.2018	3	FW: Statement of facts / chronology of events for recent FOI request	Exempt in part	47F(1), 22(1)(a)(ii)
52.	12.07.2018	9	Fwd: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018	Relevant information released in full	22(1)(a)(ii)
53.	24.08.2018	3	RE: FOI Alert - External Review - Pending Revised FOI Decision	Relevant information released in full	22(1)(a)(ii)
54.	24.08.2018	4	RE: FOI Alert - External Review - Pending Revised FOI Decision	Relevant information released in full	22(1)(a)(ii)
55.	15.08.2018	3	RE: HPRM: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Exempt in part	47F(1), 22(1)(a)(ii)
56.	01.05.2018	2	FOI Request - LGBTI Interview	Relevant information released in full	22(1)(a)(ii)
57.	25.09.2018	4	FW: FOI Request FA17/04/00432 - response due 17/08/2018	Relevant information released in full	22(1)(a)(ii)
58.	06.09.2018	2	RE: FOI Request FA17/04/00432	Relevant information released in full	22(1)(a)(ii)
59.	05.09.2018	4	RE: FOR info: Re: FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)

	Date of document	No. of pages	Description	Decision on release	
60.	03.09.2018	2	RE: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched	Relevant information released in full	22(1)(a)(ii)
61.	03.09.2018	2	FW: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched	Relevant information released in full	22(1)(a)(ii)
62.	30.08.2018	3	RE: For visibility Re: FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)
63.	30.08.2018	3	RE: FA 17/04/00432 - MR17/00265 - your action is required	Relevant information released in full	22(1)(a)(ii)
64.	30.08.2018	3	For visibility Re: FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)
65.	29.08.2018	4	Re: FOR CLEARANCE: Re: FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)
66.	29.08.2018	3	FW: FOR CLEARANCE: Re: FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)
67.	29.08.2019	2	RE: Notifying the MO about upcoming FOI release	Relevant information released in full	22(1)(a)(ii)
68.	26.08.2018	7	RE: FOI Request FA17/04/00432 - response due 17/08/2018	Relevant information released in full	22(1)(a)(ii)
69.	24.08.2018	4	RE: FOI Alert - External Review - Pending Revised FOI Decision	Relevant information released in full	22(1)(a)(ii)
70.	23.08.2018	6	Re: FOI Alert - External Review - Pending Revised FOI Decision	Exempt in part	47F(1), 22(1)(a)(ii)
71.	23.08.2018	4	FW: FOI Alert - External Review - Pending Revised FOI Decision	Relevant information released in full	22(1)(a)(ii)
72.	16.08.2018	4	For final clearance please - FOI Request FA17/04/00432	Relevant information released in full	22(1)(a)(ii)
73.	16.08.2018	4	RE: For input/clearance: FOI Request FA17/04/00432	Relevant information released in full	22(1)(a)(ii)
74.	10.08.2018	2	FW: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Exempt in part	47F(1), 22(1)(a)(ii)
75.	07.08.2018	2	FW: Sensitive FOI request 17/04/00432	Relevant information released in full	22(1)(a)(ii)

	Date of document	No. of pages	Description	Decision on release	
76.	06.08.2018	1	FOI decision FA17/04/00432	Relevant information released in full	22(1)(a)(ii)
77.	03.08.2018	3	FOI decision (and associated docs) for clearance please	Relevant information released in full	22(1)(a)(ii)
78.	31.07.2018	2	RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Exempt in part	47F(1), 22(1)(a)(ii)
79.	30.07.2018	1	FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents	Relevant information released in full	22(1)(a)(ii)
80.	14.05.2018	11	RE: New FOI Request – Seeking documents	Relevant information released in full	22(1)(a)(ii)