

From: FOI
To: s. 22(1)(a)(ii)
Subject: FW: Transfer of FOI Request received 11 April 2017 - Our ref: 2016/17 46 [DLM=For-Official-Use-Only]
Date: Wednesday, 19 April 2017 8:47:17 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

The request is already registered on Resolve, FA 17/04/00432.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

FOI Officer / Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch / Corporate Services Division
 Corporate Group
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI NSW
Sent: Tuesday, 18 April 2017 3:14 PM
To: FOI
Subject: FW: Transfer of FOI Request received 11 April 2017 - Our ref: 2016/17 46 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear NatO

Grateful if you could please accept to process the attached request transferred from AAT. The request is from a reporter of SBS.

Regards

s. 22(1)(a)(ii)

FOI Mailbox Manager, NSW Freedom of Information
 Freedom of Information, Privacy and Records Management Branch | Corporate
 Services Division Corporate Group
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii) | F: 02 8861 4865
 E: foi.nsw@border.gov.au

For-Official-Use-Only

From: FOI [<mailto:foi@aat.gov.au>]
Sent: Tuesday, 18 April 2017 9:00 AM
To: FOI NSW
Subject: Transfer of FOI Request received 11 April 2017 - Our ref: 2016/17 46 [DLM=For-Official-Use-Only]

Good morning,

Please accept transfer of this FOI request (attached).

The FOI request was received on 11 April 2017 and was acknowledged on 18 April 2017 (letter attached). The request is for a copy of the audio recording or transcript of the interview conducted by the delegate on 3 September 2012 with Mr s. 47F(1)) and Mr s. 47F(1)) in relation to their protection visa applications. The relevant DIBP file numbers are CLF2012/127151, CLF2012/126327 and CLF2012/192494.

Kind regards,

s. 22(1)(a)(ii)
Policy Officer

Administrative Appeals Tribunal
Principal Registry, Sydney
Legal & Policy
s. 22(1)(a)(ii)
E: foi@aat.gov.au

www.aat.gov.au

Important: This message and any attachments may contain confidential or legally privileged information. If the message was sent to you by mistake, please delete all copies and notify the AAT by return email. Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited and may attract criminal penalties.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

From: [FOI](#)
To: [Luke MANSFIELD](#); [Vidoshi JANA](#); [Media Operations](#)
Cc: s. 22(1)(a)(ii); [SUMMERTON Ryan](#); s. 22(1)(a)(ii); [Brett MARSHALL](#); s. 22(1)(a)(ii);
s. 22(1)(a)(ii); [Strategic Issue Management](#); s. 22(1)(a)(ii); [DLO](#); s. 22(1)(a)
Subject: FOI Alert - New request received by the Department - s. 22(1)(a)(ii) (SBS News) [DLM=For-Official-Use-Only]
Date: Tuesday, 18 April 2017 3:49:11 PM

FOR NOTING AND INFORMATION ONLY – NO ACTION REQUIRED

Our References: FA 17/04/00432; ADF2017/39262

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – s. 22(1)(a)(ii), SBS NEWS

Key Points

- On 11 April 2017, the Department of Immigration and Border Protection (DIBP) received a request for access to documents under the *Freedom of Information Act 1982* (FOI Act), from s. 22(1)(a)(ii) of SBS News.
- The applicant is seeking access to:

'Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

I will accept a transcript in place of an AV recording, if one exists'

- A decision on access to these documents is due on or before 11 May 2017.

Request Status

- The FOI Section is seeking documents that are relevant to the scope of this request from the Refugee and Humanitarian Visa Management Division.
- For updates on the status of this request please review the Weekly FOI Report, updated every Thursday.

Further enquiries about this FOI request can be directed to me on the details below.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: [FOI](#)
To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 13 April 2017 3:33:44 PM
Attachments: [Checklist for FOI - Seeking documents.docx](#)

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist

in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

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FOI CHECKLIST FOR BUSINESS COORDINATION AREA

STAGE 1 - Search and Retrieval of documents

Scope of request

- Ensure you understand the scope of the request. ☐
 - If the scope is unclear, liaise with the FOI Section to clarify with the applicant.
 - Consider whether the request is too broad or there is a large number of documents.

If the request is unclear; too broad; or large please complete the relevant questions below. If not proceed to the Search and retrieval section.

Practical refusal reason / notice

1. What makes the request unclear:
2. Where are documents stored:
3. What is the document / file count:
4. Can you estimate how many pages there are:
Tip: every 1cm equals 100 pages
5. What other areas of the Department may hold documents:
6. Does the content of the documents require third party consultations:
7. If there is sensitive material, what is the nature of the sensitivities:
Tip: International relations; or National Security concerns; etc

During the consultation process under a practical refusal notice, the Department must provide assistance to the applicant to make a revised request.

Search and retrieval of documents

- Identify the documents that fall within the scope of the request ☐
- Provide an un-redacted copy of the documents to the FOI Section (7 calendar days) ☐
- If it is part of your usual practice to prepare a schedule and redact documents you may begin this process after a copy of un-redacted documents have been provided to the FOI Section. ☐

Issues management

When providing documents to the FOI Section please provide any high level concerns with respect to the content of the documents. To assist you please tick the relevant concerns below.

- ☐ International relations
- ☐ National Security
- ☐ Third party business information
- ☐ Third party personal information
- ☐ Ongoing investigation
- ☐ Trade secrets or commercially sensitive material
- ☐ Cabinet documents
- ☐ Other:

Extensions of time

- If it becomes apparent during the processing of this request that the initial processing period of 30 days will be insufficient, liaise with the FOI Section in relation to the extension of time options: ☐
 - **Extension with agreement of applicant**
an extension of no more than 30 days can be agreed to by the applicant. This agreement must be in place before the initial statutory period has expired (s15AA)
 - **Extension for complex/voluminous requests**
application may be made to the Information Commissioner for an extension because the request is complex/voluminous – consider s15AA above/issuing of Charges/Consultation

Consultation

- Do third parties need to be consulted in relation to the following information within the documents: ☐
 - Information that originated with or was received from a State government/authority
 - Business related information
 - Personal information
 - Foreign governments or international organisations
- If yes, notify the FOI Team - a 30 day extension of time will be applied to the initial processing period. ☐
- Should any other Commonwealth agencies be consulted in relation to the documents? ☐
 - **Note:** PM&C should be consulted in relation to documents that may be subject to a Cabinet documents exemption claim.

Time recording

- Keep a record of the time you spend on processing this request. You will be asked to provide a record of the time spent at the end of the matter. ☐

From: s. 22(1)(a)(ii)
To: [FOI](#)
Subject: RE: FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Wednesday, 3 May 2017 11:50:20 AM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I'll chase up and get back to you.

Thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Luke Mansfield
 First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Tuesday, 2 May 2017 11:26 AM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I understand you may have been away during this period of consultancy, however, as yet we have heard nothing back from the relevant business area.

Could you please follow up on this request and advise if any documents are held.

Grateful for a response by **12pm Friday 5 May 2017.**

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: HPRM: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.

- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: s. 22(1)(a)(ii)
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Friday, 5 May 2017 9:20:41 AM
Attachments: s. 47F(1)

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
 Protection Processing Administration
 Refugee and Humanitarian Programme Branch
 Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 13 April 2017 3:34 PM
To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820,

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under the Freedom of Information Act 1982

1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
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No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

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The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: FOI
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 11 May 2017 2:09:00 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I am the FOI officer allocated this FOI request.

As this is a 'sensitive' FOI request the Department's policy is that the decision maker be from the relevant business area or if not, someone who is familiar with the business area's work. The decision maker must be a/g EL2 level or higher. It is not necessary that the person has undertaken the FOI decision maker training as I will provide advice to them regarding the FOI Act and will also draft a decision record for their review. A decision maker has not yet been allocated to this request. As such, grateful if you could nominate a decision maker (business areas usually appoint an a/g or substantive director) and advise FOI Section by **COB Wednesday 17 May 2017**.

My initial thoughts are that the recordings (I note that there are no transcripts) would be exempt in full under s47F(1) – personal privacy and s.47E(d) – proper and efficient conduct of the operations of an agency.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 5 May 2017 9:21 AM
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign

this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

- **Action required:**

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
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No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

- **Assistance**

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: s. 22(1)(a)(ii)
To: FOI
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 11 May 2017 3:32:38 PM

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) Will get back to you soon!

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 11 May 2017 3:32 PM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

Thanks. If the decision is to exempt in full, then TPs may not be needed.

I can discuss that with the decision maker during consult over the decision and media if needed, once a decision is drafted.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Thursday, 11 May 2017 3:19 PM
To: FOI
Subject: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii),

I will get back to you. Can I confirm that we'll need to draft TPs to accompany the decision?

Thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

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My initial thoughts are that the recordings (I note that there are no transcripts) would be exempt in full under s47F(1) – personal privacy and s.47E(d) – proper and efficient conduct of the

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

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s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, 5 May 2017 9:21 AM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA
17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

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Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

For-Official-Use-Only

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To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
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- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request,

please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: s. 22(1)(a)(ii)
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Monday, 15 May 2017 5:01:30 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I note that you are seeking a decision maker for this request and I note that it is the same line of enquiry from s. 22(1)(a)(ii) in regards to LGBTI in which I have just responded to s. 22(1)(a)(ii).

I just tried to call you to seek an answer for the following: I will be on long leave from this Thursday, and I asked the same question of s. 22(1)(a)(ii) in regards to how does this impact me as a decision maker if further requests are made and I'm not here. I'm happy to make a decision about this request though.

Regards
 s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Protection Assessment Support Section

Onshore Protection Branch | Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Note: I finish 2.30pm on Wednesdays

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 12 May 2017 5:52 PM
To: s. 22(1)(a)(ii)
Subject: FW: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

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Let me know if that's ok, also happy to chat.

Thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman

A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 11 May 2017 3:32 PM

To: s. 22(1)(a)(ii)

Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks. If the decision is to exempt in full, then TPs may not be needed.

I can discuss that with the decision maker during consult over the decision and media if needed, once a decision is drafted.

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s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Thursday, 11 May 2017 3:19 PM
To: FOI
Subject: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

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Thanks s. 22(1)(a)(ii)

I will get back to you. Can I confirm that we'll need to draft TPs to accompany the decision?

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s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

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For-Official-Use-Only

Hi s. 22(1)(a)(ii)

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Released by Department of Home Affairs
 under the Freedom of Information Act 1982

to this request. As such, grateful if you could nominate a decision maker (business areas usually appoint an a/g or substantive director) and advise FOI Section by **COB Wednesday 17 May 2017**.

My initial thoughts are that the recordings (I note that there are no transcripts) would be exempt in full under s47F(1) – personal privacy and s.47E(d) – proper and efficient conduct of the operations of an agency.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, 5 May 2017 9:21 AM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA
17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific

information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: [FOI](#)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii); [Media Operations](#)
Subject: RE: Decision for signing - s. 22(1)(a) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Tuesday, 16 May 2017 12:25:00 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached the draft decision record for this FOI request. If you would like to amend or add any wording please let me know. If you are satisfied with the draft decision, grateful if you can sign and scan the document and send it back to the FOI mailbox.

After discussion within FOI we have decided to only exempt under s.47F(1) - personal privacy, as Protection Interviews have been released to the applicants and migration agents in the past. If this FOI decision goes to review we are able to add further exemptions as required and could bring in s.47E(d) then.

Happy to discuss this decision with you.

Media: Nil documents are to be released for this FOI request, grateful if you could advise if TPs may be required.

An alert for this sensitive FOI request will be sent out shortly.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Monday, 15 May 2017 5:01 PM
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: HPRM: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

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I just tried to call you to seek an answer for the following: I will be on long leave from this Thursday, and I asked the same question of s. 22(1)(a)(ii) in regards to how does this impact me as a decision maker if further requests are made and I'm not here. I'm happy to make a decision about this request though.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Protection Assessment Support Section

Onshore Protection Branch | Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Note: I finish 2.30pm on Wednesdays

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, 12 May 2017 5:52 PM

To: s. 22(1)(a)(ii)

Subject: FW: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

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 (ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 11 May 2017 3:32 PM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

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I can discuss that with the decision maker during consult over the decision and media if needed, once a decision is drafted.

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FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

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Sent: Thursday, 11 May 2017 3:19 PM
To: FOI
Subject: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

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s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

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FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, 5 May 2017 9:21 AM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA
17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

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A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

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Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
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Our references: SCR; FA17/04/00432; ADF2017/39262

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FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: FOI
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Tuesday, 16 May 2017 12:27:00 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I missed this email earlier, I have just sent out a draft decision and explained why we have limited the exemption to just s.47(1) - privacy.

Happy for you to give me a call to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Tuesday, 16 May 2017 11:44 AM
To: FOI
Cc: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I have listened to the majority of an interview and given the sensitive information contained within the interview, they need to be exempt in full as it contains a lot of personal information as well as information about the department's operations.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Protection Assessment Support Section

Onshore Protection Branch | Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Note: I finish 2.30pm on Wednesdays

For-Official-Use-Only

From: FOI

Sent: Tuesday, 16 May 2017 10:04 AM

To: s. 22(1)(a)(ii)

Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Could you please call me on s. 22(1)(a)(ii) when you are free.

Regards s. 22(1)(a)(ii)

For-Official-Use-Only

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Sent: Monday, 15 May 2017 5:01 PM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
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Protection Assessment Support Section
Onshore Protection Branch | Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

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Executive Officer to Miranda Lauman
A/g First Assistant Secretary | Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

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Executive Officer to Miranda Lauman

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Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

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For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
 A/g Assistant Director
 Protection Processing Administration
 Refugee and Humanitarian Programme Branch
 Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 13 April 2017 3:34 PM
To: s. 22(1)(a)(ii)
Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

- **Action required:**

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy and Records Management Branch | Corporate Support
Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: [Media Operations](#)
To: [FOI: s. 22\(1\)\(a\)\(ii\)](#)
Cc: [s. 22\(1\)\(a\)\(ii\)](#) [Media Operations](#)
Subject: RE: Decision for signing - [s. 22\(1\)\(a\)\(ii\)](#) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Tuesday, 16 May 2017 12:32:08 PM

For-Official-Use-Only

Thanks [s. 22\(1\)\(a\)\(ii\)](#)

No TPs required at this point, we can revisit should information be released on appeal.

Regards,

[s. 22\(1\)\(a\)\(ii\)](#)
 Media Operations
 Department of Immigration and Border Protection
 24-hour media line: 02 6264 2244
 E:media@border.gov.au

For-Official-Use-Only

From: FOI [<mailto:foi@border.gov.au>]
Sent: Tuesday, 16 May 2017 12:25 PM
To: [s. 22\(1\)\(a\)\(ii\)](#)
Cc: [s. 22\(1\)\(a\)\(ii\)](#)
[s. 22\(1\)\(a\)\(ii\)](#) Media Operations <media@border.gov.au>
Subject: RE: Decision for signing - [s. 22\(1\)\(a\)\(ii\)](#) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi [s. 22\(1\)\(a\)\(ii\)](#)

Please see attached the draft decision record for this FOI request. If you would like to amend or add any wording please let me know. If you are satisfied with the draft decision, grateful if you can sign and scan the document and send it back to the FOI mailbox.

After discussion within FOI we have decided to only exempt under s.47F(1) - personal privacy, as Protection Interviews have been released to the applicants and migration agents in the past. If this FOI decision goes to review we are able to add further exemptions as required and could bring in s.47E(d) then.

Happy to discuss this decision with you.

Media: Nil documents are to be released for this FOI request, grateful if you could advise if TPs

may be required.

An alert for this sensitive FOI request will be sent out shortly.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 15 May 2017 5:01 PM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I note that you are seeking a decision maker for this request and I note that it is the same line of enquiry from s. 22(1)(a)(ii) in regards to LGBTI in which I have just responded to s. 22(1)(a)(ii)

I just tried to call you to seek an answer for the following: I will be on long leave from this Thursday, and I asked the same question of s. 22(1)(a)(ii) in regards to how does this impact me as a decision maker if further requests are made and I'm not here. I'm happy to make a decision about this request though.

Regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Protection Assessment Support Section
Onshore Protection Branch | Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Note: I finish 2.30pm on Wednesdays

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 12 May 2017 5:52 PM
To: s. 22(1)(a)(ii)
Subject: FW: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We recently received an FOI request for recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014). The applicants in this case had made LGBTI based claims (tribunal decision attached for info).

s. 22(1)(a)(ii) team has provided the document, which is likely to be exempt in full. The journalist requesting the documents is the same individual who recently put in the FOI request for our LGBTI training documents. s. 22(1)(a)(ii) suggested you may be able to be the decision maker in this instance to ensure consistency on the issue.

Let me know if that's ok, also happy to chat.

Thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
 A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 11 May 2017 3:32 PM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks. If the decision is to exempt in full, then TPs may not be needed.

I can discuss that with the decision maker during consult over the decision and media if needed, once a decision is drafted.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Thursday, 11 May 2017 3:19 PM

To: FOI

Subject: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii)

I will get back to you. Can I confirm that we'll need to draft TPs to accompany the decision?

Thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Executive Officer to Miranda Lauman
A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 11 May 2017 2:09 PM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I am the FOI officer allocated this FOI request.

As this is a 'sensitive' FOI request the Department's policy is that the decision maker be from the relevant business area or if not, someone who is familiar with the business area's work. The decision maker must be a/g EL2 level or higher. It is not necessary that the person has undertaken the FOI decision maker training as I will provide advice to them regarding the FOI Act and will also draft a decision record for their review. A decision maker has not yet been allocated to this request. As such, grateful if you could nominate a decision maker (business areas usually appoint an a/g or substantive director) and advise FOI Section by **COB Wednesday 17 May 2017**.

My initial thoughts are that the recordings (I note that there are no transcripts) would be exempt in full under s47F(1) – personal privacy and s.47E(d) – proper and efficient conduct of the operations of an agency.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division | Corporate Group
 Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 5 May 2017 9:21 AM
To: FOI
Cc: s. 22(1)(a)(ii)

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 47F(1) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection
s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum

seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

- **Action required:**

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

- **Assistance**

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: [FOI](#)
To: [Vidoshi JANA](#)
Cc: s. 22(1)(a)(ii); [Brett MARSHALL](#); [Pip DE VEAU](#); s. 22(1)(a); [Media Operations](#); s. 22(1)(a)(ii); [DLO](#); [Mandy NEWTON](#); s. 22(1)(a)(ii); [Miranda LAUMAN](#); [Kaylene ZAKHAROFF](#)
Bcc: s. 22(1)(a)(ii)
Subject: FOI Alert - Pending FOI decision - s. 22(1)(a)(ii) (SBS) - FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Wednesday, 17 May 2017 3:35:00 PM

For-Official-Use-Only

Our references: SCR; FA 17/04/00432; ADF2017/39262

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON ACCESS – s. 22(1)(a)(ii) SBS

Good afternoon

The purpose of this email is to inform you that the decision, under the *Freedom of Information Act 1982* (FOI Act), on access to documents about asylum seeker interview recordings, will be dispatched to the applicant on **Monday 22 May 2017**.

Request

On 11 April 2017, s. 22(1)(a)(ii) SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request. No transcripts of the interviews exist.

Decision

s. 22(1)(a)(ii), Director, Protection Assessment Support Section, Onshore Protection Branch, was the authorised decision-maker under the FOI Act. s. 22(1)(a)(ii) has decided to exempt the documents (recordings) in full, on the grounds that the material is considered to be exempt under subsections:

- s47F(1) Personal Information

Talking points

Media Operations has advised that Talking Points are not required in relation to this decision.

Publication of the documents authorised for release

As no documents are being released, this decision will not be placed on the

Department's FOI Disclosure Log.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Regards

s. 22(1)(a)(ii)

A/g Director

Freedom of Information Section

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

Email: FOI@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Subject: MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]
Date: Monday, 5 June 2017 4:43:42 PM
Attachments: s. 22(1)(a)(ii)

Our reference: MR17/00265

Agency reference: FA 17/04/00432

FOI contact officer

Department of Immigration and Border Protection

Sent by email: foi.reviews@border.gov.au

Dear FOI contact officer

Notice of IC review and request for documents

s. 22(1)(a)(ii) has requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017, under the *Freedom of Information Act 1982* (the FOI Act). The application for review is attached.

I write under s 54Z of the FOI Act to notify you that the OAIC will review the decision of the Department.

I draw your attention to s 55DA of the FOI Act which requires you to assist the OAIC in conducting an IC review.

I note that s 55Z of the FOI Act authorises you to provide information for the purposes of an IC review and provides a protection from liability for doing so.

A key issue in this IC review is whether the Department has correctly determined that the documents the subject of the applicant's FOI request are exempt documents pursuant to s 47F of the FOI Act.

Please provide the following information to the OAIC by 26 June 2017:

- The FOI request, and any correspondence that modifies its scope
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)
- Copies of any correspondence between the Department and anyone who was

consulted, including file notes of any relevant telephone conversations

- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied
- Any submissions the Department wishes to make in support of its decision.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Please consider whether it is necessary for you to notify any third parties (s 54P and s 54Q). If any third parties are notified of this IC review, please provide the OAIC with a copy of the written notifications.

Please send your response to this notice to enquiries@oaic.gov.au.

If you wish to discuss the matter in the interim please contact our Enquires Line by email or by phone on 1300 363 992.

Please ensure you quote the OAIC reference number above in all correspondence.

Yours sincerely

s. 22(1)(a)(ii) | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

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From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii)
Subject: Referral of IC review - MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]
Date: Tuesday, 6 June 2017 9:41:00 AM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Our reference: MR17/00265

Agency reference: FA 17/04/00432

Applicant: s. 22(1)(a)(ii)

Hi s. 22(1)(a)(ii)

Please note the IC review for FA 17/04/00432 for your consideration.

If you can please respond to the following information by **23 June 2017**:

- The FOI request, and any correspondence that modifies its scope
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)
- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations
- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied
- Any submissions the Department wishes to make in support of its decision.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Thanks and Regards

s. 22(1)(a)(ii)
 FOI Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division
 Department of Immigration and Border Protection
 Telephone: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Sent: Monday, 5 June 2017 4:42 PM
To: FOI Reviews mailbox
Subject: MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Agency reference: FA 17/04/00432

FOI contact officer

Department of Immigration and Border Protection

Sent by email: foi.reviews@border.gov.au

Dear FOI contact officer

Notice of IC review and request for documents

s. 22(1)(a)(ii) has requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017, under the *Freedom of Information Act 1982* (the FOI Act). The application for review is attached.

I write under s 54Z of the FOI Act to notify you that the OAIC will review the decision of the Department.

I draw your attention to s 55DA of the FOI Act which requires you to assist the OAIC in conducting an IC review.

I note that s 55Z of the FOI Act authorises you to provide information for the purposes of an IC review and provides a protection from liability for doing so.

A key issue in this IC review is whether the Department has correctly determined that the documents the subject of the applicant's FOI request are exempt documents pursuant to s 47F of the FOI Act.

Please provide the following information to the OAIC by 26 June 2017:

- The FOI request, and any correspondence that modifies its scope
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)
- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations
- A marked up and unredacted copy of the documents at issue in an electronic

format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied

- Any submissions the Department wishes to make in support of its decision.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Please consider whether it is necessary for you to notify any third parties (s 54P and s 54Q). If any third parties are notified of this IC review, please provide the OAIC with a copy of the written notifications.

Please send your response to this notice to enquiries@oaic.gov.au.

If you wish to discuss the matter in the interim please contact our Enquires Line by email or by phone on 1300 363 992.

Please ensure you quote the OAIC reference number above in all correspondence.

Yours sincerely

s. 22(1)(a)(ii) | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

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If you are not the intended recipient, any use or copying of any part of this information is unauthorised. If you have received this email in error, we apologise for any inconvenience and request that you notify the sender immediately and delete all copies of this email, together with any attachments.

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii)
Subject: Response to OAIC - MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]
Date: Wednesday, 7 June 2017 4:09:00 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Our reference: MR17/00265

Agency reference: FA 17/04/00432

Applicant: s. 22(1)(a)(ii)

Dear s. 22(1)(a)(ii)

- The FOI request, and any correspondence that modifies its scope
[Refer to attached document title: FOI Request documents.](#)
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)

[Refer to attached document titled: Copies of correspondence.](#)

- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations

[Refer to attached document: Copies of correspondence.](#)

- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied

[Not applicable. Electronic documents, audio recordings were in scope of the request.](#)

- Any submissions the Department wishes to make in support of its decision.

[The Department is satisfied that the original decision adequately addressed the reasons for exempting the documents under section 47F of the FOI Act. The Department does not wish to make a formal submission at this time, however reserves the right to make future submissions if required.](#)

Thanks and Regards

s. 22(1)(a)(ii)

FOI Section
 Freedom of Information, Privacy & Records Management Branch
 Corporate Services Division

Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Monday, 5 June 2017 4:42 PM
To: FOI Reviews mailbox
Subject: HPRM: MR17/00265 - Notice of IC review and request for documents
[SEC=UNCLASSIFIED]

Our reference: MR17/00265

Agency reference: FA 17/04/00432

FOI contact officer

Department of Immigration and Border Protection

Sent by email: foi.reviews@border.gov.au

Dear FOI contact officer

Notice of IC review and request for documents

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I write under s 54Z of the FOI Act to notify you that the OAIC will review the decision of the Department.

I draw your attention to s 55DA of the FOI Act which requires you to assist the OAIC in conducting an IC review.

I note that s 55Z of the FOI Act authorises you to provide information for the purposes of an IC review and provides a protection from liability for doing so.

A key issue in this IC review is whether the Department has correctly determined that the documents the subject of the applicant's FOI request are exempt documents pursuant to s 47F of the FOI Act.

Please provide the following information to the OAIC by 26 June 2017:

- The FOI request, and any correspondence that modifies its scope
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation

influenced the Department's decision)

- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations
- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied
- Any submissions the Department wishes to make in support of its decision.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Please consider whether it is necessary for you to notify any third parties (s 54P and s 54Q). If any third parties are notified of this IC review, please provide the OAIC with a copy of the written notifications.

Please send your response to this notice to enquiries@oaic.gov.au.

If you wish to discuss the matter in the interim please contact our Enquires Line by email or by phone on 1300 363 992.

Please ensure you quote the OAIC reference number above in all correspondence.

Yours sincerely

s. 22(1)(a)(ii) | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

cid:image001.png@01D26682.9CE52410



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From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Subject: RE: Referral of IC review - MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]
Date: Wednesday, 7 June 2017 2:36:41 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

Please see below and attached.

Happy to discuss.

Regards s. 22(1)(a)(ii)

UNCLASSIFIED

From: FOI Reviews mailbox
Sent: Tuesday, 6 June 2017 9:42 AM
To: s. 22(1)(a)(ii)
Subject: Referral of IC review - MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]

UNCLASSIFIED

Our reference: MR17/00265

Agency reference: FA 17/04/00432

Applicant: s. 22(1)(a)(ii)

Hi s. 22(1)(a)(ii)

Please note the IC review for FA 17/04/00432 for your consideration.

If you can please respond to the following information by **23 June 2017**:

- The FOI request, and any correspondence that modifies its scope

[Attached](#)

- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)

s. 22(1)(a)(ii) (FOI Contact person) s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) from business area and provided TRIM reference numbers)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

(Decision Maker – s. 22(1)(a)(ii)

- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations

Relevant correspondence attached

- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied

Nil paper/electronic documents, audio recordings were in scope of the request.

- Any submissions the Department wishes to make in support of its decision.

Not at this stage.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Thanks and Regards

s. 22(1)(a)(ii)

FOI Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division

Department of Immigration and Border Protection

Telephone: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)]**Sent:** Monday, 5 June 2017 4:42 PM**To:** FOI Reviews mailbox**Subject:** MR17/00265 - Notice of IC review and request for documents [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Agency reference: FA 17/04/00432

FOI contact officer

Department of Immigration and Border Protection

Sent by email: foi.reviews@border.gov.au

Dear FOI contact officer

Notice of IC review and request for documents

s. 22(1)(a)(ii) has requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017, under the *Freedom of Information Act 1982* (the FOI Act). The application for review is attached.

I write under s 54Z of the FOI Act to notify you that the OAIC will review the decision of the Department.

I draw your attention to s 55DA of the FOI Act which requires you to assist the OAIC in conducting an IC review.

I note that s 55Z of the FOI Act authorises you to provide information for the purposes of an IC review and provides a protection from liability for doing so.

A key issue in this IC review is whether the Department has correctly determined that the documents the subject of the applicant's FOI request are exempt documents pursuant to s 47F of the FOI Act.

Please provide the following information to the OAIC by 26 June 2017:

- The FOI request, and any correspondence that modifies its scope
- The names and contact details of anyone who was consulted by the Department, formally under ss 15(7), 26A 27A, or informally (if the informal consultation influenced the Department's decision)
- Copies of any correspondence between the Department and anyone who was consulted, including file notes of any relevant telephone conversations
- A marked up and unredacted copy of the documents at issue in an electronic format. Material which is claimed to be exempt should be highlighted with reference made to the exemption/s applied
- Any submissions the Department wishes to make in support of its decision.

The OAIC will share the submissions you provide during the IC review with the applicant. However, we do not provide the applicant with copies of the document/s at issue.

Please consider whether it is necessary for you to notify any third parties (s 54P and s 54Q). If any third parties are notified of this IC review, please provide the OAIC with a copy of the written notifications.

Please send your response to this notice to enquiries@oaic.gov.au.

If you wish to discuss the matter in the interim please contact our Enquires Line by email or by phone on 1300 363 992.

Please ensure you quote the OAIC reference number above in all correspondence.

Yours sincerely

s. 22(1)(a)(ii) | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: [FOI Reviews mailbox](#); s. 22(1)(a)(ii)
Subject: RE: Decision for signing - s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Monday, 18 December 2017 12:14:57 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Good Morning s. 22(1)(a)(ii)

I draw your attention to the above mentioned FOI Request we processed back in May 2017 (Draft decision record attached).

Some background: s. 22(1)(a)(ii) requested recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014). We engaged your area to provide the documents, and we released a decision exempting under privacy. The applicant then sought appeal with the OAIC, we were compelled to release information to the OAIC for them to process against our decision. However due to Privacy we did not supply the Audio file to the OAIC. They have now asked whether we can provide a transcript with redactions (for them to provide to the client).

As a transcript of the audio interview does not yet exist, our question to you is surrounding the process of engaging somebody to create a transcript of the audio, such as how we can have it done, timeframes, cost etc. before we engage in having that completed.

If we decide to go down that path, once the transcript is created, the FOI section would then redact the material exempted under privacy and provide the interview questions only to the OAIC.

Grateful if you could please respond at your earliest convenience, by COB Wednesday 20/12/2017.

Thanks in advance

s. 22(1)(a)(ii)

FOI Officer

FOI, Privacy and Records Management Branch

Corporate Services

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Tuesday, May 16, 2017 12:25 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) Media Operations
Subject: RE: Decision for signing - s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached the draft decision record for this FOI request. If you would like to amend or

add any wording please let me know. If you are satisfied with the draft decision, grateful if you can sign and scan the document and send it back to the FOI mailbox.

After discussion within FOI we have decided to only exempt under s.47F(1) - personal privacy, as Protection Interviews have been released to the applicants and migration agents in the past. If this FOI decision goes to review we are able to add further exemptions as required and could bring in s.47E(d) then.

Happy to discuss this decision with you.

Media: Nil documents are to be released for this FOI request, grateful if you could advise if TPs may be required.

An alert for this sensitive FOI request will be sent out shortly.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section
Freedom of Information, Privacy & Records Management Branch
Corporate Services Division | Corporate Group
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 15 May 2017 5:01 PM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I note that you are seeking a decision maker for this request and I note that it is the same line of enquiry from s. 22(1)(a)(ii) in regards to LGBTI in which I have just responded to s. 22(1)(a)(ii)

I just tried to call you to seek an answer for the following: I will be on long leave from this Thursday, and I asked the same question of s. 22(1)(a)(ii) in regards to how does this impact me as a decision maker if further requests are made and I'm not here. I'm happy to make a decision about this request though.

Regards

s. 22(1)(a)(ii)

Protection Assessment Support Section
Onshore Protection Branch | Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 12 May 2017 5:52 PM
To: s. 22(1)(a)(ii)
Subject: FW: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We recently received an FOI request for recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014). The applicants in this case had made LGBTI based claims (tribunal decision attached for info).

s. 22(1)(a) team has provided the document, which is likely to be exempt in full. The journalist requesting the documents is the same individual who recently put in the FOI request for our LGBTI training documents. s. 22(1)(a)(ii) suggested you may be able to be the decision maker in this instance to ensure consistency on the issue.

Let me know if that's ok, also happy to chat.

Thanks,

s. 22(1)
 (a)(ii)

Executive Officer to Miranda Lauman

A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI
Sent: Thursday, 11 May 2017 3:32 PM
To: s. 22(1)(a)(ii)
Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks. If the decision is to exempt in full, then TPs may not be needed.

I can discuss that with the decision maker during consult over the decision and media if needed, once a decision is drafted.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Thursday, 11 May 2017 3:19 PM

To: FOI

Subject: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii),

I will get back to you. Can I confirm that we'll need to draft TPs to accompany the decision?

Thanks,

s. 22(1)
(a)(ii)

Executive Officer to Miranda Lauman

A/g First Assistant Secretary I Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 11 May 2017 2:09 PM

To: s. 22(1)(a)(ii)

Subject: RE: FOI Request – Seeking decision maker – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I am the FOI officer allocated this FOI request.

As this is a 'sensitive' FOI request the Department's policy is that the decision maker be from the relevant business area or if not, someone who is familiar with the business area's work. The decision maker must be a/g EL2 level or higher. It is not necessary that the person has undertaken the FOI decision maker training as I will provide advice to them regarding the FOI Act and will also draft a decision record for their review. A decision maker has not yet been allocated to this request. As such, grateful if you could nominate a decision maker (business areas usually appoint an a/g or substantive director) and advise FOI Section by **COB Wednesday 17 May 2017**. My initial thoughts are that the recordings (I note that there are no transcripts) would be exempt in full under s47F(1) – personal privacy and s.47E(d) – proper and efficient conduct of the operations of an agency.

Happy to discuss.

with regards,

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy & Records Management Branch

Corporate Services Division | Corporate Group

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

E: foi@border.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, 5 May 2017 9:21 AM

To: FOI

Cc: s. 22(1)(a)(ii)

Subject: HPRM: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

A/g Assistant Director

Protection Processing Administration

Refugee and Humanitarian Programme Branch

Refugee and Humanitarian Visa Management Division

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E | foi@border.gov.au

Please consider the environment before printing this email

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: Assistance please - s. 22(1)(a)(ii) [SEC=UNCLASSIFIED]
Date: Friday, 15 December 2017 7:02:00 PM

UNCLASSIFIED

Hi s. 22(1)(a)(ii)
s. 22(1)(a)(ii)

I am just finalizing and delegating work I was not able to complete.....and in doing so I need your insight.

We have an IC review (s. 22(1)(a)(ii)) in which they have asked for audio recordings of an interview. This was provided by our new APS 4, s. 22(1)(a)(ii) and the OAIC confirmed they received it. Unfortunately, the recording is not of the applicant's own interview and this means we are not able to release it to the FOI applicant. As such, the applicant and the OAIC are now asking whether we can either:

- Find the transcript, redact all material mention and material that is of the interviewer and the interviewee and provide the redacted version with only the interview questions to the OAIC (who will then release to the applicant). OAIC have indicated this would be a preferred option.
- Find a way to block out the interviewer and interviewee answers and provide a redacted audio to the OAIC (who will then release to the applicant). I have indicated this may be time consuming or difficult.

s. 22(1)(a)(ii) - Grateful for your views on the audio option.

s. 22(1)(a)(ii) - Once it is decided which option we are using, could you could please advise the OAIC via email or phone how they will get the interview questions and when they can expect it.

s. 22(1)(a)(ii) – Could you please start looking in TRIM under his name or the FA number (FA17/04/00432) to see if you can find a transcript of an interview please?

Please call me if you need any further guidance.

Thanks.

Kind Regards

s. 22(1)(a)(ii)

FOI Officer | FOI, Privacy and records Management Branch

Corporate Services

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: MR17/00265 - Request redacted transcript - due date COB - 15-12-17 [SEC=UNCLASSIFIED]
Date: Wednesday, 13 December 2017 12:02:06 PM
Attachments: [image001.jpg](#)

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today. As discussed I look forward to hearing from you as to whether the Department can provide a redacted copy of the interview transcript while de-identifying the individuals. I look forward to hearing from you by close of business 15 December 2017.

Kind regards,

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: FOI Reviews mailbox [mailto:foi.reviews@border.gov.au]

Sent: Wednesday, 13 December 2017 11:35 AM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii) ; FOI Reviews mailbox

Subject: RE: MR17/00265 - additional submissions from the applicant - request additional submissions from the Department - due date COB - 15-12-17 [SEC=UNCLASSIFIED]

UNCLASSIFIED

UNCLASSIFIED

Dear s. 22(1)(a)(ii),

Unfortunately, we have not had the opportunity to look at this yet and we are unable to meet your deadline of 15 December 2017.

Grateful if you would agree to an extension of time for the new year?

Thank you.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer | FOI, Privacy and records Management Branch

Corporate Services

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

UNCLASSIFIED

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Friday, December 1, 2017 2:45 PM

To: FOI Reviews mailbox <foi.reviews@border.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: MR17/00265 - additional submissions from the applicant - request additional submissions from the Department - due date COB - 15-12-17 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

I refer to s. 22(1)(a)(ii) application for Information Commissioner review of the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017, under the *Freedom of Information Act 1982* (the FOI Act).

I attach excerpts of s. 22(1)(a)(ii) additional submissions and request your response to these by **close of business 15 December 2017**.

Please note, that our office will generally share an agency's submissions with an applicant unless there are compelling reasons not to do so.

I look forward to hearing from you by close of business 15 December 2017.

Kind regards,

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: Recordings: MR17/00265 - Request for documents [SEC=UNCLASSIFIED]
Date: Thursday, 30 November 2017 7:10:00 PM
Attachments: [image001.jpg](#)

UNCLASSIFIED

OAIC reference: MR17/00265

FOI reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

This is just a follow up email to check whether you received the CD we posted.

The Department considers that the information contained within the recordings is extremely sensitive and personal. Therefore, should the OAIC consider that these can be released without the affected third parties consent, the Department seeks for an opportunity to provide further submissions.

Thank you.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer | FOI, Privacy and records Management Branch

Corporate Services

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Wednesday, November 1, 2017 3:51 PM

To: FOI Reviews mailbox <foi.reviews@border.gov.au>

Subject: MR17/00265 - Request for documents [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Agency reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

I refer to previous correspondence regarding the above matter.

On 7 June 2017, the Department provided a response to the OAIC's 54Z notice.

I note that the Department's decision of 22 May 2017, identified two recordings within the scope of the request, however these documents were not provided.

We therefore request that the Department provide to the OAIC, by **15 November 2017**:

copy of the documents at issue to the OAIC i.e. the interview recordings, and

- submissions, if any, the Department would like to make at this time.

Please contact me if you have any queries.

Kind regards

s. 22(1)(a)(ii)

Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information CommissionerGPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

ICON



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UNCLASSIFIED

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: Interview recordings - s. 22(1)(a)(ii) 17/04/00432 [SEC=UNCLASSIFIED]
Date: Friday, 3 November 2017 8:59:48 AM

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

All I will say is that it does need to be reinforced that the information contained within the recordings is extremely sensitive and personal, and if the IC deems that it can be released without the affected third parties consent (which to my knowledge the journalist has never provided), that we are given an opportunity to provide further submissions after they have reviewed the material within the recordings.

Regards s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Friday, 3 November 2017 8:51 AM
To: s. 22(1)(a)(ii)
Subject: RE: Interview recordings - s. 22(1)(a)(ii) 17/04/00432 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Thanks s. 22(1)(a)(ii).

I have located the two interview recordings and can confirm that they are 'Unclassified, In-Confidence' and the file containers they sit in are also 'Unclassified. In-Confidence'. So I will burned them onto a CD and post it to the OAIC today. The OAIC is happy with the CD being posted to them and have confirmed the address.

s. 22(1)(a)(ii)

The OAIC has given us a further opportunity to provide any further submissions. Given this was your FOI decision, I just wanted to ensure you had an opportunity for input, if you wish. In our last response to the OAIC on 27 September 2017, we stated "The Department is satisfied that the original decision adequately addressed the reasons for exempting the documents under section 47F of the FOI Act. The Department does not wish to make a formal submission at this time, however reserves the right to make future submissions if required." Grateful for your input by lunch time on **14 November 2017**.

Thank you

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer | FOI, Privacy and records Management Branch
 Corporate Services
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

UNCLASSIFIED

From: FOI Reviews mailbox

Sent: Friday, November 3, 2017 8:38 AM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: Interview recordings - s. 22(1)(a)(ii) 17/04/00432 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

We have an IC review on foot for the above matter in which the OAIC have requested access to the interview recordings. Can you confirm if the recordings are protected? If so, s. 22(1)(a)(ii) they will need to go via Safehand and s. 22(1)(a)(ii) can assist with that. But it will need to be logged in the Classified Document Register which I believe is with s. 22(1)(a)(ii)

Thanks

s. 22(1)(a)(ii)

UNCLASSIFIED

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: MR17/00265 - Request redacted transcript - due date COB - 30-01-18 [SEC=UNCLASSIFIED]
Date: Wednesday, 17 January 2018 11:39:00 AM
Attachments: [image001.jpg](#)

UNCLASSIFIED

Good Morning s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) has been away all this week s. 22(1)(a)(ii) she won't be in until next week.

I have sent reference of your email onto her for her to action upon her return.

Thanks

s. 22(1)(a)(ii)

FOI, Privacy and Records Management Branch
 Corporate Services
 Department of Home Affairs
 E: FOI@homeaffairs.gov.au

UNCLASSIFIED

From: FOI
Sent: Monday, January 15, 2018 11:34 AM
To: FOI Reviews mailbox
Subject: FW: MR17/00265 - Request redacted transcript - due date COB - 30-01-18 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good morning Reviews team
 Please see email below received in the FOI mailbox this morning.
 For your action please.

Thanks

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
 FOI, Privacy and Records Management Branch
 Corporate Division
 Department of Home Affairs
 E: foi@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Monday, 15 January 2018 10:47 AM
To: FOI <foi@homeaffairs.gov.au>
Subject: FW: MR17/00265 - Request redacted transcript - due date COB - 30-01-18 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

I understand this matter was discussed at a meeting on 12 January 2018 and the Department

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

flagged some concerns. I am looking to progress this matter and would like to give some consideration to the concerns raised. Are you able to put these concerns in writing? I look forward to hearing from you by close of business 30 January 2018.

Kind regards,

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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OAIC banner for email sig



From: s. 22(1)(a)(ii)

Sent: Wednesday, 13 December 2017 12:01 PM

To: 'FOI Reviews mailbox' <foi.reviews@border.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: MR17/00265 - Request redacted transcript - due date COB - 15-12-17

[SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today. As discussed I look forward to hearing from you as to whether the Department can provide a redacted copy of the interview transcript while de-identifying the individuals. I look forward to hearing from you by close of business 15 December 2017.

Kind regards,

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: FOI Reviews mailbox [<mailto:foi.reviews@border.gov.au>]

Sent: Wednesday, 13 December 2017 11:35 AM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii) FOI Reviews mailbox
<foi.reviews@border.gov.au>

Subject: RE: MR17/00265 - additional submissions from the applicant - request additional submissions from the Department - due date COB - 15-12-17 [SEC=UNCLASSIFIED]

UNCLASSIFIED

UNCLASSIFIED

Dear s. 22(1)(a)(ii),

Unfortunately, we have not had the opportunity to look at this yet and we are unable to meet

your deadline of 15 December 2017.

Grateful if you would agree to an extension of time for the new year?

Thank you.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer | FOI, Privacy and records Management Branch

Corporate Services

Department of Immigration and Border Protection

s. 22(1)(a)(ii)

UNCLASSIFIED

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Friday, December 1, 2017 2:45 PM

To: FOI Reviews mailbox <foi.reviews@border.gov.au>

Cc: s. 22(1)(a)(ii) >

Subject: MR17/00265 - additional submissions from the applicant - request additional submissions from the Department - due date COB - 15-12-17 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

I refer to s. 22(1)(a)(ii) application for Information Commissioner review of the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017, under the *Freedom of Information Act 1982* (the FOI Act).

I attach excerpts of s. 22(1)(a)(ii) additional submissions and request your response to these by **close of business 15 December 2017**.

Please note, that our office will generally share an agency's submissions with an applicant unless there are compelling reasons not to do so.

I look forward to hearing from you by close of business 15 December 2017.

Kind regards,

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]
Date: Friday, 6 April 2018 2:49:40 PM
Attachments: [image001.jpg](#)

Dear Ms s. 22(1)(a)(ii)

Thank you for your time on the phone today. Please find below submissions from the applicant addressing the s 47E(d) exemption as set out by the Department.

We would be grateful for your open submissions addressing the points raised by the applicant [by 20 April 2018](#)

Proposed telephone conference

-

Please let us know if the Department is amenable to a telephone conference with the applicant moderated by our office.

Kind regards

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 March 2018 11:43 AM

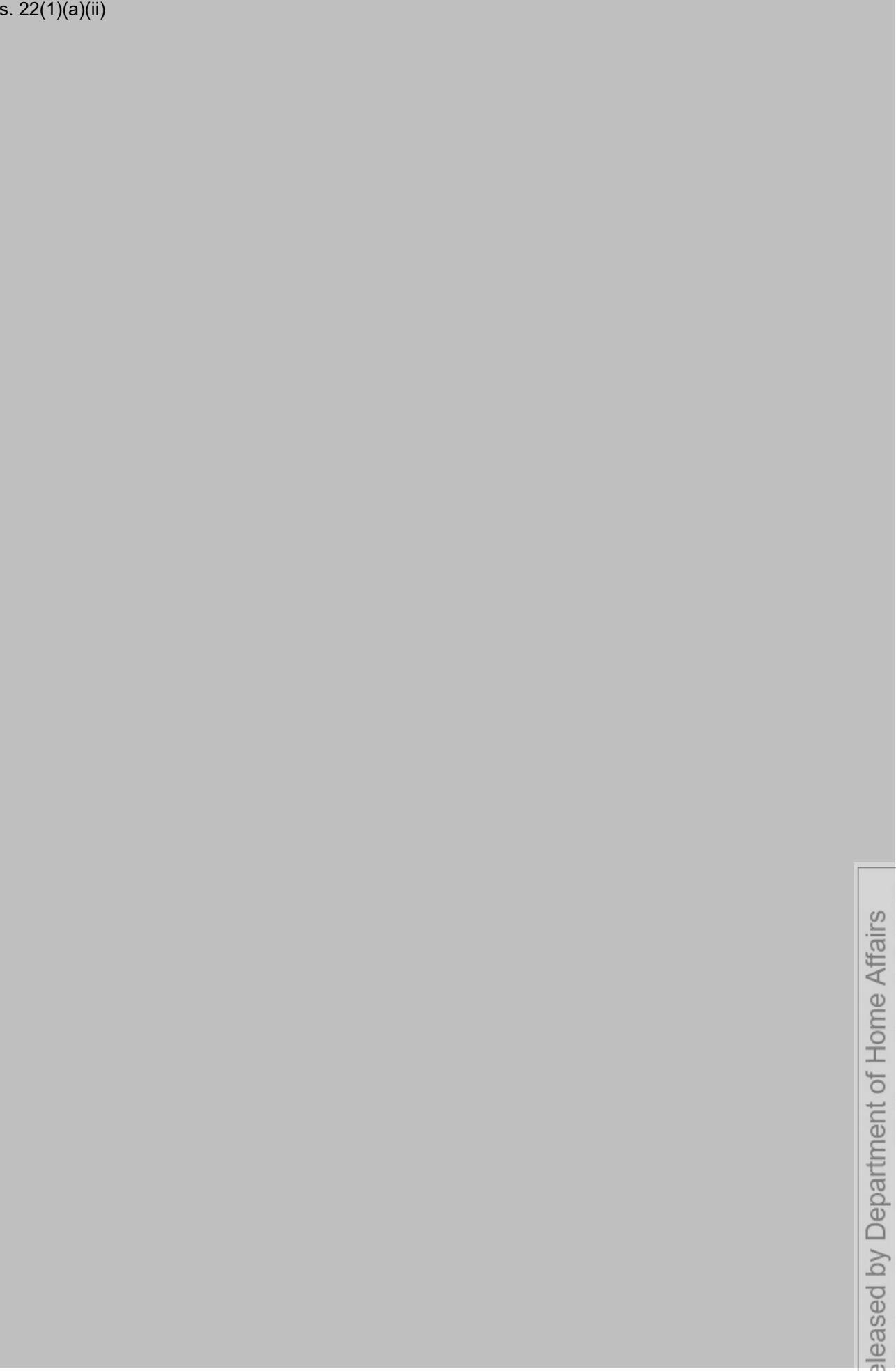
To: s. 22(1)(a)(ii)

Subject: Re: MR17/00265 - Additional submissions from the department - your response due 21 February 2018

Hi s. 22(1)(a)(ii),


s. 22(1)(a)(ii)

s. 22(1)(a)(ii)




Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

s. 22(1)(a)(ii)



Best,

s. 22(1)(a)(ii)



From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 February 2018 5:12 PM

To: s. 22(1)(a)(ii)

Subject: MR17/00265 - Additional submissions from the department - your response due 20 February 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii),

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously

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under the *Freedom of Information Act 1982*

Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

- As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.
- With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.
- We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the

interview questions.

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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<image001.jpg>

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From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: Request for assistance/clarification - Review of FOI decision MR 17/00265 - s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]
Date: Friday, 27 April 2018 5:07:17 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today and for your assistance.

Background

On 11 April 2017, s. 22(1)(a)(ii) requested the following under the FOI Act:

'I seek recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.'

After consultation with s. 22(1)(a)(ii), two interview recordings were identified as falling within the scope, and no transcripts were in existence. On 22 May 2017, the attached decision was issued to s. 22(1)(a)(ii) s. 22(1)(a)(ii) exempting the material in full.

s. 22(1)(a)(ii) has sought review of this decision by the Information Commissioner. Multiple discussions occurred between the applicant, the FOI section and the Office of the Information Commissioner (OAIC) to clarify what s. 22(1)(a) is seeking s. 22(1)(a) is no longer after the audio recordings and have made it clear that s. 22(1)(a) is not interested in the answers provided in the recordings s. 22(1)(a)(ii) seeks the interview questions.

The Department had a number of telephone and face to face discussions with the OAIC, clarifying that we seek the interview questions to be exempt from release under section 47E(d) of the FOI Act. Our main message was that the interview questions, if released, would damage the integrity of the protection visa program, diminishing the department's capability to carry out this function. The applicant has since provided further arguments against the use of the exemption (see attached).

For your action

1. We require your clarification and input to address the applicant's concerns. Your expertise on the PV processes, in particular, the interview questions used (see point 2 in the applicant's comments) would be appreciated, as it will assist us in providing a meaningful response to the review body.

2. The OAIC has proposed that we hold a teleconference between the applicant, OAIC and the Department to address the applicant's request and to come to an agreement. This idea was refused by our Assistant Secretary in the past, given there is no scope of flexibility on the release of the interview questions. However, after you have reviewed and provided us with your thoughts on the applicant's contentions, you may be in a better place to advise us whether you think a teleconference would benefit all parties. My personal view is that this could be of benefit, especially if someone from your area is able to provide verbal explanation to s. 22(1)(a)(ii) directly.

We would be grateful for your response by COB Wednesday, 2 May 2018. Unfortunately, as the matter is before external review, the timeframes are not within our control.

Thank you.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]
Date: Monday, 30 April 2018 4:30:33 PM
Attachments: [image001.jpg](#)

Dear Ms s. 22(1)(a)(ii)

Thank you for your email below.

We look forward to your response [by 4 May 2018](#)

Kind regards

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution
Office of the Australian Information Commissioner
 GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au
 s. 22(1)(a)(ii)

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From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Friday, 27 April 2018 5:18 PM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear s. 22(1)(a)(ii)

Further to our conversation on Friday 20th and Tuesday 24 April 2018, this is to provide you with an update.

We have sought input from the relevant business area within the Department, about the AAT decision mentioned by the FOI applicant. We expect to hear back from them by COB Wednesday 2 May 2018 and hope to be able to provide you with any further clarification/comments on this matter and the propose telecom on Thursday 3 May 2018.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Friday, April 6, 2018 2:49 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today. Please find below submissions from the applicant addressing the s 47E(d) exemption as set out by the Department.

We would be grateful for your open submissions addressing the points raised by the applicant [by 20 April 2018](#)

Proposed telephone conference

-

Please let us know if the Department is amenable to a telephone conference with the applicant moderated by our office.

Kind regards

s. 22(1)(a)(ii)

| Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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under the Freedom of Information Act 1982

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From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 March 2018 11:43 AM

To: s. 22(1)(a)(ii)

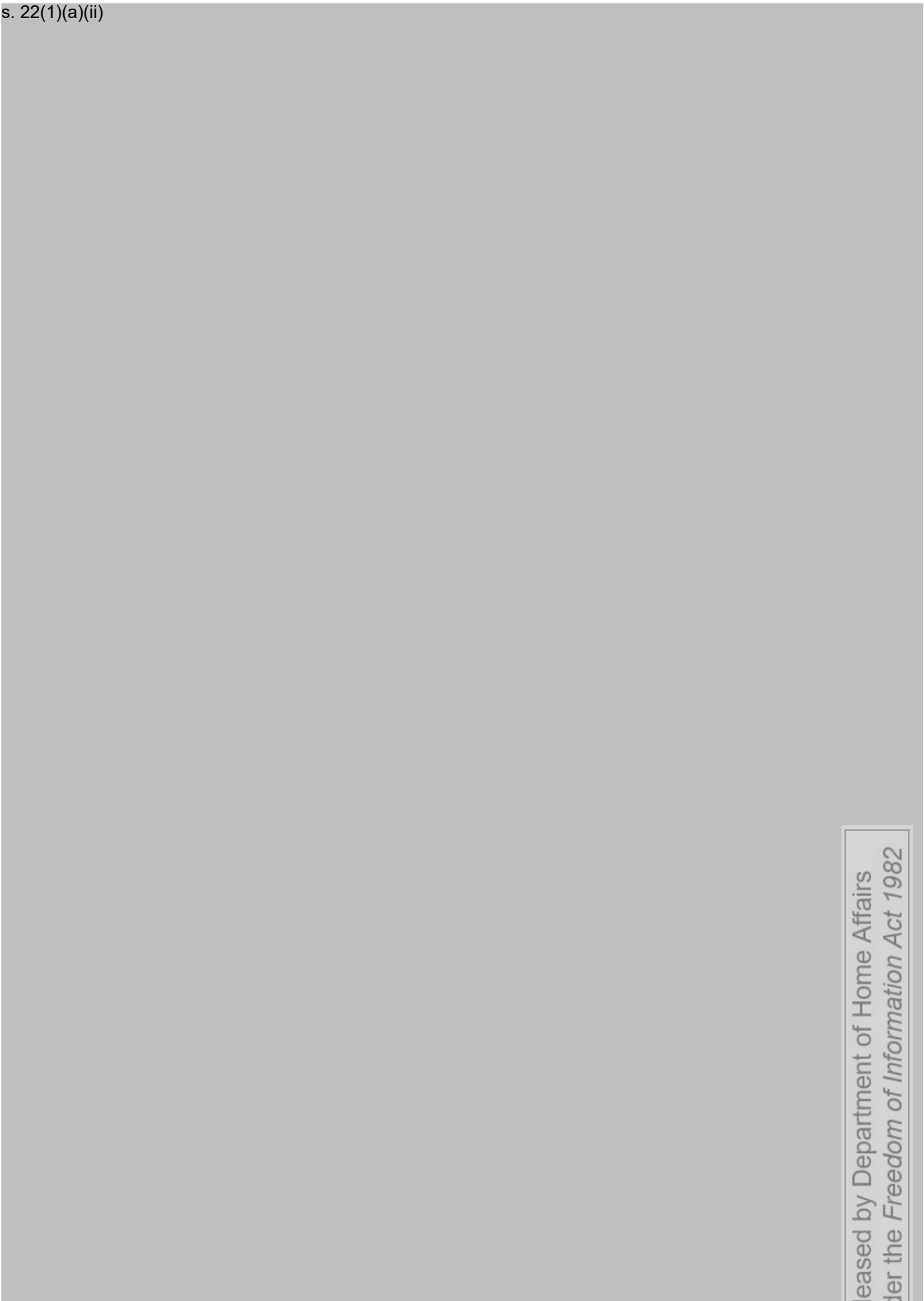
Subject: Re: MR17/00265 - Additional submissions from the department - your response due 21 February 2018

Hi s. 22(1)(a)(ii),

s. 22(1)(a)(ii)

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under the *Freedom of Information Act 1982*

s. 22(1)(a)(ii)



Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

s. 22(1)(a)(ii)

Best,

s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 February 2018 5:12 PM

To: s. 22(1)(a)(ii)

Subject: MR17/00265 - Additional submissions from the department - your response due 20 February 2018 [SEC=UNCLASSIFIED]

s. 22(1)(a)(ii),

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

- As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.
- With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the

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under the *Freedom of Information Act 1982*

program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.

- We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: RE: Request for assistance/clarification - Review of FOI decision MR 17/00265 - s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]
Date: Tuesday, 1 May 2018 7:04:55 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Our initial, very quick thoughts, are:

- Disclosure of only the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, lines of questioning are not prescribed and could therefore provide an indication of what answers were provided. There would also be a risk that applicants could be identified from the line of questioning, but I would need further time to listen to the interview to provide a more considered assessment of this risk.
- Disclosure of the interview questions, whether they were routine or not, could potentially provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims.
- A teleconference with the applicant and OAIC is not something we would like to pursue.
- It is worth noting that we are referencing a decision which was remitted by the RRT in 2014, so the primary interview would have taken place before that. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, and has been shared with the FOI applicant already.

Is there any scope to negotiate a different timeframe for response to the OAIC as I would like some time to review the audio of the PV interview (as I don't have a good sense of exactly what we're dealing with), and the history to this FOI request (as staff previously involved are no longer in the Section). I would also like to see whether the visa applicant was provided a copy of their interview. If they were, perhaps we could let the OAIC know that the applicant has access to it, and could have obtained their own legal representation if necessary.

Can I get a bit more information about the powers of the OAIC? Could the OAIC compel the

department to release the requested documents (and if so, do you get a sense that is where we're heading)?

s. 22(1)(a)(ii) from tomorrow, so please include s. 22(1)(a)(ii) and I in your response.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
Programs Division
Visa & Citizenship Services Group
Department of Home Affairs
s. 22(1)(a)(ii)

From: FOI Reviews mailbox

Sent: Friday, 27 April 2018 5:07 PM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: Request for assistance/clarification - Review of FOI decision MR 17/00265 - s. 22(1)(a)(ii)
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today and for your assistance.

Background

On 11 April 2017, s. 22(1)(a)(ii) requested the following under the FOI Act:

'I seek recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.'

After consultation with s. 22(1)(a)(ii) two interview recordings were identified as falling within the scope, and no transcripts were in existence. On 22 May 2017, the attached decision was issued to s. 22(1)(a)(ii) exempting the material in full.

s. 22(1)(a)(ii) has sought review of this decision by the Information Commissioner. Multiple discussions occurred between the applicant, the FOI section and the Office of the Information Commissioner (OAI) to clarify what s. 22(1)(a)(ii) is seeking s. 22(1)(a)(ii) is no longer after the audio recordings and have made it clear that s. 22(1)(a)(ii) is not interested in the answers provided in the recordings. s. 22(1)(a)(ii) seeks the interview questions.

The Department had a number of telephone and face to face discussions with the OAI, clarifying that we seek the interview questions to be exempt from release under section 47E(d) of the FOI Act. Our main message was that the interview questions, if released, would damage the integrity of the protection visa program, diminishing the department's capability to carry out this function. The applicant has since provided further arguments against the use of the exemption (see attached).

For your action

1. We require your clarification and input to address the applicant's concerns. Your expertise on the PV processes, in particular, the interview questions used (see point 2 in the applicant's comments) would be appreciated, as it will assist us in providing a meaningful response to the review body.
2. The OAI has proposed that we hold a teleconference between the applicant, OAI and the Department to address the applicant's request and to come to an agreement. This idea was refused by our Assistant Secretary in the past, given there is no scope of flexibility on the release of the interview questions. However, after you have reviewed and provided us with your thoughts on the applicant's contentions, you may be in a better place to advise us whether you think a teleconference would benefit all parties. My personal view is that this could be of benefit, especially if someone from your area is able to provide verbal explanation to s. 22(1)(a)(ii) directly.

We would be grateful for your response by COB Wednesday, 2 May 2018. Unfortunately, as the matter is before external review, the timeframes are not within our control.

Thank you.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

For-Official-Use-Only

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under the Freedom of Information Act 1982

From: FOI
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Wednesday, 2 May 2018 9:45:00 AM
Attachments: s. 47F(1)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

As discussed, please find below the relevant TRIM references for the PV interview recordings. The dedicated TRIM folder for this FOI request is ADF2017/39262, it contains all the associated correspondence and initial decision record.

Additionally, I am including the extract of the Department's submission that was provided to the OAIC and on forwarded to the FOI applicant for his response. The applicant's last correspondence was in contention of the Department's below submission.

I will contact the OAIC today in an effort to obtain an extension of time agreement and will advise you of the outcome as soon as the OAIC responds.

In the meantime if you require anything else please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

Dear s. 22(1)(a)(ii),

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the

applicant(s)' identifying or personal information.

With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.

We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, May 5, 2017 9:21 AM

To: FOI <foi@border.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

-

Action required:Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

-

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: our ref - MR17/00265 - Your ref - FA 17/04/00432 - EOT to 9-05-18 [SEC=UNCLASSIFIED]
Date: Wednesday, 2 May 2018 1:54:11 PM
Attachments: [image001.jpg](#)

Dear s. 22(1)(a)(ii)

Thank you for your email.

Our office is happy to grant the Department an additional 7 days to provide a comprehensive response to the applicant's submissions.

We look forward to hearing from by close of business 9 May 2018.

Please contact me if you have any questions.

Kind regards

s. 22(1)(a)
(ii)

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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OAIC banner for email sig



From: s. 22(1)(a)(ii)

Sent: Wednesday, 2 May 2018 12:20 PM

To: s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - update and request for additional time for a response [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear s. 22(1)(a)(ii)

By way of update, we have just received a response from the Director of the relevant business

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area within the Department. She has provided some preliminary responses however she has asked for additional time to fully review the audio of the PV interview. She is fairly new to this business area and needs to grasp and examine the history to this FOI request as staff who were previously involved with this matter are no longer in the Section.

I am therefore asking if you could please consider granting us additional 14 days to provide a comprehensive response to the FOI applicant's contention.

Additionally, based on the Director's preliminary response, a teleconference with the applicant and OAIC is not something that the business area would like to pursue.

If you require any further information or wish to discuss this matter in more detail, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Monday, April 30, 2018 4:29 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

Dear Ms s. 22(1)(a)(ii)

Thank you for your email below.

We look forward to your response by 4 May 2018

Kind regards

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s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

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s. 22(1)(a)(ii)

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From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Friday, 27 April 2018 5:18 PM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear s. 22(1)(a)(ii)

Further to our conversation on Friday 20th and Tuesday 24 April 2018, this is to provide you with an update.

We have sought input from the relevant business area within the Department, about the AAT decision mentioned by the FOI applicant. We expect to hear back from them by COB Wednesday 2 May 2018 and hope to be able to provide you with any further clarification/comments on this matter and the propose telecom on Thursday 3 May 2018.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

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UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Friday, April 6, 2018 2:49 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
Subject: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today. Please find below submissions from the applicant addressing the s 47E(d) exemption as set out by the Department.

We would be grateful for your open submissions addressing the points raised by the applicant by 20 April 2018

Proposed telephone conference

-

Please let us know if the Department is amenable to a telephone conference with the applicant moderated by our office.

Kind regards

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)

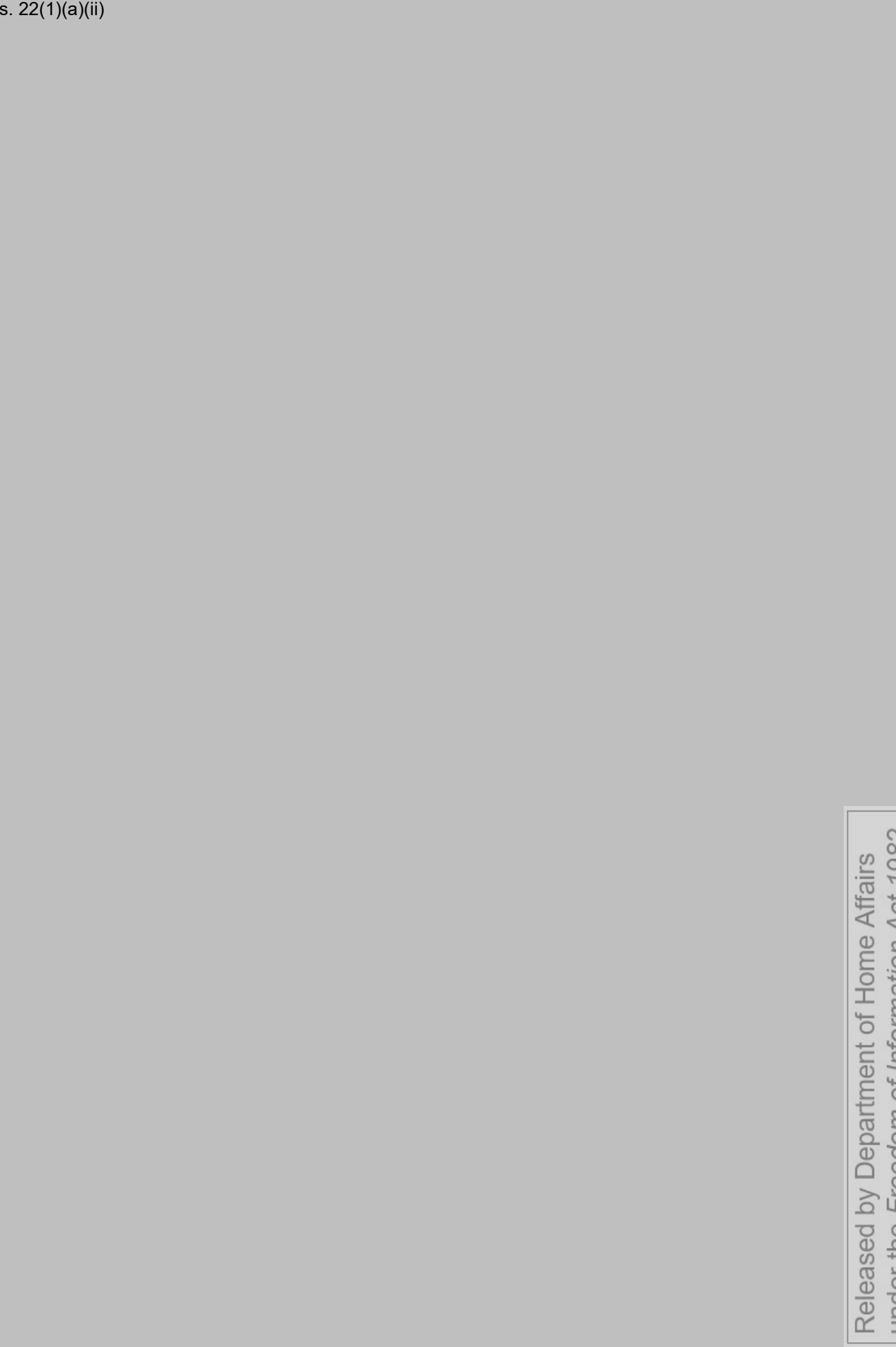
Sent: Tuesday, 6 March 2018 11:43 AM

To: s. 22(1)(a)(ii)

Subject: Re: MR17/00265 - Additional submissions from the department - your response due 21 February 2018

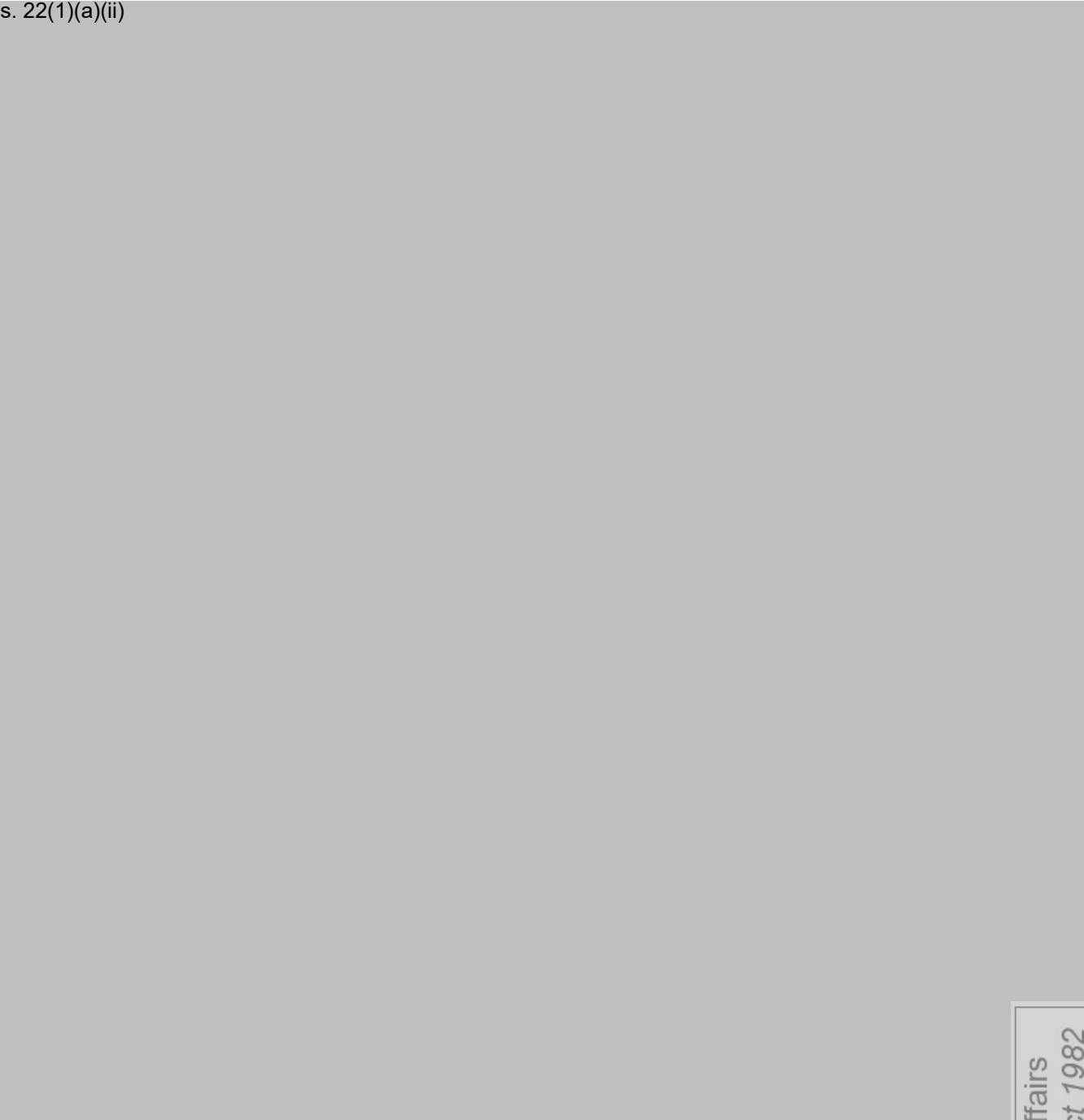
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under the Freedom of Information Act 1982

s. 22(1)(a)(ii)



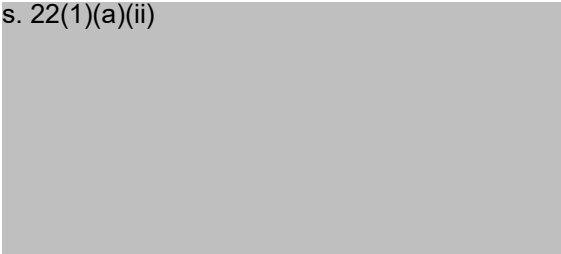
Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

s. 22(1)(a)(ii)



Best,

s. 22(1)(a)(ii)



From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 February 2018 5:12 PM

To: s. 22(1)(a)(ii)

Subject: MR17/00265 - Additional submissions from the department - your response due 20 February 2018 [SEC=UNCLASSIFIED]

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Dear s. 22(1)(a)(ii)

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

- As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.
- With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.
- We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public

expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution
Office of the Australian Information Commissioner
 GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au
 s. 22(1)(a)(ii)

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<image001.jpg>

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From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: [Miranda LAUMAN](#); s. 22(1)(a)
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Wednesday, 9 May 2018 2:52:37 PM

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) Looks good to me.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
 Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 9 May, 2018 2:43 PM
To: s. 22(1)(a)(ii)
Cc: Miranda LAUMAN s. 22(1)(a)(ii)
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see the final submission in black below. I plan to send it out by 3:30 pm this afternoon. Let me know if you have any further suggestions or comments before that time. I also want to point out that this is an open submission and will be shared with the FOI applicant.

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that

disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taken place prior to this date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Thanks

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

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From: s. 22(1)(a)(ii)
Sent: Wednesday, 9 May 2018 12:52 PM
To: s. 22(1)(a)(ii) >
Cc: Miranda LAUMAN <s. 22(1)(a)(ii)>
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii) – we've added some suggested text in red below, for your consideration. Grateful if you could please send us a copy of the final submission that goes to the OAIC. Happy to discuss.

s. 22(1)(a)(ii) – fyi, this approach has been endorsed by the Divisional Executive (verbally confirmed by s. 22(1)(a)(ii) this morning). Please save to file.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
 Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
 Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 7 May, 2018 2:08 PM
To: s. 22(1)(a)(ii) >
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

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Hi s. 22(1)(a)
(i)

The FOI coordination team has already addressed the technical component of s47F and s47E(d) in its previous submission. We are now relying on your area's technical expertise to provide further arguments that would substantiate the harm if the questions are released.

The submission would be along the lines of:

Dear s. 22(1)(a)(ii)

Thank you for giving us the opportunity to provide further submissions.

The Department view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning ~~may~~ provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal ~~TPV~~ the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individuals. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legal right under the FOI Act to access documents that contain their personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

The Department has already addressed the Public Interest test, therefore we are not required to go over it again in our additional response.

In answer to your question: Can I get a bit more information about the powers of the Oaic?

Could the OAIC compel the department to release the requested documents (and if so, do you get a sense that is where we're heading)?

The regular practice of the OAIC is to make a preliminary assessment of the matter at hand. If the IC delegate's view is that the Department has not discharged its onus correctly, the OAIC will ask the Department to reconsider revising its decision. The Department may then consider revising the decision and release some of the material or advise the OAIC that the decision will not be revised. The IC will then progress to a decision and may direct the Department to release some parts or full the document. The Department will have 28 days from the date of the IC's decision to seek merit review with the AAT or release the documents to the FOI applicant.

If you would like to discuss this further please do not hesitate to contact me.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 7 May 2018 12:00 PM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I'm trying to get some time with my AS today to discuss this as I'm conscious that we only have until COB Wed to get back to the OAIC. Has your area started drafting the reply to the OAIC? If so, could I have a copy please, as that may help to guide our input.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Visa & Citizenship Services Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 2 May, 2018 3:43 PM
To: s. 22(1)(a)(ii) >
Cc: s. 22(1)(a)(ii)
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii). A small win!

We're reviewing the file and the interview recording today, and we will try to have something together for our AS to clear when she is back on Monday. As discussed on the phone, if you can share with us the first draft of your proposed response to the OAIC, we can add our bits in. It would help us to craft our arguments etc if we can see what kind of letter/response is being provided rather than starting from a blank page.

Many thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
 Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
 Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 2 May, 2018 2:12 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(i)

As previously advised the OAIC have only agreed to additional 7 days. The Department's response is now due by COB 9 May 2018.

Could I therefore please have your response back to me by COB Tuesday 8 May 2018.

If you have any further questions or require assistance please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: FOI

Sent: Wednesday, May 2, 2018 9:45 AM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(i)

As discussed, please find below the relevant TRIM references for the PV interview recordings. The dedicated TRIM folder for this FOI request is ADF2017/39262, it contains all the associated correspondence and initial decision record.

Additionally, I am including the extract of the Department's submission that was provided to the OAIC and on forwarded to the FOI applicant for his response. The applicant's last correspondence was in contention of the Department's below submission.

I will contact the OAIC today in an effort to obtain an extension of time agreement and will advise you of the outcome as soon as the OAIC responds.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

In the meantime if you require anything else please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

Dear s. 22(1)(a)(ii)

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.

With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAI consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.

We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information.

We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, May 5, 2017 9:21 AM
To: FOI <foi@border.gov.au>
Cc: s. 22(1)(a)(ii)
 s. 22(1)(a)(ii)
Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,
 Kathy

s. 22(1)(a)(ii)
 A/g Assistant Director
 Protection Processing Administration
 Refugee and Humanitarian Programme Branch
 Refugee and Humanitarian Visa Management Division
 Department of Immigration and Border Protection
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

- **Action required:**

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

- **Assistance**

Please find attached a checklist designed to assist your area in identifying documents

and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii) -
Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]
Date: Wednesday, 9 May 2018 3:04:00 PM
Attachments: [image001.jpg](#)

UNCLASSIFIED

OAIC reference: MR 17/00265
 Home affairs reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii) >

Sent: Monday, 30 April 2018 4:29 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your email below.

We look forward to your response by 4 May 2018

Kind regards

s. 22(1)(a)(ii)

| Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

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OAIC banner for email sig



From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Friday, 27 April 2018 5:18 PM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: RE: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear s. 22(1)(a)(ii),

Further to our conversation on Friday 20th and Tuesday 24 April 2018, this is to provide you with an update.

We have sought input from the relevant business area within the Department, about the AAT decision mentioned by the FOI applicant. We expect to hear back from them by COB Wednesday 2 May 2018 and hope to be able to provide you with any further clarification/comments on this matter and the propose telecom on Thursday 3 May 2018.

Kind Regards,

s. 22(1)(a)(ii)

FOI Officer

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Friday, April 6, 2018 2:49 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

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under the Freedom of Information Act 1982

Cc: s. 22(1)(a)(ii)

Subject: Your ref - FA 17/04/00432 - our ref - MR17/00265 - submissions from the applicant - your response due 20 - 04 - 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your time on the phone today. Please find below submissions from the applicant addressing the s 47E(d) exemption as set out by the Department.

We would be grateful for your open submissions addressing the points raised by the applicant by 20 April 2018

Proposed telephone conference

-

Please let us know if the Department is amenable to a telephone conference with the applicant moderated by our office.

Kind regards

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

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From: s. 22(1)(a)(ii)

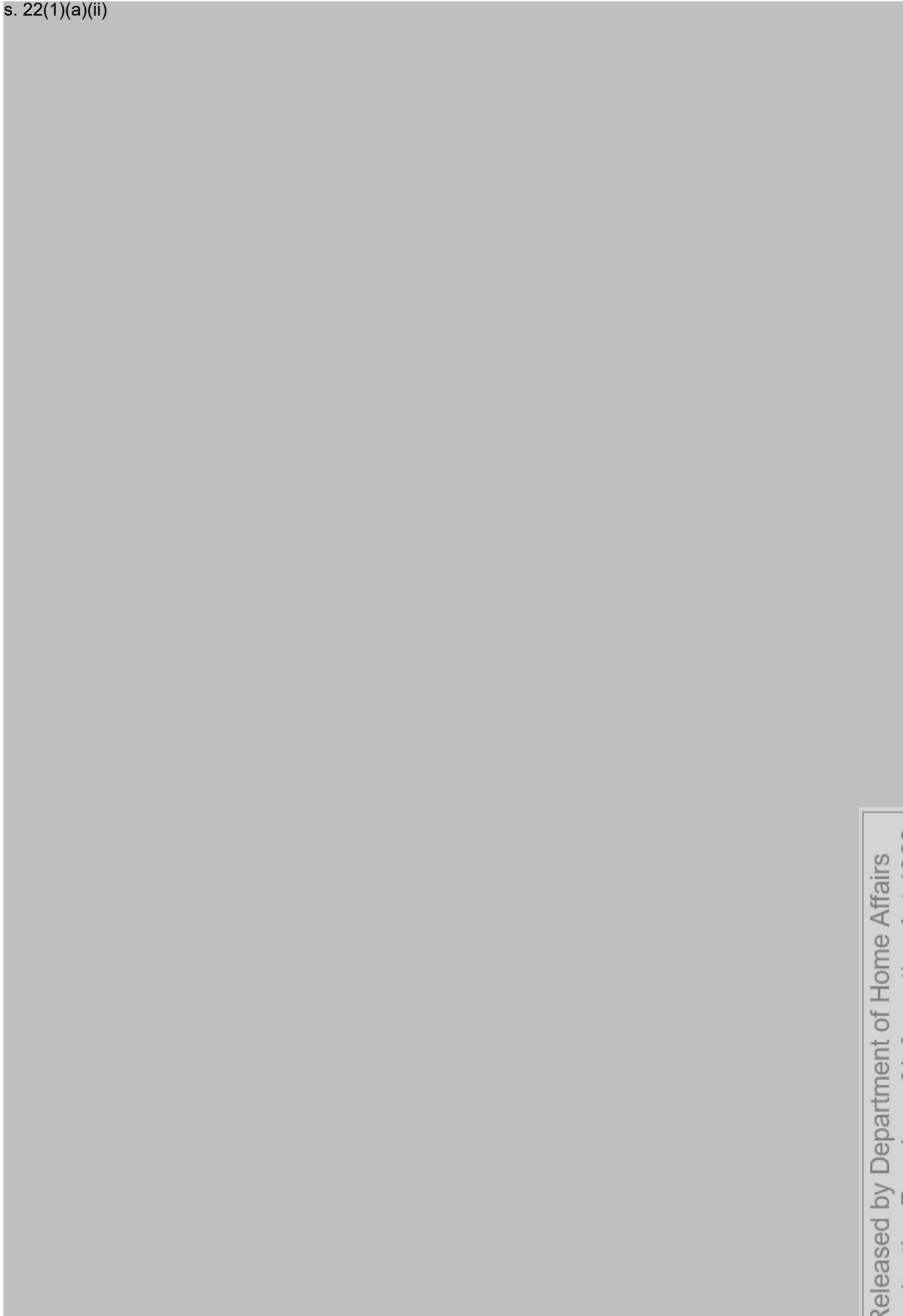
Sent: Tuesday, 6 March 2018 11:43 AM

To: s. 22(1)(a)(ii)

Subject: Re: MR17/00265 - Additional submissions from the department - your response due 21 February 2018


s. 22(1)(a)(ii)

s. 22(1)(a)(ii)




Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

s. 22(1)(a)(ii)



Best,

s. 22(1)(a)(ii)



From: s. 22(1)(a)(ii)

Sent: Tuesday, 6 February 2018 5:12 PM

To: s. 22(1)(a)(ii)

Subject: MR17/00265 - Additional submissions from the department - your response due 20 February 2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii),

I refer to previous correspondence in relation to your request for Information Commissioner review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

- As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.
- With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.
- We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

s. 22(1)(a)(ii) | Review and Investigation Officer | FOI Dispute Resolution
Office of the Australian Information Commissioner
 GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au
 s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

<image001.jpg>

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From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]
Date: Tuesday, 10 July 2018 4:49:17 PM
Importance: High

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

We've briefed our FAS on this one, and he has requested a week's extension to get back to the OAIC as he first needs to brief the Secretary. Would that be possible?

Please give me a call if easier to discuss (just tried to call but may have missed you for the day).

Look forward to hearing from you.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 6 July, 2018 11:15 AM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) >
Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Once the Department provides further submissions to the OAIC to address the issues raised below and provide further submissions to substantiate our position, the matter will progress to the Information Commissioner for her final assessment and decision. If her decision is to set aside the Department's decision, the Department will have 28 days from the date of the decision

to release the material as set out in the IC's decision. Once the decision is handed down, as a matter of course the FOI section will alert the senior Executive group and DLOs.

Alternatively, the Department has the option to apply under s57 of the FOI Act to have the IC's decision reviewed by the Administrative Appeals Tribunal (AAT). If your business area chooses to proceed on a merits review appeal pathway with the AAT, we will have only 28 days from the date of decision in which to seek legal advice, (internal and external) and file papers with the AAT. If you choose this option, you will need to contact our Litigation Section for advice and brief your Band 2 on whether the Department is prepared to litigate on this request.

As mentioned previously, given that the FOI applicant is not seeking the audio recordings and have made it clear that [REDACTED] is only after the interview questions, you may wish to revisit the option of releasing the transcript of the questions only. The recording of the two interviews is currently only available in an audio format. Based on previous consultation with your business area FOI was advised that no transcripts of the interviews were ever constructed. Therefore if you choose to release the questions, these would need to be transcribed from the available audio recordings.

I have provided some information and options to [REDACTED] over the phone. In brief, if the decision by the Information Commissioner is handed down, it becomes case law and sets a precedent that will be referred to in future FOI decisions. This may have an impact on any future FOI requests with the same or similar scope.

If you would like to discuss this in more detail, please don't hesitate to contact me.

Given that we are required to respond to the OAIC by COB Friday 13 July, I would appreciate your input by COB Wednesday 11 July.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: [REDACTED] **s. 22(1)(a)(ii)**

Sent: Wednesday, 4 July 2018 10:02 AM

To: [REDACTED] **s. 22(1)(a)(ii)**

Cc: [REDACTED] **s. 22(1)(a)(ii)**

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

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under the Freedom of Information Act 1982

For-Official-Use-Only

Thanks s. 22(1)(a)(ii)

Can we please get a timeline for what happens next? Understand the Department has until 13 July to address the issues raised but what happens then? In particular, we need to know when a decision would likely be made and, if the decision was to release the interview questions, when that would occur. We also need to understand what the touch points are with the Minister's Office. Is this something the FOI area would brief the MO on as a matter of procedure, or would we, as the business area, need to do that engagement with the MO office (in which case, the timeline will be really important so we know when and how to plug in)?

In the meantime, we're considering the below and will get back to you asap. Does FOI hold transcripts of the two interviews in question?

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
Division

Visa & Citizenship Services Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: 3 July, 2018 12:22 PM

To: s. 22(1)(a)(ii)

Subject: FW: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

The Delegate of the Office of the Information Commissioner has formed a preliminary view in regard to the above FOI matter. For full detail and analysis please read the below correspondence.

In short, if this matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision is to be set aside.

The OAIC has given the Department until 13 July 2018 to address the issues raised below and

provide further submissions to substantiate our position.

Alternatively, given that the FOI applicant is not seeking the audio recordings and have made it clear that he is only after the interview questions, you may wish to revisit the option of releasing the transcript of the questions only. I am however, aware that there was previously no scope of flexibility on the release of the interview questions.

Once you have had the opportunity to peruse the below, please give me a call to discuss in more detail.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Wednesday, 27 June 2018 3:40 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

By email: FOI.reviews@homeaffairs.gov.au

Dear s. 22(1)(a)(ii)

IC Review MR17/00265 – s. 22(1)(a)(ii) and Department of Home Affairs

I refer to s. 22(1)(a)(ii) (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that s. 22(1) wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that ^{s 22(1)}_{(a)(ii)} is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:

... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)

My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

- (1) Access to a document may be given to a person in one or more of the following forms:
 - (a) a reasonable opportunity to inspect the document;
 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images;
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.
- ...
- (3) If the giving of access in the form requested by the applicant:
 - (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
 - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
 - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state 'subject to limited exceptions, an applicant who

requests access to a document in a particular form has a right to be given access in that form (s 20(2)).'

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on s. 22(1)(a)(ii) or email s. 22(1)(a)(ii) Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii) Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Wednesday, 9 May 2018 3:05 PM

To: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR 17/00265

Home affairs reference: FA 17/04/00432

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Dear S. [REDACTED]

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

WARNING: The information contained in this email may be confidential.

If you are not the intended recipient, any use or copying of any part of this information is unauthorised. If you have received this email in error, we apologise for any inconvenience and request that you notify the sender immediately and delete all copies of this email, together with any attachments.

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Monday, 30 July 2018 2:20:00 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision.

Once you have had the opportunity to make additions, we can set up a quick teleconference to discuss next steps. Please be mindful that we may only have up until 24 August 2018 to finalise this matter and issue the documents to s. 22(1)(a)(ii) (SBS journalist). Let's aim to have the decision draft finalised by the end of this week so that we can commence our liaison with Media Operations - drafting of TPs.

Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18 [SEC=UNCLASSIFIED]
Date: Tuesday, 7 August 2018 1:14:13 PM
Attachments: [image001.jpg](#)

Dear s. 22(1)(a)(ii)

Thank you for your correspondence.

We look forward to hearing from you with a copy of the revised decision by Friday 24 August 2018.

Kind regards

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Thursday, 26 July 2018 2:31 PM

To: s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

After further consultation with the relevant business the Department will be revising its decision and providing the FOI applicant with a transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

The interviews were only available in an audio format and needed to be transcribed and are currently being assessed and marked up with redactions in order to facilitate the FOI applicant's

request. The marked up document will be forwarded to the authorised decision maker shortly for final assessment and comment as well as construction of the decision notice.

We therefore respectfully ask for your consideration in granting the Department an extension of time to issue the revised decision by Friday 24 August 2018.

Once the decision is issued a copy of the decision notice will be provided to your office electronically.

Please do not hesitate to contact me if you require any further information or would like to discuss this matter in more detail.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Wednesday, 11 July 2018 5:34 PM

To: s. 22(1)(a)(ii)

Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your email and request for an extension of time to provide a response to s. 22(1)(a)(ii) email.

We will grant your request for an extension until 27 June 2018, as requested.

However, please note that if we do not receive a response within this timeframe the matter may proceed to a decision under s 55K of the FOI Act without any further opportunity to make submissions.

Should the Department wish to make a revised decision under s 55G, please provide us with a copy of this decision and a marked up copy of relevant documents.

Please don't hesitate to contact me if you have any questions about this email.

Kind regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) | Acting Director | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

OAIC banner for email sig



From: s. 22(1)(a)(ii) >

Sent: Wednesday, 11 July 2018 11:00 AM

To: s. 22(1)(a)(ii) FOIDR <foidr@oaic.gov.au>

Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for your below correspondence providing your preliminary views and analysis on the above recorded matter.

The Department is currently considering whether it is in a position to revise its primary decision under s 55G of the FOI Act.

Due to the sensitive nature of this request we are currently consulting with the relevant parties and therefore kindly ask for your consideration in granting the Department an extension of time to respond to your request by 27 July 2018.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii) >
Sent: Wednesday, 27 June 2018 3:40 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
 [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

By email: FOI.reviews@homeaffairs.gov.au

Dear s. 22(1)(a)(ii)

IC Review MR17/00265 – s. 47F(1) and Department of Home Affairs

I refer to s. 47F(1) (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that **S. 47** wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that s. 22(1) is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:


... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)



My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses

such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

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 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images;
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.
- ...
- (3) If the giving of access in the form requested by the applicant:
 - (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
 - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
 - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state 'subject to limited exceptions, an applicant who requests access to a document in a particular form has a right to be given access in that form (s 20(2)).'

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on 02

s. 22(1)(a)(ii)

Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii)

. Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Wednesday, 9 May 2018 3:05 PM

To: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR 17/00265

Home affairs reference: FA 17/04/00432

Dear s.

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such

Released by Department of Home Affairs
under the Freedom of Information Act 1982

as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#); s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Friday, 10 August 2018 1:38:24 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

H.S.

Please find attached the signed decision.

I corrected one typo on page two of the transcript for Applicant A. We would also like to redact the word s. 47F(1) in both transcripts (Applicant A and Applicant B) in a few additional places (marked up in red font).

I am also attaching Media Handling Strategy and Talking Points that have been cleared by our AS.

I your email below you suggested that we set up a teleconference to discuss the next steps. Let me know if you still want to proceed with the teleconference. We are particularly interested in finding out the following points:

- When do you intend to release the documents?
- What briefing will be provided to the executive and when?
- How do we liaise with Media Operations (is this something you organise)?

Thanks

s. 22(1)(a)

s. 22(1)(a)(ii)
 Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Monday, 30 July 2018 2:21 PM
To: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision.

Once you have had the opportunity to make additions, we can set up a quick teleconference to discuss next steps. Please be mindful that we may only have up until 24 August 2018 to finalise this matter and issue the documents to s. 22(1)(a)(ii) (SBS journalist). Let's aim to have the decision draft finalised by the end of this week so that we can commence our liaison with Media Operations - drafting of TPs.

Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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*****Please update the classification of the document if information provided in the background is above FOR OFFICIAL USE ONLY*****

MEDIA HANDLING STRATEGY

LEAD AGENCY: Home Affairs

Event: Release of Protection visa interview transcripts under the FOI Act	
Date Proposed: XX August	
Media Officer:	Media Ph: 02 6264 2244

BACKGROUND

Redacted transcripts of client interviews conducted in 2012 between a departmental officer and two ^{s. 47F(1)} Protection visa applicants in a same sex relationship were released following an FOI request by ^{s. 22(1)(a)(ii)} a journalist who has written for SBS and ABC.

The journalist's interest was sparked by the Refugee Review Tribunal (RRT) decision, which was published online and commented on the intrusive lines of questioning used by the departmental officer.

The Department initially declined to disclose the documents relying on FOI Act exemptions related to personal privacy (s47F) and adverse effect on operations of the agencies (s47E(d)).

The FOI applicant applied for the review of the Department's decision to the Office of the Australian Information Commissioner (OAIC), indicating that ^{s. 22(1)} would accept a redacted transcript to guard against privacy concerns and that ^{s. 22(1)} was only interested in the questions asked at the interview and not the applicants' responses.

On 27 June 2018, a delegate of the OAIC informed the Department that they would be recommending that the Information Commissioner set aside the Department's decision not to release the transcripts of the interview questions, and invited the Department to make further submissions.

On XX August 2018, the Department agreed to release redacted transcripts of questions asked, removing all identifying personal information. The Department also acknowledged that the exemption under s47E(d) was no longer relevant as the Department's approach to engaging with lesbian, gay, bisexual, transgender and intersex (LGBTI) protection visa applicants had shifted significantly since 2012.

KEY MESSAGES

The Department recognises that LGBTI people may experience particular acts of persecution, significant harm and discrimination specific to, and because of, their sexual orientation and/or gender identity.

The Department also recognises that claims related to sexual orientation or gender identity are complex to assess due to their personal nature and because, other than the claims, there is often little or no supporting evidence provided.

The Department acknowledges that some lines of questioning used during the 2012 interviews in this particular matter were inappropriate and insensitive.

The interviewing officer has been counselled about their conduct.

The Department has strengthened its decision support tools and guidelines, and provided additional training, on assessing LGBTI claims and conducting interviews in a sensitive manner, for example:

- In April 2016, training on assessing claims by sexual and gender minorities was provided to decision makers by the Organization for Refuge, Asylum and Migration.
- In December 2016, a training package on assessing LGBTI claims was developed and made available to all Protection visa decision makers. *(Note: the redacted training material has already been released to the same journalist under a related FOI request.)*
- In January 2017, new guidelines were published on assessing claims related to sexual orientation and gender identity. *(Note: the guidelines have already been released to the same journalist under a related FOI request.)*
- In April 2017, Practical Guidelines on Interviewing were developed to provide officers with guidelines working with vulnerable applicants and conducting interviews in a sensitive manner.

In January 2018, an internal Quality Assurance review of LGBTI applicant interviews was conducted to review whether decision makers applied the available guidance appropriately. No significant issues of concern were identified by the review. Following the review, managers were asked to remind their staff about the suite of support tools available for assessing LGBTI related protection claims.

CONSIDERATIONS (OPPORTUNITIES & SENSITIVITIES)

The released interview transcripts contain inappropriate questions about the applicant's intimate relationship.

PROPOSED SPOKESPERSON

OTHER AGENCIES CONSULTED

CLEARANCE:

Drafted by	Title	Time/Date

Cleared by	Title	Time/Date
s. 22(1)(a)(ii)	Senior Director, Portfolio Media Operations	Time DD Month 2018

FOI request related to assessing LGBTI claims - Background and Talking Points

Background information – FOI request to release transcripts of PV interviews

- On 3 September 2012, a Protection visa (PV) case officer separately interviewed two s. 47F(1) PV applicants claiming to be in a same sex relationship with each other.
- s. 47F(1)
-
- The RRT decision was published online. That decision referred to intrusive questions asked during the interview.
- On 11 April 2017, journalist s. 22(1)(a)(ii) made a FOI request for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

- On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.
- On 16 May 2017, s. 22(1)(a)(ii) made an application for Information Commissioner's (IC) review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.
- On 22 May 2017, the Department advised s. 22(1)(a)(ii) that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. The Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.
- On 1 June 2017, s. 22(1)(a)(ii) advised the OAIC that s. 22(1) wished to continue with his application for IC review. s. 22(1)(a)(ii) confirmed that s. 22(1) would accept a redacted transcript or edited AV recording to guard against privacy concerns.
- On 9 May 2018, the Department advised OAIC that it stood by its original decision that the material in the documents was exempt in full under s 47F, but it contended that the interview questions put to visa applicants were also exempt under s 47E(d) of the FOI Act. Section 47F exempts documents where release of information would involve unreasonable disclosure of personal information. Section 47E(d) exempts documents where their disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

- On 27 June 2018, an OAIC Delegate advised that ^{s. 22(1)(g)} recommendation to the IC will be to set aside the Department's decision not to release the two documents.
- The Department has until 27 July 2018 to make further submissions to the OAIC to substantiate our position. On 27 July 2018, the Department confirmed to the OAIC that it would make a revised decision on this matter.
- The Department intends to agree to release of redacted interview transcripts prepared from audio recordings.
 - The Department acknowledges that as procedure and practice in relation to interviewing and assessing lesbian, gay, bisexual, transgender and intersex (LGBTI) claims has shifted significantly since 2012, with redaction other objections to release can be overcome.

Talking Points - Assessment of protection claims related to gender identity and sexual orientation

- All applications for Protection visas are assessed against criteria set out in the *Migration Act 1958* (the Act) and the Migration Regulations. All protection claims are assessed individually on their own merit, by taking into consideration the particular circumstances of the applicant and conditions in the country from which they seek protection.
- The Department recognises that LGBTI people may experience particular acts of persecution, significant harm and discrimination specific to, and because of, their sexual orientation and/or gender identity.
- The Department also recognises that claims related to sexual orientation or gender identity are complex to assess due to their personal nature.
- In recent years, the Department has strengthened its guidelines, and provided additional training, on assessing LGBTI claims and conducting applicant interviews in a sensitive and efficient manner. These included training on assessing claims by sexual and gender minorities and new guidelines on assessing LGBTI claims, including making credibility assessments.
- The Department continues to review and assure the implementation of the guidelines on assessing LGBTI claims through departmental quality control and assurance processes. A January 2018 Quality Assurance review into interviews conducted with LGBTI applicants found that the majority of decision makers followed the departmental guidelines on assessing claims related to sexual orientation and gender identity
- The interviews in question were conducted in 2012. Specific procedural guidelines and other support tools for assessing claims related to sexual orientation and gender identity have been introduced since then.

If asked

Q. What issues are covered in the guidelines on assessing LGBTI applicants?

The guidelines cover how to effectively and sensitively address and assess sexual orientation and gender identity related claims, and includes guidance on appropriate and inappropriate lines of enquiry when interviewing LGBTI applicants, appropriate terminology to use and particular issues and factors that should be taken into account when assessing claims and credibility related to LGBTI applicants. The guidelines also include information on interviewing transgender applicants and advises interviewers to ask the applicant for their preferred gender, name and pronoun as the interview commences.

Q. How many applications by LGBTI persons are received by the Department?

Departmental systems cannot specifically report on the number of protection visa applicants who have made LGBTI based claims. It would be an unreasonable diversion of resources to manually review each application to provide a count of such claims.

Q. How does the Department assess the circumstances for LGBTI individuals in other countries?

The Department's Country of Origin Information Services section works closely with the Department of Foreign Affairs and Trade (DFAT) to source reliable country information related to protection claims. When assessing the circumstances of LGBTI individuals in particular countries, protection officers consider contemporary country information on relevant laws; application and enforcement of the laws; societal treatment of, and attitudes toward, LGBTI individuals; and support services available to them.

Q. What guidance and training has been made available to decision makers assessing LGBTI applicants?

General training and support tools

- All Protection visa decision makers receive training on interviewing applicants as part of their induction into the protection visa program.
- Practical Guidelines on Interviewing provide officers with guidelines on conducting interviews in a sensitive manner and working with vulnerable applicants.
- In May 2018, training was organised jointly by the UNHCR and the Department on assessing claims by physiologically vulnerable applicants.

Guidelines and training on assessing LGBTI related claims

- In April 2016, training on assessing claims by sexual and gender minorities was provided to decision makers by an NGO called Organization for Refuge, Asylum and Migration.
- In December 2016, a standalone training package on assessing LGBTI claims was developed and made available to decision makers. *(Note: the redacted training material has already been released under a related FOI request.)*
- In January 2017, new guidelines were developed on assessing claims related to sexual orientation and gender identity. They were incorporated into the Protection Visa Processing Guidelines. *(Note: the LGBTI chapter of the guidelines has already been released under a related FOI request.)*

- In January 2018, a Quality Assurance review of LGBTI applicant interviews was conducted to review whether decision makers applied the available guidance appropriately. No significant issues of concern were identified by the review.
- May 2018, the LGBTI guidelines were revised and incorporated in a new standalone Procedural Instruction titled 'Gender and Sexual Orientation Procedural Instructions'.
- In July 2018, an information session was held with decision makers to discuss the new Gender and Sexual Orientation guidelines.

Q. What were the findings of the January 2018 Quality Assurance reviews into interviews conducted with LGBTI applicants?

The Quality Assurance review found most decision makers followed the departmental guidelines on assessing claims related to sexual orientation and gender identity. A majority of the decision makers used appropriate lines of enquiry and encouraged the applicants to identify key experiences in a sensitive and non-intrusive way. A minority of cases that fell outside the guidelines were referred to line managers for follow up.

Q. What information are applicants expected to provide as evidence of being a LGBTI person?

There is no expectations that LGBTI persons should provide evidence to establish their sexual orientation or gender identity. If appropriate and applicable, decision makers may seek evidence of relationships, such as emails, texts, social media posts, photos or statements from relevant past or present partners. Decision makers must not request explicit photographs or films of sexual acts or ask applicants about their sexual activities.

Q. What action was taken against the decision maker who interviewed the two applicants?

The interviewing officer has been counselled by their immediate team leader and manager about appropriate lines of questioning, and has received further guidance since that time. The officer is aware of and is applying the appropriate guidance outlined in the Protection Visa Processing Guidelines.



TALKING POINTS

Subject	FOI TP assessing LGBTI protection claims		
Date	23 August 2018		
Type	Agency		
Media Officer:	s. 22(1)(a)(ii)		Media Ph: 02 6264 2244

ISSUE

The below statement and talking points have been prepared to assist with the release under FOI of questions asked by a departmental officer during two protection visa interviews of LGBTI ^{s. 47F(1)}. s. 22(1)(a)(ii) is the FOI applicant and a former journalist at SBS. s. 22(1)(a)(ii)

Talking points have been developed for use if ^{s. 22(1)(a)(ii)} or the media has questions following receipt of the FOI documents.

s. 22(1)(a)(ii)

TALKING POINTS – Key messages

- Protection claims related to sexual orientation or gender identity are complex to assess due to their highly personal nature.
- The Department acknowledges that some lines of questioning used during the 2012 interviews in this particular matter were inappropriate and insensitive.
- Since 2012, the Department has significantly strengthened its guidelines, and provided additional training, on assessing LGBTI claims and conducting applicant interviews in a sensitive manner.
- All applications for Protection visas are assessed against criteria set out in the Migration Act 1958 (the Act) and the Migration Regulations. All protection claims are assessed individually on their own merit, by taking into consideration the particular circumstances of the applicant and conditions in the country from which they seek protection.
- If appropriate and applicable, decision makers may seek evidence of relationships, such as communications, photos or statements from relevant past or present partners. Decision makers must not request explicit photographs or films of sexual acts or ask applicants about their sexual activities.

- The Department continues to review and assure the implementation of the guidelines on assessing LGBTI claims through quality control and assurance processes.
- We are committed to ensuring the integrity of the protection visa program and supporting LGBTI individuals throughout the protection visa assessment process.
- A January 2018 Quality Assurance review into interviews conducted with LGBTI applicants found that the majority of decision makers followed the departmental guidelines on assessing claims related to sexual orientation and gender identity.

IF ASKED:

If asked: What issues are covered in the guidelines on assessing LGBTI applicants?

- LGBTI people may experience particular acts of persecution, significant harm and discrimination specific to, and because of, their sexual orientation and/or gender identity.
- The guidelines cover how to effectively and sensitively address and assess sexual orientation and gender identity related claims, and includes guidance on appropriate and inappropriate lines of enquiry when interviewing LGBTI applicants, appropriate terminology and particular issues and factors that should be taken into account when assessing claims and credibility related to LGBTI applicants.
- The guidelines also include information on interviewing transgender applicants and advises interviewers to ask the applicant for their preferred gender, name and pronoun as the interview commences.

If asked: How many applications by LGBTI persons are received by the Department?

- Departmental systems do not specifically report on the number of protection visa applicants who have made LGBTI based claims.
- It would be an unreasonable diversion of resources to manually review each application to provide a count of such claims.

If asked: How does the Department assess the circumstances for LGBTI individuals in other countries?

- The Department's Country of Origin Information Services section works closely with the Department of Foreign Affairs and Trade (DFAT) to source reliable country information related to protection claims.
- When assessing the circumstances of LGBTI individuals in particular countries, protection officers consider contemporary country information on relevant laws; application and enforcement of the laws; societal treatment of, and attitudes toward, LGBTI individuals; and support services available to them.

If asked: What guidance and training has been made available to decision makers assessing LGBTI applicants?

General training and support tools

- All Protection visa decision makers receive training on interviewing applicants as part of their induction into the protection visa program.
- Practical Guidelines on Interviewing provide officers with guidelines on conducting interviews in a sensitive manner and working with vulnerable applicants.
- In May 2018, training was organised jointly by the UNHCR and the Department on assessing claims by psychologically vulnerable applicants.

Guidelines and training on assessing LGBTI related claims

- In April 2016, training on assessing claims by sexual and gender minorities was provided to decision makers by an NGO called Organization for Refuge, Asylum and Migration.
- In December 2016, a standalone training package on assessing LGBTI claims was developed and made available to decision makers. *(Note: the redacted training material has already been released under a related FOI request.)*
- In January 2017, new guidelines were developed on assessing claims related to sexual orientation and gender identity. They were incorporated into the Protection Visa Processing Guidelines. *(Note: the LGBTI chapter of the guidelines has already been released under a related FOI request.)*
- In January 2018, a Quality Assurance review of LGBTI applicant interviews was conducted to review whether decision makers applied the available guidance appropriately. No significant issues of concern were identified by the review.
- May 2018, the LGBTI guidelines were revised and incorporated in a new standalone Procedural Instruction titled 'Gender and Sexual Orientation Procedural Instructions'.
- In July 2018, an information session was held with decision makers to discuss the new Gender and Sexual Orientation guidelines.

If asked: What were the findings of the January 2018 Quality Assurance reviews into interviews conducted with LGBTI applicants?

- The Quality Assurance review found most decision makers followed the departmental guidelines on assessing claims related to sexual orientation and gender identity. A majority of the decision makers used appropriate lines of enquiry and encouraged the applicants to identify key experiences in a sensitive and non-intrusive way. A minority of cases that fell outside the guidelines were referred to line managers for follow up.

If asked: What information are applicants expected to provide as evidence of being a LGBTI person?

- There is no expectations that LGBTI persons should provide evidence to establish their sexual orientation or gender identity.
- If appropriate and applicable, decision makers may seek evidence of relationships, such as emails, texts, social media posts, photos or statements from relevant past or present partners.

- Decision makers must not request explicit photographs or films of sexual acts or ask applicants about their sexual activities.

If asked: What action was taken against the decision maker who interviewed the two applicants?

- The interviewing officer has been counselled by their immediate team leader and manager about appropriate lines of questioning, and has received further guidance since that time.
- The officer is aware of, and is applying, the appropriate guidance outlined in the Protection Visa Processing Guidelines.

BACKGROUND (not for public release)

Background on PV applicants

- s. 47F(1)

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-

FOI BACKGROUND

On 3 September 2012, a Protection visa (PV) case officer separately interviewed two s. 47F(1) PV applicants claiming to be in a same sex relationship with each other.

s. 47F(1)

The RRT decision was published online. That decision referred to intrusive questions asked during the interview.

On 11 April 2017, journalist s. 22(1)(a)(ii) made a FOI request for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, s. 22(1)(a)(ii) made an application for Information Commissioner's (IC) review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department advised s. 22(1)(a)(ii) that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. The Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, s. 22(1)(a)(ii) advised the OAIC that s. 22(1) wished to continue with his application for IC review. s. 22(1)(a)(ii) confirmed that s. 22(1) would accept a redacted transcript or edited audio recording to guard against privacy concerns.

On 9 May 2018, the Department advised OAIC that it stood by its original decision that the material in the documents was exempt in full under s 47F, but it contended that the interview questions put to visa applicants were also exempt under s 47E(d) of the FOI Act. Section 47F exempts documents where release of information would involve unreasonable disclosure of personal information. Section 47E(d) exempts documents where their disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

On 27 June 2018, an OAIC Delegate advised that her recommendation to the IC will be to set aside the Department's decision not to release the two documents.

The Department had until 27 July 2018 to make further submissions to the OAIC to substantiate our position. On 27 July 2018, the Department confirmed to the OAIC that it would make a revised decision on this matter.

The Department intends to agree to release of redacted interview transcripts prepared from audio recordings.

- The Department acknowledges that as procedure and practice in relation to interviewing and assessing lesbian, gay, bisexual, transgender and intersex (LGBTI) claims has shifted significantly since 2012, with redaction other objections to release can be overcome.

QUESTIONS AND RESPONSE PROVIDED TO s. 22(1)(a)(ii) JANUARY 2017

How does the department assess whether an asylum seeker is genuinely LGBT+?

- All applicants for Protection visas are assessed against criteria set out in the *Migration Act 1958* (the Act) and the Migration Regulations.
- LGBTI individuals from certain countries may engage Australia's protection obligations through their membership of a Particular Social Group. They may also be linked to other protection grounds, notably political opinion and religion, depending on the circumstances.
- All protection claims, including claims based on sexual orientation and gender identity, are assessed individually on their own merits. The particular circumstances of the applicant and conditions in the country from which they seek protection are taken into consideration.
- All protection claims, including claims based on sexual orientation and gender identity, are carefully and thoroughly considered against the criteria established by the Refugee Convention and codified in the Act, as well as the complementary protection provisions and relevant country information.

- The Department does not request explicit material as evidence of a person's sexual orientation as this would infringe upon the applicant's dignity. If an applicant submits documentary evidence as part of their application, then the decision maker would take this into consideration with the remainder of the applicant's claims.

Are there any special programs for LGBT+ refugees, given some face rejection from their own ethnic communities and other asylum seekers?

- Certain non-citizens are eligible for Status Resolution Support Services (SRSS) while they cooperate with the Department to resolve their immigration status.
- Support, including casework assistance, is delivered by professionals employed by the SRSS service provider to help vulnerable asylum seekers living in the Australian community.
- Support provided to refugees who have been granted a protection visa is managed by the Department of Social Services.

Are DIBP assessors given any special training or sensitivity guidance related to LGBT+ refugees?

- Training for decision makers includes the assessment of claims for protection on the basis of sexual orientation, gender identity or intersex status and has a strong focus on procedural fairness, including avoidance of bias or apprehension of bias, as well as sensitive interview and case management techniques.

Figures

- It is not possible to report specifically on LGBTI based claims. Such claims are made under the category of Particular Social Group, of which LGBTI based claims are one of many groups covered.

CLEARANCE

Cleared by	Title	Time/Date cleared
Miranda Lauman	AS Humanitarian Program Capabilities Branch	17 August 2018
Brooke Sawyer	A/g AS Communication and Engagement Branch – Portfolio Media Operations	22 August 2018
Kylie Scholten	FAS Executive Coordination	23 August 2018

MO noted	Sent to MO	Noted by MO
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Full Name	Time DD Month 2018	Time DD Month 2018
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under the *Freedom of Information Act 1982*

From: [FOI Reviews mailbox](#)
To: [Caroline STERNBERG](#); [Media Operations](#)
Cc: [Ben WRIGHT](#); [Pip DE VEAU](#); s. 22(1)(a); [Mandy NEWTON](#); s. 22(1)(a); s. 22(1)(a)(ii); [Miranda LAUMAN](#); [Kaylene ZAKHAROFF](#); s. 22(1)(a)(ii); s. 22(1)(a)(ii); [Kylie SCHOLTEN](#); s. 22(1)(a)(ii); [Luke MANSFIELD](#); [Tony SMITH](#)
Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 23 August 2018 12:18:56 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON ACCESS – s. 22(1)(a)(ii), SBS

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act to release two interview transcripts in part with deletions. The following exemption applies to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Consultation

In finalising this decision Luke Mansfield First Assistant Secretary, Refugee, Citizenship and Multicultural Programs was consulted and a brief was provided to the Secretary.

Background

On 11 April 2017, s. 22(1)(a)(ii), SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI

request.

Original Decision

On 22 May 2017 the Department issued an original access decision to refuse access on the grounds that the documents (audio recordings) were exempt in full.

External Review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department's decision.

On 13 July 2018, a delegate of the OAIC formed a preliminary view and advised the Department that if the matter was to progress to the Information Commissioner for decision it would be recommended that the Department's decision is to be set aside and that information was subject to release.

On 24 July 2018, in response to the preliminary view, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Identifying information will be redacted under 47F to protect the privacy of the two clients who are not known to the FOI applicant and have not been identified in the public arena.

Talking points

Talking Points have been constructed and are being cleared by Brooke Sawyer, Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii) -
Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision [DLM=For-Official-Use-Only]
Date: Tuesday, 4 September 2018 10:50:00 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I write to advise that the revised decision and documents at issue have been resent to s. 22(1)(a)(ii) email address specified in your below correspondence.

Please find attached the marked up and unredacted copy of the documents relating to the revised decision.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii) >
Sent: Monday, 3 September 2018 5:35 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for the notification of the revised decision. Please provide

Our records indicate that s. 22(1)(a)(ii) email address is at: s. 22(1)(a)(ii)

I have asked s. 22(1)(a)(ii) to contact our office in relation to the revised decision and whether s. 22(1)(a)(ii) wishes to proceed with the IC review. I will provide an update as soon as I have heard from s. 22(1)(a)(ii)

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Kind regards

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Monday, 3 September 2018 3:44 PM

To: s. 22(1)(a)(ii)

Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision
[SEC=UNCLASSIFIED]

UNCLASSIFIED

Good Afternoon s. 22(1)(a)(ii)

Please be advised that the attached revised decision and documents at issue have been dispatched to s. 22(1)(a)(ii) applicant via email a short time ago.

You may now wish to contact s. 22(1)(a) to enquire whether s. 22(1) would like to withdraw s. 22(1) review.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Monday, 27 August 2018 3:53 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Our office has not received the revised decision as previously indicated by the Department.

We look forward to hearing from you on the progress of the revised decision by close of business 28 August 2018.

Kind regards

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)

Sent: Tuesday, 7 August 2018 1:13 PM

To: 'FOI Reviews mailbox' <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) >

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your correspondence.

We look forward to hearing from you with a copy of the revised decision by Friday 24 August 2018.

Kind regards

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Thursday, 26 July 2018 2:31 PM

To: s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response
[SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

After further consultation with the relevant business the Department will be revising its decision and providing the FOI applicant with a transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

The interviews were only available in an audio format and needed to be transcribed and are currently being assessed and marked up with redactions in order to facilitate the FOI applicant's request. The marked up document will be forwarded to the authorised decision maker shortly for final assessment and comment as well as construction of the decision notice.

We therefore respectfully ask for your consideration in granting the Department an extension of time to issue the revised decision by Friday 24 August 2018.

Once the decision is issued a copy of the decision notice will be provided to your office electronically.

Please do not hesitate to contact me if you require any further information or would like to discuss this matter in more detail.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

Released by Department of Home Affairs
under the Freedom of Information Act 1982

From: s. 22(1)(a)(ii)
Sent: Wednesday, 11 July 2018 5:34 PM
To: s. 22(1)(a)(ii)
Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your email and request for an extension of time to provide a response to s. 22(1)(a)(ii) email.

We will grant your request for an extension until 27 June 2018, as requested.

However, please note that if we do not receive a response within this timeframe the matter may proceed to a decision under s 55K of the FOI Act without any further opportunity to make submissions.

Should the Department wish to make a revised decision under s 55G, please provide us with a copy of this decision and a marked up copy of relevant documents.

Please don't hesitate to contact me if you have any questions about this email.

Kind regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) | Acting Director | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

OAIC banner for email sig



From: s. 22(1)(a)(ii)
Sent: Wednesday, 11 July 2018 11:00 AM
To: s. 22(1)(a)(ii); FOIDR <foidr@oaic.gov.au>
Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Released by Department of Home Affairs
under the Freedom of Information Act 1982

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for your below correspondence providing your preliminary views and analysis on the above recorded matter.

The Department is currently considering whether it is in a position to revise its primary decision under s 55G of the FOI Act.

Due to the sensitive nature of this request we are currently consulting with the relevant parties and therefore kindly ask for your consideration in granting the Department an extension of time to respond to your request by 27 July 2018.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Wednesday, 27 June 2018 3:40 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

Released by Department of Home Affairs
under the Freedom of Information Act 1982

By email: FOI.reviews@homeaffairs.gov.au

Dear s. 22(1)(a)(ii)

IC Review MR17/00265 – s. 22(1)(a)(ii) and Department of Home Affairs

I refer to s. 22(1)(a)(ii) (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department

refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that ^{s. 22(1)} wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that ^{s. 22(1)} is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would

not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:

... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

- (1) Access to a document may be given to a person in one or more of the following forms:
 - (a) a reasonable opportunity to inspect the document;
 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images;
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.
- ...
- (3) If the giving of access in the form requested by the applicant:

- (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
- (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
- (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state 'subject to limited exceptions, an applicant who requests access to a document in a particular form has a right to be given access in that form (s 20(2)).'

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove

irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on s. 22(1)
s. 22(1)(a)(ii) Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii) . Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Wednesday, 9 May 2018 3:05 PM

To: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR 17/00265

Home affairs reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish

to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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From: [Media Operations](#)
To: [FOI Reviews mailbox](#)
Cc: [Miranda LAUMAN](#); s. 22(1)(a) ; [Media Operations](#); [Brooke SAWYER](#); s. 22(1)(a)(ii)
Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) - Disclosure Log [DLM=For-Official-Use-Only]
Date: Thursday, 6 September 2018 5:08:31 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thank you for this – we are happy with this approach.

Brooke and s. 22(1)(a)(ii) copied too.

Thanks,

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

Media line: 02 6264 2244 | s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)

Sent: Thursday, 6 September 2018 3:58 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; Media Operations <media@homeaffairs.gov.au>

Cc: Miranda LAUMAN s. 22(1)(a)(ii)

Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) Sounds like a sensible approach to me.

(Copied to my AS, Miranda Lauman, for visibility.)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs

Division

Visa & Citizenship Services Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: 6 September, 2018 3:46 PM

To: s. 22(1)(a)(ii) Media Operations

<media@homeaffairs.gov.au>

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. Given that the two documents at issue contain sensitive personal information we are proposing to only upload the Decision and include a statement *'if you wish to obtain a copy of these documents, please contact FOI section via FOI@homeaffairs.gov.au '.*

In the event where these documents are asked by a media outlet we could manage it in close consultation with Media Operations.

Can you please advise whether you agree to the above approach.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#)
Cc: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - IC review closed - advice on exempt material requested - by COB 14/11/18 [DLM=For-Official-Use-Only]
Date: Tuesday, 13 November 2018 5:08:48 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Dear s. 22(1)(a)(ii)

Thank you for your correspondence.

The exempt material has been destroyed and the review is now closed.

I would like to thank you for your assistance with progressing the review.

Kind regards



s. 22(1)(a)(ii) | Assistant Director (A/g)
 Freedom of information
 FOI Dispute Resolution
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Sent: Tuesday, 13 November 2018 9:05 AM
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - IC review closed - advice on exempt material requested - by COB 14/11/18 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Thank you for your correspondence and IC review closure advice.

Please destroy the exempt material and provide written confirmation that this process has been completed.

Kind regards

s. 22(1)(a)(ii)
 Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii) >
Sent: Monday, 12 November 2018 8:52 AM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - IC review closed - advice on exempt material requested - by COB 14/11/18 [DLM=For-Official-Use-Only]

Dear s. 22(1)(a)(ii)

Thank you for all your assistance with progressing this IC review.

We have concluded the review and the IC review is now closed.

Please let us know if you object to our office destroying the exempt material.

I look forward to hearing from you by close of business 13 November 2018.

Kind regards



s. 22(1)(a)(ii) | Assistant Director (A/g)
Freedom of information
FOI Dispute Resolution
Office of the Australian Information Commissioner
GPO Box 5218 Sydney NSW 2001 | oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Sent: Tuesday, 4 September 2018 10:51 AM
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

I write to advise that the revised decision and documents at issue have been resent to s. 22(1)(a)(ii) email address specified in your below correspondence.

Please find attached the marked up and unredacted copy of the documents relating to the revised decision.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Monday, 3 September 2018 5:35 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for the notification of the revised decision. Please provide

Our records indicate that s. 22(1)(a)(ii) email address is at: s. 22(1)(a)(ii)

I have asked s. 22(1)(a)(ii) to contact our office in relation to the revised decision and whether wishes to proceed with the IC review. I will provide an update as soon as I have heard from s. 22(1)(a)(ii)

Kind regards

s. 22(1)(a)(ii)

| Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Sent: Monday, 3 September 2018 3:44 PM
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Copy of the Department's revised decision [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good Afternoon s. 22(1)(a)(ii)

Please be advised that the attached revised decision and documents at issue have been dispatched to s. 22(1)(a)(ii) applicant via email a short time ago.

You may now wish to contact s. 22(1)(a) to enquire whether s. 22(1) would like to withdraw s. 22(1) review.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Monday, 27 August 2018 3:53 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) >
Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Our office has not received the revised decision as previously indicated by the Department.

We look forward to hearing from you on the progress of the revised decision by close of business 28 August 2018.

Kind regards

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)

Sent: Tuesday, 7 August 2018 1:13 PM

To: 'FOI Reviews mailbox' <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response - due 24-8-18 [SEC=UNCLASSIFIED]

Dear s. 22(1)(a)(ii)

Thank you for your correspondence.

We look forward to hearing from you with a copy of the revised decision by Friday 24 August 2018.

Kind regards

s. 22(1)(a)(ii) | Assistant Director (A/g) | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Thursday, 26 July 2018 2:31 PM

To: s. 22(1)(a)(ii)

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - Department's response [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

After further consultation with the relevant business the Department will be revising its decision and providing the FOI applicant with a transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

The interviews were only available in an audio format and needed to be transcribed and are currently being assessed and marked up with redactions in order to facilitate the FOI applicant's request. The marked up document will be forwarded to the authorised decision maker shortly for final assessment and comment as well as construction of the decision notice.

We therefore respectfully ask for your consideration in granting the Department an extension of time to issue the revised decision by Friday 24 August 2018.

Once the decision is issued a copy of the decision notice will be provided to your office electronically.

Please do not hesitate to contact me if you require any further information or would like to discuss this matter in more detail.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)

Sent: Wednesday, 11 July 2018 5:34 PM

To: s. 22(1)(a)(ii) >

Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Dear s. 22(1)(a)(ii)

Thank you for your email and request for an extension of time to provide a response to s. 22(1)(a)(ii) email.

We will grant your request for an extension until 27 June 2018, as requested.

However, please note that if we do not receive a response within this timeframe the matter may proceed to a decision under s 55K of the FOI Act without any further opportunity to make submissions.

Should the Department wish to make a revised decision under s 55G, please provide us with a copy of this decision and a marked up copy of relevant documents.

Please don't hesitate to contact me if you have any questions about this email.

Kind regards

s. 22(1)(a)(ii)

s. 22(1)(a)(ii) | Acting Director | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

OAIC banner for email sig



From: s. 22(1)(a)(ii) >

Sent: Wednesday, 11 July 2018 11:00 AM

To: s. 22(1)(a)(ii) >; FOIDR <foidr@oaic.gov.au>

Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for your below correspondence providing your preliminary views and analysis on the above recorded matter.

The Department is currently considering whether it is in a position to revise its primary decision under s 55G of the FOI Act.

Due to the sensitive nature of this request we are currently consulting with the relevant parties and therefore kindly ask for your consideration in granting the Department an extension of time to respond to your request by 27 July 2018.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii) >

Sent: Wednesday, 27 June 2018 3:40 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
[SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

By email: FOI.reviews@homeaffairs.gov.au

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Dear s. 22(1)(a)(ii)

IC Review MR17/00265 – s. 22(1)(a)(ii) and Department of Home Affairs

I refer to s. 22(1)(a)(ii) (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that s. 22(1) wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that s. 22(1) is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its

disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:

... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)

My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

- (1) Access to a document may be given to a person in one or more of the following forms:
 - (a) a reasonable opportunity to inspect the document;
 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images;
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.
- ...
- (3) If the giving of access in the form requested by the applicant:
 - (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
 - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
 - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document,

being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state 'subject to limited exceptions, an applicant who requests access to a document in a particular form has a right to be given access in that form (s 20(2)).'

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner

should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on s. 22(1)(b) s. 22(1)(a)(ii) Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii) . Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Wednesday, 9 May 2018 3:05 PM

To: s. 22(1)(a)(ii)

Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]

Released by Department of Home Affairs
under the Freedom of Information Act 1982

UNCLASSIFIED

OAIC reference: MR 17/00265
Home affairs reference: FA 17/04/00432

Dear S. [REDACTED]

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has

much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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error, we apologise for any inconvenience and request that you notify
the sender immediately and delete all copies of this email, together
with any attachments.

From: s. 47F(1)
To: [FOI](#)
Subject: Documents released for FOI request FA 18/02/00432
Date: Wednesday, 2 January 2019 5:26:44 PM

Dear Department,

As per your disclosure log website, I am writing to request access to documents released under FOI request FA 18/02/00432.

Regards,

s. 47F(1)

A large rectangular area of the document is redacted with a solid grey fill, obscuring the signature and any accompanying text.

From: [FOI](#)
To: [Caroline STERNBERG](#); [Media Operations](#)
Cc: [Lee-anne MONTEROSSO](#)
Subject: FW: Documents released for FOI request FA 18/02/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 3 January 2019 3:26:00 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

FOR INFORMATION

Dear Caroline and Media

This email is to advise you that a request to access documents listed on the Department's disclosure log (see below).

For your reference I have attached a copy of the relevant documents and the FOI Alert associated with the original request.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 47F(1)

Sent: Wednesday, 2 January 2019 5:26 PM

To: FOI

Subject: Documents released for FOI request FA 18/02/00432

Dear Department,

As per your disclosure log website, I am writing to request access to documents released under FOI request FA 18/02/00432.

Regards,

s. 47F(1)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

From: [FOI](#)
To: s. 47F(1)
Subject: RE: Documents released for FOI request FA 18/02/00432 [SEC=UNCLASSIFIED]
Date: Friday, 4 January 2019 3:22:00 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Dear s. 47F(1)

Please find attached the documents in relation to the below reference on the disclosure log.

Kind Regards

FOI Officer

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Email: foi@homeaffairs.gov.au

UNCLASSIFIED

From: s. 47F(1)

Sent: Wednesday, 2 January 2019 5:26 PM

To: FOI <foi@homeaffairs.gov.au>


Subject: Documents released for FOI request FA 18/02/00432

Dear Department,

As per your disclosure log website, I am writing to request access to documents released under FOI request FA 18/02/00432.

Regards,

s. 47F(1)



From: [Media Operations](#)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) [Caroline STERNBERG](#); [Media Operations](#)
Subject: FOR ADVICE: Media request for comment [DLM=For-Official-Use-Only]
Date: Monday, 7 January 2019 11:50:11 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Good morning s. 22(1)(a)(ii)

We have received the below enquiry which we already have TPs prepared for with the exception of the final question. Is this something that you can assist with?

Kind regards,

s. 22(1)(a)(ii)

Media Operations

Portfolio Media and Engagement Branch

Department of Home Affairs

s. 22(1)(a)(ii) Media Line: 02 6264 2244

Email: media@homeaffairs.gov.au

For-Official-Use-Only

From: Hannah Ryan

Sent: Monday, 7 January 2019 10:41 AM

To: Media Operations

Subject: Request for comment

Hi there,

I am writing an article about the documents released under FOI request FA 18/02/00432.

The documents are transcripts of questions asked in interviews of two asylum seekers in 2012, which include very personal questions about the men's sex lives.

Could you please respond with answers to these questions by **1pm**?

- Are these questions acceptable?
- Was the officer who asked these questions subject to any discipline?
- What has changed since 2012? What is the method used now to assess LGBT asylum seekers' claims? Why do questions need to be asked about their personal lives, as opposed to the persecution they are subject to?
- Who conducted the interview? I don't need a personal identification of the officer, but what is the best way to describe them? E.g. officer of the then-Department of Immigration, visa assessment officer, etc.

- Why are the documents not published on the Department's disclosure log?

Kind regards,

Hannah

--

Hannah Ryan | [BuzzFeed](#) | Reporter | +61 488 601 373 | [@hannahd15](#)

From: s. 22(1)(a)(ii)
To: [Media Operations](#)
Cc: s. 22(1)(a)(ii); [Caroline STERNBERG](#); s. 22(1)(a)(ii)
Subject: FW: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]
Date: Monday, 7 January 2019 12:41:00 PM

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

With regards to the media enquiry from Hannah Ryan of BuzzFeed, please see email correspondence below with Media regarding the publication of the documents, which should enable you to respond to her final question.

Please let me know if you require anything further.

With kind regards

s. 22(1)(a)(ii)

Acting Assistant Director, Freedom of Information Section
 FOI, Privacy and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: Media Operations <media@homeaffairs.gov.au>

Sent: Thursday, 6 September 2018 5:09 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: Miranda LAUMAN s. 22(1)(a)(ii)

Media Operations <media@homeaffairs.gov.au>;

Brooke SAWYER <s. 22(1)(a)(ii)>

s. 22(1)(a)

s. 22(1)(a)(ii)

Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii),

Thank you for this – we are happy with this approach.

Brooke and s. 22(1)(a)(ii) copied too.

Thanks,

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

Media line: 02 6264 2244 | s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)

Sent: Thursday, 6 September 2018 3:58 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; Media Operations
<media@homeaffairs.gov.au>

Cc: Miranda LAUMAN s. 22(1)(a)(ii)

Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) Sounds like a sensible approach to me.
(Copied to my AS, Miranda Lauman, for visibility.)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
Division

Visa & Citizenship Services Group

Department of Home Affairs

s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: 6 September, 2018 3:46 PM

To: s. 22(1)(a)(ii) ; Media Operations
<media@homeaffairs.gov.au>

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. Given that the two documents at issue contain sensitive personal information we are proposing to only upload the Decision and include a statement '*if you wish to obtain a copy of these documents, please contact FOI section via FOI@homeaffairs.gov.au*'.

In the event where these documents are asked by a media outlet we could manage it in close consultation with Media Operations.

Can you please advise whether you agree to the above approach.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]
Date: Tuesday, 3 July 2018 3:15:49 PM
Attachments: [RE Statement of facts chronology of events for recent FOI request](#) ~~SECRET~~
[DLMsensitivePersonal.msg](#)

For-Official-Use-Only

Hi Miranda

You might recall this sensitive FOI request we dealt with earlier in the year, in which we contended not to release the transcript of interview questions. A chronology we pulled together for you is also attached for further background.

FOI have today advised (below) that the delegate of the Office of the Information Commissioner has formed a preliminary view that if the matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision be set aside.

The OAIC has given the Department until **13 July 2018** to address the issues raised below and provide further submissions to substantiate our position. As the FOI applicant is not seeking the audio recordings and has made it clear that he is only after the interview questions, FOI advise that we may wish to revisit the option of releasing the transcript of the questions only.

Shall I make a time for s. 22(1)(a) and I to discuss next steps with you?

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 3 July, 2018 12:22 PM
To: s. 22(1)(a)(ii)
Subject: FW: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED] [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

The Delegate of the Office of the Information Commissioner has formed a preliminary view in regard to the above FOI matter. For full detail and analysis please read the below correspondence.

In short, if this matter was to progress to the Information Commissioner for decision, the

Delegate would be recommending that the Department's decision is to be set aside. The OAIC has given the Department until 13 July 2018 to address the issues raised below and provide further submissions to substantiate our position. Alternatively, given that the FOI applicant is not seeking the audio recordings and have made it clear that he is only after the interview questions, you may wish to revisit the option of releasing the transcript of the questions only. I am however, aware that there was previously no scope of flexibility on the release of the interview questions. Once you have had the opportunity to peruse the below, please give me a call to discuss in more detail.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**>
Sent: Wednesday, 27 June 2018 3:40 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Cc: **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**>
Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018
 [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

By email: FOI.reviews@homeaffairs.gov.au

Dear Ms **s. 22(1)(a)(ii)**

IC Review MR17/00265 – **s. 22(1)(a)(ii) and Department of Home Affairs**

I refer to **s. 22(1)(a)(ii)** (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its

purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that s. 22(1) wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the

document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that s 22(1) is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:

... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice


answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)



My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

- (1) Access to a document may be given to a person in one or more of the following forms:
 - (a) a reasonable opportunity to inspect the document;
 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images:
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.

...

- (3) If the giving of access in the form requested by the applicant:
 - (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
 - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
 - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state 'subject to limited exceptions, an applicant who requests access to a document in a particular form has a right to be given access in that form (s 20(2)).'

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on ^{s. 22(1)} or email s. 22(1)(a)(ii) Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii) Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Sent: Wednesday, 9 May 2018 3:05 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FA 17/04/00432 - MR17/00265 - Department's further submission [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR 17/00265

Home affairs reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under

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under the Freedom of Information Act 1982

the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

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From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Subject: RE: Statement of facts / chronology of events for recent FOI request [SEC=PROTECTED, DLM=Sensitive:Personal]
Date: Friday, 11 May 2018 2:43:00 PM

~~PROTECTED, Sensitive:Personal~~

Sorry, should perhaps also have mentioned that the guidance for visa processing officers on how to assess claims relating to sexual orientation and gender identity (which was included in the material provided to s. 22(1)(a)(ii) in his first FOI request) was published in Legend in January 2017.

~~PROTECTED, Sensitive:Personal~~

From: s. 22(1)(a)(ii)
Sent: 11 May, 2018 2:23 PM
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: Statement of facts / chronology of events for recent FOI request [SEC=PROTECTED, DLM=Sensitive:Personal]

~~PROTECTED, Sensitive:Personal~~

Hi Miranda

As requested, below is a chronology of events relating to the FOI request for a transcript of a protection visa interview conducted by departmental officer, s. 22(1)(a)(ii).

- s. 47F(1) – joint protection visa application s. 47F(1) received.
- s. 47F(1) – interview conducted by protection visa processing officer, s. 22(1)(a)(ii) with each applicant in separate consecutive interviews. Interview recordings at CLD2012/4299607 and CLD2012/4298847 - *please note these contain sensitive client information.*
- s. 47F(1) – visa application refused.
- s. 47F(1) – review of visa refusal decision commenced at Refugee Review Tribunal (RRT)
- s. 47F(1) – RRT remitted Department's decision with directions
- s. 47F(1)
- 24/01/2017 - media enquiry received from s. 22(1)(a), SBS journalist. Response at ADD2017/2556998.
- 27/03/2017 – FOI request received from s. 22(1)(a)(ii) requesting training material and procedural guidance in relation to assessing LGBTI applicants.
 - FOI decision and documents provided to s. 22(1)(a) on 16/5/2017, see ADD2017/2556739 and ADD2017/2556725.

- 11/04/2017 – second FOI request received from s. 22(1)(a)(ii) requesting the Departmental interview recording. FOI request at ADD2017/903041.
 - We suspect the content of the interview became of interest to the journalist due to the RRTs criticism of the inappropriateness of questions asked during the interview. The full RRT decision record (which is publicly available) is at https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/RRTA/2014/209.html?context=1;query=1216820;mask_path=au/cases/cth/RRTA. An excerpt of the relevant text from the RRT decision dated 12 March 2014 is:

What did strike me as credible as I listened to the recordings of the interviews were the responses [Applicant A] and [Applicant B] gave to the very intimate questions the delegate asked about how they met and the sex they had with each other. I found the questions intrusive and are not ones I have ever found it necessary to ask of applicants claiming to be homosexual. Both [Applicant A] and [Applicant B] seemed surprised and uncomfortable with them nevertheless their responses were consistent and seemed very spontaneous. As it did not appear that the questions were expected by either [Applicant A] or [Applicant B] the consistency and spontaneity of their answers about matters which generally only persons who have had sex with each other would be aware of inclined me to think that they had had sex with each other.
- 17/05/2017 – FOI decision for second request was provided to s. 22(1)(a)(ii), in which the Department decided to exempt the interview recording in full (ADD2017/903041). All documents related to this FOI decision are at ADF2017/39262.
- 27/04/2018 – FOI advised HPCB that s. 22(1)(a)(ii) sought review of the decision not to provide the interview recording with the Office of the Information Commissioner (OAIC). In considering our response to the OAIC, a staff member listened to the protection visa interviews at CLD2012/4299607 and CLD2012/4298847. A transcript of the interview questions for one of the interviews (s. 47F(1)) has been transcribed and is attached to this email - *please note this contain sensitive client information*.
- 17/4/2018 - the Department's response to the OAIC was sent by FOI Section, maintaining that the interview questions were exempt from disclosure under s47E(d) of the FOI Act (operations of agencies) and 47F(1) (personal privacy).

Advice from the FOI Section is that the OAIC will make a preliminary assessment of the matter at hand and, if the delegate's view is that the Department has not discharged it's onus correctly, the OAIC will ask the Department to reconsider its decision. The Department may then consider revising the decision and releasing some of the material or advise the OAIC that the decision will not be revised. The IC will then progress to a decision and may direct the Department to release some parts or full the document. The Department will have 28 days from the date of the IC's decision to seek merit review with the AAT or release the documents to the FOI applicant.

Please let me know if you need any further information.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural

Programs Division
Visa & Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive:Personal~~

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]
Date: Monday, 3 September 2018 3:52:31 PM

For-Official-Use-Only

For your information.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 3 September, 2018 3:51 PM
To: s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

I would like to advise you that the FOI revised decision and documents at issue were dispatched to s. 22(1)(a)(ii) via email a short time ago.

All relevant correspondence and documents have been saved in the assigned ADF in TRIM.

Thank you for all your assistance in regard to this FOI matter.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a) [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: Sensitive FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=UNCLASSIFIED]
Date: Tuesday, 7 August 2018 4:01:34 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

s. 22(1)(a)(ii)

Attached is the sensitive FOI decision (and supplementary material) for your clearance please. I will bring the hard copy down to s. 22(1)(a)(ii) in a jiffy.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: 7 August, 2018 3:57 PM
To: s. 22(1)(a)(ii)
Subject: Sensitive FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

Attached are the latest copies of documents relating to the FOI request for transcript of two interviews – FA17/04/00432.

Kind Regards,

s. 22(1)(a)(ii)

Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
To: s. 22(1)
Subject: FW: Statement of facts / chronology of events for recent FOI request {SEC=PROTECTED, DLM=Sensitive:Personal}
Date: Friday, 11 May 2018 2:44:13 PM

~~PROTECTED, Sensitive:Personal~~

Thanks S.

~~PROTECTED, Sensitive:Personal~~

From: s. 22(1)(a)(ii)
Sent: 11 May, 2018 2:44 PM
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: Statement of facts / chronology of events for recent FOI request {SEC=PROTECTED, DLM=Sensitive:Personal}

~~PROTECTED, Sensitive:Personal~~

Sorry, should perhaps also have mentioned that the guidance for visa processing officers on how to assess claims relating to sexual orientation and gender identity (which was included in the material provided to s. 22(1)(a) in his first FOI request) was published in Legend in January 2017.

~~PROTECTED, Sensitive:Personal~~

From: s. 22(1)(a)(ii)
Sent: 11 May, 2018 2:23 PM
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: Statement of facts / chronology of events for recent FOI request {SEC=PROTECTED, DLM=Sensitive:Personal}

~~PROTECTED, Sensitive:Personal~~

Hi Miranda

As requested, below is a chronology of events relating to the FOI request for a transcript of a protection visa interview conducted by departmental officer, s. 22(1)(a)(ii)

- s. 47F(1) – joint protection visa application s. 47F(1)
 received.
- s. 47F(1) – interview conducted by protection visa processing officer, s. 22(1)(a)(ii)

s. 22(1) with each applicant in separate consecutive interviews. Interview recordings at CLD2012/4299607 and CLD2012/4298847 - *please note these contain sensitive client information.*

- s. 47F(1) – visa application refused.
- s. 47F(1) – review of visa refusal decision commenced at Refugee Review Tribunal (RRT)
- s. 47F(1) RRT remitted Department's decision with directions
- s. 47F(1)
- 24/01/2017 - media enquiry received from s. 22(1)(a)(ii) SBS journalist. Response at ADD2017/2556998.
- 27/03/2017 – FOI request received from s. 22(1)(a) requesting training material and procedural guidance in relation to assessing LGBTI applicants.
 - FOI decision and documents provided to s. 22(1)(a) on 16/5/2017, see ADD2017/2556739 and ADD2017/2556725.
- 11/04/2017 – second FOI request received from s. 22(1)(a) requesting the Departmental interview recording. FOI request at ADD2017/903041.
 - We suspect the content of the interview became of interest to the journalist due to the RRTs criticism of the inappropriateness of questions asked during the interview. The full RRT decision record (which is publicly available) is at https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/RRTA/2014/209.html?context=1;query=1216820;mask_path=au/cases/cth/RRTA. An excerpt of the relevant text from the RRT decision dated 12 March 2014 is:

What did strike me as credible as I listened to the recordings of the interviews were the responses [Applicant A] and [Applicant B] gave to the very intimate questions the delegate asked about how they met and the sex they had with each other. I found the questions intrusive and are not ones I have ever found it necessary to ask of applicants claiming to be homosexual. Both [Applicant A] and [Applicant B] seemed surprised and uncomfortable with them nevertheless their responses were consistent and seemed very spontaneous. As it did not appear that the questions were expected by either [Applicant A] or [Applicant B] the consistency and spontaneity of their answers about matters which generally only persons who have had sex with each other would be aware of inclined me to think that they had had sex with each other.
- 17/05/2017 – FOI decision for second request was provided to s. 22(1)(a), in which the Department decided to exempt the interview recording in full (ADD2017/903041). All documents related to this FOI decision are at ADF2017/39262.
- 27/04/2018 – FOI advised HPCB that s. 22(1)(a) sought review of the decision not to provide the interview recording with the Office of the Information Commissioner (OAIC). In considering our response to the OAIC, a staff member listened to the protection visa interviews at CLD2012/4299607 and CLD2012/4298847. A transcript of the interview questions for one of the interviews s. 47F(1) has been transcribed and is attached to this email - *please note this contain sensitive client information.*
- 17/4/2018 - the Department's response to the OAIC was sent by FOI Section, maintaining that the interview questions were exempt from disclosure under s47E(d) of the FOI Act (operations of agencies) and 47F(1) (personal privacy).

Advice from the FOI Section is that the OAIC will make a preliminary assessment of the matter at

hand and, if the delegate's view is that the Department has not discharged its onus correctly, the OAIC will ask the Department to reconsider its decision. The Department may then consider revising the decision and releasing some of the material or advise the OAIC that the decision will not be revised. The IC will then progress to a decision and may direct the Department to release some parts or full the document. The Department will have 28 days from the date of the IC's decision to seek merit review with the AAT or release the documents to the FOI applicant.

Please let me know if you need any further information.

s. 22(1)(a)(i)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
Programs Division
Visa & Citizenship Services Group
Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive:Personal~~

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii) [Miranda LAUMAN](#)
Subject: Fwd: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]
Date: Thursday, 12 July 2018 2:36:40 PM
Attachments: [image001.jpg](#)

UNCLASSIFIED

FYI - we got an FOI extension until 27 July.

Sent by Email+

UNCLASSIFIED

From: "s. 22(1)(a)(ii)" <s. 22(1)(a)(ii)>
Date: Thursday, July 12, 2018 at 7:36:53 AM
To: "s. 22(1)(a)(ii)" <s. 22(1)(a)(ii)>
Subject: FW: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)
 By way of update, the Office of the Information Commissioner has agreed to extend the time until 27 July 2018.
 I look forward to your update early next week.
 Kind regards
 s. 22(1)(a)(ii)
 Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: Wednesday, 11 July 2018 5:34 PM
To: s. 22(1)(a)(ii)
Cc: FOI Reviews mailbox ; s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

Dear Ms s. 22(1)(a)(ii)
 Thank you for your email and request for an extension of time to provide a response to Ms s. 22(1)(a)(ii) email.
 We will grant your request for an extension until 27 June 2018, as requested.
 However, please note that if we do not receive a response within this timeframe the matter may proceed to a decision under s 55K of the FOI Act without any further opportunity to make submissions.
 Should the Department wish to make a revised decision under s 55G, please provide us with a copy of this decision and a marked up copy of relevant documents.
 Please don't hesitate to contact me if you have any questions about this email.

Kind regards

s.

22(1)(a)(ii) | Acting Director | FOI Dispute Resolution

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

Phone: s. 22(1)(a)(ii) | Email: s. 22(1)(a)(ii)

Protecting information rights – advancing information policy

OAIC banner for email sig



From: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Sent: Wednesday, 11 July 2018 11:00 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> FOIDR <foidr@oaic.gov.au>

Cc: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Subject: RE: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR17/00265

HA reference: FA 17/04/00432

Dear Ms s. 22(1)(a)(ii)

Thank you for your below correspondence providing your preliminary views and analysis on the above recorded matter.

The Department is currently considering whether it is in a position to revise its primary decision under s 55G of the FOI Act.

Due to the sensitive nature of this request we are currently consulting with the relevant parties and therefore kindly ask for your consideration in granting the Department an extension of time to respond to your request by 27 July 2018.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

UNCLASSIFIED

From: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Sent: Wednesday, 27 June 2018 3:40 PM

To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FA 17/04/00432 - MR17/00265 - Preliminary view - your response due 13-07-2018 [SEC=UNCLASSIFIED]

Our reference: MR17/00265

Your reference: FA 17/04/00432

By email: FOI.reviews@homeaffairs.gov.au

Dear Ms s. 22(1)(a)(ii)

IC Review MR17/00265 – s. 22(1)(a)(ii) and Department of Home Affairs

I refer to s. 22(1)(a)(ii) (the applicant's) application for IC review in relation to the decision by the Department of Home Affairs (formerly known as the Department of Immigration and Border Protection) (the Department) dated 22 May 2017 under the *Freedom of Information Act 1982* (the FOI Act).

I am writing to advise that I am looking to progress this matter to a decision by the Australian Information Commissioner. However, before I do so, I would like to provide you with a preliminary view based on my experience as a review officer, and my analysis of the issues. This preliminary view is not a decision by the Information Commissioner, but its purpose is to assist you to provide further submissions to address the issues raised in this review.

Background

On 11 April 2017, the applicant made a request to the Department for access to the following documents:

Recordings of asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828[2014] RRTA 209 (12 March 2017).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

On 11 May 2017, the Department was deemed to have refused access to the documents when it did not make a substantive decision within the relevant timeframe.

On 16 May 2017, the applicant made an application for IC review with the Office of the Australian Information Commissioner (OAIC) with respect to the Department's deemed refusal decision.

On 22 May 2017, the Department, in its substantive decision, advised the applicant that it had identified two audio recordings within the scope of the request. The Department refused access to both documents in full. In making its decision, the Department relied on the personal privacy exemption (s 47F) of the FOI Act. The Department also advised that it does not hold transcripts of these interviews.

On 1 June 2017, the applicant advised the OAIC that s. 22 wished to continue with his application for IC review. The applicant confirmed that he would accept a redacted transcript or edited AV recording to guard against privacy concerns.

The Department submits that it stands by its original decision that the material in the documents is exempt in full under s 47F, but it contends that the interview questions put to visa applicants are exempt under s 47E(d) of the FOI Act.

Access to edited copies (s 22)

Subsection 22(2) of the FOI Act requires an agency to give an applicant access to an edited copy of a document (which includes audio recordings), with exempt or irrelevant matter deleted, if it is reasonably practicable for the agency to prepare the edited copy having regard to:

- the nature and extent of the modification (s 22(1)(c)(i)), and
- the resources available to modify the document (s 22(1)(c)(ii)).

Relevantly, the FOI Guidelines at [3.95] explain:

An agency or minister may refuse access to a document on the ground that it is exempt. If so, the agency or minister must consider whether it would be reasonably practicable to prepare an edited copy of the document for release to the applicant, that is, a copy with relevant deletions (s 22). It is important for agencies to keep in mind that the implicit purpose of s 22 is to facilitate access to information promptly and at the lowest reasonable cost through the deletion of material that can readily be deleted, and that an applicant has either agreed or is likely to agree that the material is irrelevant.

In his application for IC review the applicant said:

...I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Essentially, the review has been denied on privacy grounds. As noted in the original request, I am happy to receive a redacted transcript or edited AV recording to guard against privacy concerns. The department has declined to perform de-identification procedures and instead refused the request.

It appears that the applicant is prepared to accept that any personal information in the audio recordings be considered irrelevant to the request and deleted under s 22 of the FOI Act. The applicant has indicated that ^{s. 22(1)} is not interested in any personal information or personal identifiers and is keen to guard against any breach of privacy.

If the Department were to edit the audio recordings to delete all personal and any identifying information within the interview questions as irrelevant, the documents would not be exempt under the personal privacy exemption.

Certain operations of agencies exemption (s 47E(d))

The Department contends that the interview questions are exempt from disclosure under s 47E(d) of the FOI Act.

The FOI Guidelines explain that a document is conditionally exempt under s 47E(d) if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The FOI Guidelines at [6.101] and [6.103] explain:

For the grounds in ss 47E(a)-(d) to apply, the predicted effect needs to be reasonably expected to occur... There must be more than merely an assumption or allegation that damage may occur if the document were to be released.

...

An agency cannot merely assert that an effect would occur following disclosure. The particulars of the predicted effect should be identified during the decision making process, including whether the effect could reasonably be expected to occur. Where the conditional exemption is relied upon, the relevant particulars and reasons should form part of the decision maker's statement of reasons, if they can be included without disclosing exempt material...

The Department submits:


... the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

In further submissions, the Department states:

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

The applicant submits:

s. 22(1)(a)(ii)



My preliminary view is that the Department has not provided particulars of how the predicted adverse effects would be expected to occur, neither has it explained how the release of the interview questions would cause a substantial adverse effect on its proper and efficient operations in an environment where the assessment questions have since improved.

In an IC review of an access refusal decision, the Department bears the onus of establishing that its decision is justified or that the Information Commissioner should give a decision adverse to the IC review applicant (s 55D(1)). My view as review officer, is that the Department has not discharged its onus of establishing that the Information Commissioner should give a decision adverse to the applicant in relation to the material that it contends is exempt under s 47E(d). I will be making a recommendation to the Information Commissioner in those terms.

I invite the Department to provide additional submissions addressing the substantial adverse effect on the proper and efficient conduct of its operations given that it appears from the applicant's submission and the Department's concession that the Department no longer uses such questions as its guidance on assessing such claims is much improved.

Should the Information Commissioner find that the material is not exempt under s 47E(d), I draw your attention to s 20 of the FOI Act, which provides that the Department is under an obligation to provide documents in the form requested.

Form of access (s 20)

Section 20 provides the various forms that access to a document may be provided to a FOI applicant. Section 20 states:

- (1) Access to a document may be given to a person in one or more of the following forms:
 - (a) a reasonable opportunity to inspect the document;
 - (b) provision by the agency or Minister of a copy of the document;
 - (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced the making of arrangements for the person to hear or view those sounds or visual images;
 - (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in a codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.

...

- (3) If the giving of access in the form requested by the applicant:
 - (a) would interfere unreasonably with the operations of the agency, or the performance by the Minister of his or her functions, as the case may be;
 - (b) would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
 - (c) would, but for this Act, involve an infringement of copyright (other than copyright owned by the Commonwealth, an agency or a State) subsisting in matter contained in the document, being matter that does not relate to the affairs of an agency or of a Department of State;

access in that form may be refused and access given in another form.

The FOI Guidelines at [3.199] state ‘subject to limited exceptions, an applicant who requests access to a document in a particular form has a right to be given access in that form (s 20(2)).’

The FOI Guidelines at [3.201] states:

Agencies and ministers are expected to make reasonable use of available technology to facilitate access to documents — for example, by providing copies by electronic transmission, or to provide access in a particular form that is possible only through technology. Access to documents by means that do not require physical inspection in an agency should generally preferred.

The Department submits:

...at this stage, given the above concerns, the Department is not looking to edit the audio interviews nor is it seeking a transcript to be created. We further note that arranging a transcript and considering redactions for possible release would require significant time and effort which we are not able to secure at this time. Similarly, editing audio interviews also requires significant time and specialist assistance from a certain area within the Department. The relevant area [sic] have indicated they currently do not have any capacity to assist us with the audio edits.

The applicant submits:

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

I have listened to the two audio recordings at issue and in my view, the Department has not adequately established how the process of editing the audio recordings or transcribing the relevant questions in the interview, would unreasonably interfere with the Department's operations.

In my view, it appears that the Department is speculating that editing or transcribing the audio will unreasonably interfere with its operations, however, it does not sufficiently quantify or explain how it arrives at this assessment. I further note, the Department has not provided the OAIC with an estimate of the time and cost it expects would be required to edit the recordings to de-identify the personal information of the individuals concerned and or remove irrelevant material.

It appears that the applicant is prepared to accept a written list of the questions. In my view, as review officer, the applicant's contention that the Department's ability to remove irrelevant material and provide the applicant with a written version of the questions should not be difficult, has merit.

Next steps

It is important to note that s 55D of the FOI Act states, that for access refusal applications it is the agency who has the onus of establishing that the Information Commissioner should give a decision adverse to the IC review applicant. Based on the information that is currently before the OAIC, it is my preliminary view that the Department has not discharged its onus at this stage.

If this matter was to progress to a decision by the Information Commissioner, I would be recommending to the Information Commissioner that the Department's decision be set aside.

Given the above, I would be grateful if you provide me with further submissions addressing the above issues by 13 July 2018.

If you have any questions or require further information, please feel free to contact on ^{s. 22(1)} or email **s. 22(1)(a)(ii)** Please quote MR17/00265 in all correspondence.

s. 22(1)(a)(ii). Please email any queries about this matter to FOIDR@oaic.gov.au during this period.

Kind regards,

s. 22(1)(a)(ii)

Review Officer

Freedom of Information

Office of the Australian Information Commissioner

27 June 2018

From: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>
Sent: Wednesday, 9 May 2018 3:05 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FA 17/04/00432 - MR17/00265 - Department's further submission
 [SEC=UNCLASSIFIED]

UNCLASSIFIED

OAIC reference: MR 17/00265

Home affairs reference: FA 17/04/00432

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taking place prior to that date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

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If you are not the intended recipient, any use or copying of any part of this information is unauthorised. If you have received this email in error, we apologise for any inconvenience and request that you notify the sender immediately and delete all copies of this email, together with any attachments.

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WARNING: The information contained in this email may be confidential.

If you are not the intended recipient, any use or copying of any part of this information is unauthorised. If you have received this email in error, we apologise for any inconvenience and request that you notify the sender immediately and delete all copies of this email, together with any attachments.

From: s. 22(1)
To: s. 22(1)(a)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432
~~[SEC=PROTECTED, DLM=Sensitive]~~
Date: Friday, 24 August 2018 9:46:15 AM

~~PROTECTED, Sensitive~~

Thanks s. 22(1)

I received the latest message relating to this issue from s. 22(1)(a)(ii) yesterday afternoon. I plan to discuss with s. 22(1)(a)(ii) as s. 22(1)(a)(ii) manager today.

I have previously discussed this matter with s. 22(1)(a)(ii) and s. 22(1)(a)(ii) and the expected media attention.

Thanks

s. 22(1)(a)

Director | Protection Assessments NSW and NFT Section

Humanitarian Program Operations Branch | Refugee, Citizenship and Multicultural Programs Division

Immigration and Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: s. 22(1)(a)(ii)

Sent: Friday, 24 August 2018 9:39 AM

To: s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)

Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 ~~[SEC=PROTECTED, DLM=Sensitive]~~

~~PROTECTED, Sensitive~~

Hi s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

I understand you and s. 22(1)(a)(ii) are aware that the transcripts of the interview are to be released under FOI on 28 August.

s. 22(1)(a)(ii) name will not be made public, however could you please ensure that appropriate supports are in place for s. 22(1)(a)(ii) should there be any adverse publicity directed at the departmental delegate.

Thanks for your assistance.

s. 22(1)(a)(ii)

A/g Assistant Secretary | Humanitarian Program Operations Branch

Refugee, Citizenship and Multicultural Programs Division

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Thursday, 23 August 2018 12:19 PM

To: Caroline STERNBERG ss. 22(1)(a)(ii) Media Operations
<media@homeaffairs.gov.au>

Cc: Ben WRIGHT ss. 22(1)(a)(ii) Pip DE VEAU; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Mandy NEWTON ss. 22(1)(a)(ii)

<s. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Miranda LAUMAN

ss. 22(1)(a)(ii) Kaylene ZAKHAROFF

ss. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) s. 22(1)(a)(ii)

<s. 22(1)(a)(ii) s. 22(1)(a)(ii) <s. 22(1)(a)(ii)

Kylie SCHOLTEN ss. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Luke MANSFIELD

ss. 22(1)(a)(ii) s. 22(1)(a)(s. 22(1)(a)(ii)

Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON ACCESS – s. 22(1)(a)(ii), SBS

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act to release two interview transcripts in part with deletions. The following exemption applies to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Consultation

In finalising this decision Luke Mansfield First Assistant Secretary, Refugee, Citizenship and Multicultural Programs was consulted and a brief was provided to the Secretary.

Background

On 11 April 2017, s. 22(1)(a)(ii), SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request.

Original Decision

On 22 May 2017 the Department issued an original access decision to refuse access on the grounds that the documents (audio recordings) were exempt in full.

External Review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department's decision.

On 13 July 2018, a delegate of the OAIC formed a preliminary view and advised the Department that if the matter was to progress to the Information Commissioner for decision it would be recommended that the Department's decision is to be set aside and that information was subject to release.

On 24 July 2018, in response to the preliminary view, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Identifying information will be redacted under 47F to protect the privacy of the two clients who are not known to the FOI applicant and have not been identified in the public arena.

Talking points

Talking Points have been constructed and are being cleared by s. 22(1)(a)(ii) Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

This document may contain 'personal identifiers' and 'personal information' as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

PROTECTED, Sensitive

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Friday, 24 August 2018 5:51:21 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please find attached a copy of the documents as they are proposed for release.

The revised decision and the two redacted documents will be emailed to the FOI applicant on Tuesday afternoon.

If you have any further questions, please don't hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 24 August 2018 1:35 PM
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) ; s. 22(1)(a)(ii)
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thank you for your email. Usually we would send the redacted version not the marked version, I appreciate you bringing this to my attention.

s. 22(1)(a)(ii) can you please send s. 22(1)(a)(ii) a copy of the documents as they are proposed for release.

Regards

s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 24 August 2018 1:15 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>

Subject: FW: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News)
- FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Just wanted to flag that we can still see the text that is going to be redacted in the attached documents (usually when these are circulated we can't). Just wanted to raise it to make sure we don't accidentally release the documents unredacted (although I'm sure that couldn't happen)! Will the FOI applicant get the documents electronically or via paper? And is it possible for you to send us a copy of the documents redacted? There are a some people in my section I need to share them with, but it is not necessary for them to see the case officers' name.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
Division
Visa & Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: 23 August, 2018 12:19 PM
To: Caroline STERNBERG ss. 22(1)(a)(ii) Media Operations
<media@homeaffairs.gov.au>
Cc: Ben WRIGHT ss. 22(1)(a)(ii) Pip DE VEAU; s. 22(1)(a)(ii)
s. 22(1)(a)(ii) Mandy NEWTON ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
s. 22(1)(a)(ii) Miranda LAUMAN
ss. 22(1)(a)(ii) ks. 22(1)(a)(ii)
s. 22(1)(a)(ii) s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)> s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Kylie SCHOLTEN ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
s. 22(1)(a)(ii) s. 22(1)(a)(ii)
s. 22(1)(a)(ii) s. 22(1)(a)(ii)
s. 22(1)(a)(ii) Luke MANSFIELD
ss. 22(1)(a)(ii) Tony SMITH ss. 22(1)(a)(ii)
Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262

Released by Department of Home Affairs
under the Freedom of Information Act 1982

**SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON
ACCESS – s. 22(1)(a)(ii) SBS**

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

Revised decision and documents relevant to the request:

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A copy of the documents, proposed for release is **attached** for your reference.

Consultation

In finalising this decision Luke Mansfield First Assistant Secretary, Refugee, Citizenship and Multicultural Programs was consulted and a brief was provided to the Secretary.

Background

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Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

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On 22 May 2017 the Department issued an original access decision to refuse access on the grounds that the documents (audio recordings) were exempt in full.

External Review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department's decision.

On 13 July 2018, a delegate of the Oaic formed a preliminary view and advised the Department that if the matter was to progress to the Information Commissioner for decision it would be recommended that the Department's decision is to be set aside and that information was subject to release.

On 24 July 2018, in response to the preliminary view, the Department advised the Oaic that it will be revising its decision and providing the FOI applicant with the transcript of questions. Identifying information will be redacted under 47F to protect the privacy of the two clients who are not known to the FOI applicant and have not been identified in the public arena.

Talking points

Talking Points have been constructed and are being cleared by s. 22(1)(a)(ii) Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: RE: HPRM: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Wednesday, 15 August 2018 11:55:13 AM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks for the update, please keep me in the loop.

In regard to your query, the MO will be included in the pending decision alert.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Wednesday, 15 August 2018 11:39 AM

To: s. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii)

Subject: RE: HPRM: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

s. 22(1)(a) is on leave today.

Media Operations (s. 22(1)(a)(ii)) called me yesterday. They hope to have comments on the TPs and media handling strategy back to me today, but I haven't seen anything come through yet. I will need to review their changes and make a call on whether they need to go back up through my Executive. I'll keep you looped in if Media Operations don't cc you into their response.

Does the FOI pending alert that you send out to the Executive also go to the Minister's Office?

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Visa & Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 15 August, 2018 11:19 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: HPRM: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)

I am in the national office today and thought I would catch up with you in person to answer any further questions that you or s. 22(1)(a)(ii) may have. I did notice that you are showing offline. I will proceed to answer the questions you have raised in your below correspondence.

- When do you intend to release the documents?

The release date is still set as 23 August 2018.

- What briefing will be provided to the executive and when?

Once I receive a response from the media operations (Friday 17 August), the FOI pending decision alert will go out to the executive cohort.

- How do we liaise with Media Operations (is this something you organise)?

I have already organised this, you were cc'd into this correspondence and I am hopeful that the media officer has made contact with you. If not please let me know.

Please let me know whether you have any additional questions.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 10 August 2018 1:38 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: HPRM: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please find attached the signed decision.

I corrected one typo on page two of the transcript for Applicant A. We would also like to redact the word s. 47F(1) in both transcripts (Applicant A and Applicant B) in a few additional places

(marked up in red font).

I am also attaching Media Handling Strategy and Talking Points that have been cleared by our AS. I your email below you suggested that we set up a teleconference to discuss the next steps. Let me know if you still want to proceed with the teleconference. We are particularly interested in finding out the following points:

- When do you intend to release the documents?
- What briefing will be provided to the executive and when?
- How do we liaise with Media Operations (is this something you organise)?

Thanks

s. 22(1)(a)

s. 22(1)(a)(ii)

Assistant Director | Protection Assessment Support Section
Humanitarian Program Capabilities Branch
Refugee, Citizenship and Multicultural Programs Division
Visa and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Monday, 30 July 2018 2:21 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)>

Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) and s. 22(1)(a)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision. Once you have had the opportunity to make additions, we can set up a quick teleconference to discuss next steps. Please be mindful that we may only have up until 24 August 2018 to finalise this matter and issue the documents to s. 22(1)(a)(ii) (SBS journalist). Let's aim to have the decision draft finalised by the end of this week so that we can commence our liaison with Media Operations - drafting of TPs.

Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FOI Request - s. 22(1)(a)(ii) - LGBTI Interview [DLM=Sensitive]
Date: Tuesday, 1 May 2018 2:04:00 PM
Attachments: s. 22(1)(a)(ii)

Sensitive

Hi s. 22(1)(a)(ii)

Please see below summary for Miranda on the LGBTI FOI case. Please let me know if you'd like me to include any further info.

s. 22(1)(a)(ii), journalist with SBS, has sought review with the Office of the Information Commissioner (Oaic) for the Department's decision not to provide the two interview recordings for a protection visa case which was subsequently remitted by the RRT in 2014. s. 22(1)(a)(ii) has further clarified that he does not seek the answers to any questions but only the questions themselves. The RRT specifically criticised the Department in its decision record (excerpt below) for asking inappropriate questions in the interview. s. 22(1)(a)(ii) has argued that, as these questions were not standard or routine, it is unlikely that releasing the questions would impact the integrity of the protection visa program. s. 22(1)(a)(ii) has requested the Oaic consider the possibility that the department is acting in bad faith in blocking this disclosure based on potential embarrassment. s. 22(1)(a)(ii) full concerns are attached. FOI section are seeking our input to address s. 22(1)(a)(ii) concerns.

The Oaic has proposed that we hold a teleconference between s. 22(1)(a)(ii), Oaic and the Department to address his request and to come to an agreement. This idea was refused in the past by the Assistant Secretary, FOI, Privacy and Records Management Branch, given there is no scope of flexibility on the release of the interview questions. FOI section are seeking our thoughts on this.

Chronology:

24/01/2017 - Media Enquiry received from s. 22(1)(a)(ii) Journalist SBS – response attached.
 27/03/2017 – FOI request received from s. 22(1)(a)(ii) requesting training material and procedural guidance
 11/04/2017 – second FOI request received from s. 22(1)(a)(ii) requesting Departmental interview recording of case subsequently remitted by RRT (1216820, 1216828, 12 March 2014)
 16/05/2017 – FOI decision and documents for first request provided to s. 22(1)(a)(ii) (attached).
 17/05/2017 – FOI decision for second request provided to s. 22(1)(a)(ii) (attached)

Excerpt from Refugee Review Tribunal Decision record, 1216820, 1216828, 12 March 2014:

What did strike me as credible as I listened to the recordings of the interviews were the responses [Applicant A] and [Applicant B] gave to the very intimate questions the delegate asked about how they met and the sex they had with each other. I found the questions intrusive and are not ones I have ever found it necessary to ask of applicants claiming to be homosexual. Both [Applicant A] and [Applicant B] seemed surprised and uncomfortable with them nevertheless their responses

were consistent and seemed very spontaneous. As it did not appear that the questions were expected by either [Applicant A] or [Applicant B] the consistency and spontaneity of their answers about matters which generally only persons who have had sex with each other would be aware of inclined me to think that they had had sex with each other.

Our suggested approach:

- Disclosure of only the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the line of questioning provides an indication of what answers were provided.
- Disclosure of the interview questions, whether they were routine or not, could potentially provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims.
- Decline the OAIC's proposal to hold a teleconference with s. 22(1)(a)(ii) as there is no scope for flexibility on the release of the interview questions for the above reasons.

Kind regards,

s. 22(1)(a)

Protection Assessment Support Section
Humanitarian Programme Capabilities Branch | Refugee and Humanitarian Visa Management
Division
Visa and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

I am part time and don't work Mondays.

Sensitive

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]
Date: Tuesday, 25 September 2018 2:33:00 PM
Attachments: s. 22(1)(a)(ii)
Importance: High

For-Official-Use-Only

As discussed.

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 16 August, 2018 6:10 PM
To: Media Operations <media@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> Miranda LAUMAN
 ss. 22(1)(a)(ii)
Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]
Importance: High

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks for this. The TPs and handling strategy have been AS cleared at our end (with some minor edits in track changes for your consideration).

We note that the documents referenced in the TPs may be FOI'd – there are no particular sensitivities around this.

I have copied s. 22(1)(a)(ii) (FOI team) in for information.

Grateful advice on next steps.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs

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under the Freedom of Information Act 1982

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

From: Media Operations

Sent: 15 August, 2018 1:28 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Cc: Media Operations <media@homeaffairs.gov.au>

Subject: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks so much for the chat on the phone yesterday. I have rearranged and slightly altered the talking points and updated the media handling strategy – please see attached.

I've included a couple of comments regarding the status of more recent reviews/reports on this issue and whether they are publicly available. Grateful for your advice on those. It would also be good to get a brief outline of the PV applicants' immigration history and RRT outcome for background only.

Thanks again. If I can request updated content by COB tomorrow that'd be great – happy to discuss though.

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

24-hour media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: FOI

Sent: Friday, 10 August 2018 6:15 PM

To: Media Operations <media@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)>

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good evening

I refer to FOI request FA17/04/00432 received from s. 22(1)(a)(ii) of the SBS.

Request

On 11 April 2017, s. 22(1)(a)(ii), SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

A link to the RRT matter relevant to the instigation of this FOI request:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/RRTA/2014/209.html?context=1;query=1216820;mask_path=

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request. No transcripts of the interviews existed.

Original Decision

s. 22(1)(a)(ii), Director, Protection Assessment Support Section, Onshore Protection Branch, was the authorised decision-maker under the FOI Act.

s. 22(1)(a)(ii) made a decision to exempt the documents (recordings) in full, on the grounds that the material is considered to be exempt under subsections:

- s47F(1) Personal Information

OAIC review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017.

On 13 July 2018, the Delegate of the OAIC formed a preliminary view and advised that if the matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision is to be set aside.

On 24 July 2018, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act, to release transcripts containing questions from two applicant interviews in part with deletions. The following exemptions apply to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Additionally, due to the sensitive nature of this release the Humanitarian Program Capabilities Branch has prepared the Media Handling Strategy and Talking Points. These have been cleared by their Assistant Secretary and are **attached** for your perusal.

Could you please liaise with s. 22(1)(a)(ii) to determine whether the attached Talking Points and the Media Handling Strategy will be sufficient to support the issuing of this decision.

It would assist with the management of this request if you are able to provide cleared Talking Points on or before **COB Friday, 17 August 2018**.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [FOI Reviews mailbox](#); [Media Operations](#)
Cc: [Miranda LAUMAN](#); s. 22(1)(a)(ii)
Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]
Date: Thursday, 6 September 2018 3:58:00 PM

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) Sounds like a sensible approach to me.

(Copied to my AS, Miranda Lauman, for visibility.)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: 6 September, 2018 3:46 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> Media Operations
 <media@homeaffairs.gov.au>
Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - Disclosure Log [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) / s. 22(1)(a)(ii)

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. Given that the two documents at issue contain sensitive personal information we are proposing to only upload the Decision and include a statement 'if you wish to obtain a copy of these documents, please contact FOI section via FOI@homeaffairs.gov.au'.

In the event where these documents are asked by a media outlet we could manage it in close consultation with Media Operations.

Can you please advise whether you agree to the above approach.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: RE: FOR info: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]
Date: Wednesday, 5 September 2018 10:32:17 AM
Attachments: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

Hi s. 22(1)(a)(ii)

The latest guidelines are available on LEGEND

https://legend.border.gov.au/migration/2017-2020/2018/22-08-2018/policy/Pages/_document00005/level%20100342.aspx

I am also attaching a word version of the guidelines.

Kind Regards,

s. 22(1)(a)(ii)
 Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: s. 22(1)(a)(ii)
Sent: Wednesday, 5 September 2018 10:05 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FW: FOR info: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]

~~PROTECTED, Sensitive~~

Hi s. 22(1)(a)(ii) s. 22(1)(a)

Can you please flick me a version of the current version of the processing LGBTI humanitarian claims procedures doc?

Thanks

s. 22(1)(a)(ii)
 Executive Assistant to Frances Finney
 A/g First Assistant Secretary | Refugee, Citizenship and Multicultural Programs Division

Department of Home Affairs

P: s. 22(1)(a)(ii) **M:** s. 22(1)(a)(ii) **E:** s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: Frances FINNEY

Sent: Wednesday, 5 September 2018 9:53 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FW: FOR info: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED;
DLM=Sensitive}

~~PROTECTED, Sensitive~~

Hi s. 22(1)(a)(ii)

May I have a printed copy of the attached, and also the current relevant policy/procedures for processing LGBTI humanitarian claims – s. 22(1)(a)(ii) or s. 22(1)(a) will have it.

Thanks

Frances

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN

Sent: Thursday, 30 August 2018 8:35 AM

To: Frances FINNEY ss. 22(1)(a)(ii) s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)>

Subject: FW: FOR info: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED;
DLM=Sensitive}

From: s. 22(1)(a)(ii)

Sent: Wednesday, 29 August 2018 5:01 PM

To: Miranda LAUMAN ss. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)>

Subject: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED;
DLM=Sensitive}

~~PROTECTED, Sensitive~~

Hi Miranda,

As discussed, I've been made aware of the version of the media handling strategy that is currently with our FAS. Attached is a slightly amended version to address the feedback.

Please note that s. 22(1)(a)(ii) preference is for defensive TPs rather than a media statement, however we will hold on to the statement in case it is required for Estimates.

Grateful for your clearance of this version sometime tomorrow and advice on any further clearance required.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director | Immigration and Citizenship Communication

Portfolio Media and Engagement Branch | Executive Coordination & Services Division

Executive Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) Mobile: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

*Please note I work Mon, Wed, Thur.

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN

Sent: Wednesday, 29 August 2018 9:17 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FW: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hey s. 22(1)(a)(ii) I this one I could take forward with you in s. 22(1)(a)(ii) absence?

M

Miranda Lauman

Assistant Secretary

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Immigration and Citizenship Services Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

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under the Freedom of Information Act 1982

For-Official-Use-Only

From: Miranda LAUMAN

Sent: Tuesday, 28 August 2018 4:20 PM

To: s. 22(1)(a)(ii) ss. 22(1)(a)(ii)

Subject: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Understand you are focussed on FCM at the moment but hoped we could find some time – or you could nominate someone in the team to talk through the strategy on this FOI

DS Golightly and A/g DS Moy have a few questions about broader strategy in addition to the TPs prepared

Let me know the best way to proceed

Kind regards

Miranda

Miranda Lauman

Assistant Secretary

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Immigration and Citizenship Services Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

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under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]
Date: Monday, 3 September 2018 3:53:00 PM

For-Official-Use-Only

Thanks for letting me know s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 3 September, 2018 3:51 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii)

I would like to advise you that the FOI revised decision and documents at issue were dispatched to s. 22(1)(a)(ii) via email a short time ago.
 All relevant correspondence and documents have been saved in the assigned ADF in TRIM.

Thank you for all your assistance in regard to this FOI matter.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]
Date: Monday, 3 September 2018 3:52:00 PM

For-Official-Use-Only

For your information.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 3 September, 2018 3:51 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FA 17/04/00432 - MR17/00265 - Department's revised decision has been dispatched [DLM=For-Official-Use-Only]

For-Official-Use-Only

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s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs

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Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

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under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)
Subject: RE: For visibility Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED, DLM=Sensitive}
Date: Thursday, 30 August 2018 10:57:00 AM

~~PROTECTED, Sensitive~~

Thanks Miranda.

Fyi, FOI now plan to release the documents first thing Monday. They'll let me know once released and I'll keep you posted.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN
Sent: 30 August, 2018 10:41 AM
To: Malisa GOLIGHTLY ss. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: For visibility Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED, DLM=Sensitive}

Dear Malisa
 For visibility – recast media strategy to support release next week
 Kind regards
 Miranda

From: s. 22(1)(a)(ii)
Sent: Wednesday, 29 August 2018 5:01 PM
To: Miranda LAUMAN ss. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) {SEC=PROTECTED,

~~DLM=Sensitive~~

~~PROTECTED, Sensitive~~

Hi Miranda,

As discussed, I've been made aware of the version of the media handling strategy that is currently with our FAS. Attached is a slightly amended version to address the feedback.

Please note that s. 22(1)(a)(ii) preference is for defensive TPs rather than a media statement, however we will hold on to the statement in case it is required for Estimates.

Grateful for your clearance of this version sometime tomorrow and advice on any further clearance required.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director | Immigration and Citizenship Communication

Portfolio Media and Engagement Branch | Executive Coordination & Services Division

Executive Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) Mobile: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

*Please note I work Mon, Wed, Thur.

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN

Sent: Wednesday, 29 August 2018 9:17 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FW: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hey s. 22(1)(a)(ii) I this one I could take forward with you in s. 22(1)(a)(ii) absence?

M

Miranda Lauman

Assistant Secretary

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

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Immigration and Citizenship Services Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
 Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: Miranda LAUMAN
Sent: Tuesday, 28 August 2018 4:20 PM
To: s. 22(1)(a)(ii) ss. 22(1)(a)(ii)
Subject: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Understand you are focussed on FCM at the moment but hoped we could find some time – or you could nominate someone in the team to talk through the strategy on this FOI

DS Golightly and A/g DS Moy have a few questions about broader strategy in addition to the TPs prepared

Let me know the best way to proceed

Kind regards
 Miranda

Miranda Lauman
 Assistant Secretary
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Immigration and Citizenship Services Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
 Email: s. 22(1)(a)(ii)

For-Official-Use-Only

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 under the Freedom of Information Act 1982

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - your action is required [DLM=For-Official-Use-Only]
Date: Thursday, 30 August 2018 10:54:03 AM

For-Official-Use-Only

Will do, I have instructions to release them first thing Monday. Will let you know as soon as I send them out.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Thursday, 30 August 2018 10:52 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: FA 17/04/00432 - MR17/00265 - your action is required [DLM=For-Official-Use-Only]

For-Official-Use-Only

Welcome! Will you let us know when the documents get released please?

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 30 August, 2018 10:04 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: FA 17/04/00432 - MR17/00265 - your action is required [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii)

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

From: s. 22(1)(a)(ii)
Sent: Thursday, 30 August 2018 9:51 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: FA 17/04/00432 - MR17/00265 - your action is required [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I am sure that will be fine – no need to reclear, but I have copied to s. 22(1)(a)(ii) for information.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Visa & Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

For-Official-Use-Only

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 30 August, 2018 9:44 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FA 17/04/00432 - MR17/00265 - your action is required [DLM=For-Official-Use-Only]
Importance: High

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

It was brought to my attention that s. 22(1)(a)(ii) surname was misspelt in the decision letter. I have therefore amended the first page of the FOI Decision (signed by s. 22(1)(a)(ii) to reflect the correct spelling of surname. To make the required changes I needed to alter the format of the date (typed no longer written). No other information within the attached document has been altered.

Please let me know **by COB today** whether you need to consult s. 22(1)(a)(ii) on the changes made to the front page of the decision.

This decision and documents at issue will be released to the FOI applicant on Monday 3 August 2018.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

Released by Department of Home Affairs
under the Freedom of Information Act 1982

From: Miranda LAUMAN
To: [Malisa GOLIGHTLY](#)
Cc: s. 22(1)(a)(ii) s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: For visibility Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]
Date: Thursday, 30 August 2018 10:41:18 AM
Attachments: s. 22(1)(a)(ii)

Dear Malisa
 For visibility – recast media strategy to support release next week
 Kind regards
 Miranda

From: s. 22(1)(a)(ii)
Sent: Wednesday, 29 August 2018 5:01 PM
To: Miranda LAUMAN ss. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]

~~PROTECTED, Sensitive~~

Hi Miranda,

As discussed, I've been made aware of the version of the media handling strategy that is currently with our FAS. Attached is a slightly amended version to address the feedback.

Please note that s. 22(1)(a)(ii) preference is for defensive TPs rather than a media statement, however we will hold on to the statement in case it is required for Estimates.

Grateful for your clearance of this version sometime tomorrow and advice on any further clearance required.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director | Immigration and Citizenship Communication

Portfolio Media and Engagement Branch | Executive Coordination & Services Division
Executive Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) Mobile: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

*Please note I work Mon, Wed, Thur.

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN

Sent: Wednesday, 29 August 2018 9:17 AM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: FW: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hey s. 22(1)(a)(ii) I this one I could take forward with you in s. 22(1)(a)(ii) absence?

M

Miranda Lauman

Assistant Secretary

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Immigration and Citizenship Services Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: Miranda LAUMAN

Sent: Tuesday, 28 August 2018 4:20 PM

To: s. 22(1)(a)(ii) ss. 22(1)(a)(ii)

Subject: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear s. 22(1)(a)(ii)

Understand you are focussed on FCM at the moment but hoped we could find some time – or you could nominate someone in the team to talk through the strategy on this FOI

DS Golightly and A/g DS Moy have a few questions about broader strategy in addition to the TPs prepared

Let me know the best way to proceed

Kind regards

Miranda

Miranda Lauman

Assistant Secretary

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under the Freedom of Information Act 1982

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

For-Official-Use-Only

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under the *Freedom of Information Act 1982*

From: Miranda LAUMAN
To: s. 22(1)(a)(ii)
Subject: Re: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]
Date: Wednesday, 29 August 2018 5:18:42 PM

~~PROTECTED, Sensitive~~

Thanks

I mentioned the recording of post interview conversation to s. 22(1)(a)(ii) and asked him to make sure EL2s encourage folk to be alert to appropriate record keeping for formal interviews

M

Sent by Email+

~~PROTECTED, Sensitive~~

From: "s. 22(1)(a)(ii)" <s. 22(1)(a)(ii)>
Date: Wednesday, 29 August 2018 at 5:14:47 pm
To: "Miranda LAUMAN" <s. 22(1)(a)(ii)>
Subject: RE: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]

~~PROTECTED, Sensitive~~

Hi Miranda

Media added this para:

While the case officer involved has not been identified in the transcript, there is a risk that any media reporting may identify him. It is advisable that the officer is warned and prepared prior to the transcripts being released.

Just for your background, we gave s. 22(1)(a)(ii) and s. 22(1)(a)(ii) (the case officer's manager) a heads' up about the imminent FOI release last week (attached).

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: s. 22(1)(a)(ii)
Sent: 29 August, 2018 5:01 PM
To: Miranda LAUMAN ss. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED;
 DLM=Sensitive]

~~PROTECTED, Sensitive~~

Hi Miranda,

As discussed, I've been made aware of the version of the media handling strategy that is currently with our FAS. Attached is a slightly amended version to address the feedback.

Please note that s. 22(1)(a)(ii) preference is for defensive TPs rather than a media statement, however we will hold on to the statement in case it is required for Estimates.

Grateful for your clearance of this version sometime tomorrow and advice on any further clearance required.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director | Immigration and Citizenship Communication

Portfolio Media and Engagement Branch | Executive Coordination & Services Division

Executive Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) Mobile: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

*Please note I work Mon, Wed, Thur.

~~PROTECTED, Sensitive~~

From: Miranda LAUMAN
Sent: Wednesday, 29 August 2018 9:17 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FW: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hey ^{s. 22(1)(a)(ii)} I this one I could take forward with you in ^{s. 22(1)(a)(ii)} absence?

M

Miranda Lauman
 Assistant Secretary
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Immigration and Citizenship Services Group
 Department of Home Affairs
 Telephone: ^{s. 22(1)(a)(ii)} | ^{s. 22(1)(a)(ii)}
 Email: ^{s. 22(1)(a)(ii)}

For-Official-Use-Only

From: Miranda LAUMAN
Sent: Tuesday, 28 August 2018 4:20 PM
To: ^{s. 22(1)(a)(ii)} ^{ss. 22(1)(a)(ii)}
Subject: FOI request 17/04/00432 ^{s. 22(1)(a)(ii)} [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear ^{s. 22(1)(a)(ii)}

Understand you are focussed on FCM at the moment but hoped we could find some time – or you could nominate someone in the team to talk through the strategy on this FOI

DS Golightly and A/g DS Moy have a few questions about broader strategy in addition to the TPs prepared

Let me know the best way to proceed

Kind regards
 Miranda

Miranda Lauman
 Assistant Secretary
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Immigration and Citizenship Services Group
 Department of Home Affairs
 Telephone: ^{s. 22(1)(a)(ii)} | ^{s. 22(1)(a)(ii)}
 Email: ^{s. 22(1)(a)(ii)}

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purposes under these Acts.

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under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: FW: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]
Date: Wednesday, 29 August 2018 5:09:00 PM
Attachments: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

Fyi and file records please.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: s. 22(1)(a)(ii)
Sent: 29 August, 2018 5:01 PM
To: Miranda LAUMAN ss. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FOR CLEARANCE: Re: FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=PROTECTED, DLM=Sensitive]

~~PROTECTED, Sensitive~~

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Grateful for your clearance of this version sometime tomorrow and advice on any further clearance required.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director | Immigration and Citizenship Communication

Portfolio Media and Engagement Branch | Executive Coordination & Services Division

Executive Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) Mobile: s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

*Please note I work Mon, Wed, Thur.

~~PROTECTED, Sensitive~~**From:** Miranda LAUMAN**Sent:** Wednesday, 29 August 2018 9:17 AM**To:** s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>**Subject:** FW: FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]**For-Official-Use-Only**

Hey s. 22(1)(a)(ii) I this one I could take forward with you in s. 22(1)(a)(ii) absence?

M

Miranda Lauman

Assistant Secretary

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Immigration and Citizenship Services Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only**From:** Miranda LAUMAN**Sent:** Tuesday, 28 August 2018 4:20 PM**To:** s. 22(1)(a)(ii) ss. 22(1)(a)(ii)**Subject:** FOI request 17/04/00432 s. 22(1)(a)(ii) [DLM=For-Official-Use-Only]**For-Official-Use-Only**Released by Department of Home Affairs
under the Freedom of Information Act 1982

Dear s. 22(1)(a)(ii)

Understand you are focussed on FCM at the moment but hoped we could find some time – or you could nominate someone in the team to talk through the strategy on this FOI

DS Golightly and A/g DS Moy have a few questions about broader strategy in addition to the TPs prepared

Let me know the best way to proceed

Kind regards
Miranda

Miranda Lauman
Assistant Secretary
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

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From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: Notifying the MO about upcoming FOI release [DLM=For-Official-Use-Only]
Date: Wednesday, 29 August 2018 9:15:00 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Sorry, I was out yesterday s. 22(1)(a)(ii) We also did a DIB update for ours (copy attached).

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 28 August, 2018 10:53 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: Notifying the MO about upcoming FOI release [DLM=For-Official-Use-Only]

For-Official-Use-Only

Sorry s. 22(1)(a)(ii) – disregard! s. 22(1)(a)(ii) has just forwarded me what s. 22(1)(a)(ii) sent him.

Kind regards,

s. 22(1)(a)(ii)

Offshore Humanitarian Program Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Tuesday, 28 August 2018 10:25 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: Notifying the MO about upcoming FOI release [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I understand from s. 22(1)(a)(ii) that your section recently wrote something to let the Minister's Office know that information was about to be released through FOI.

We have something about to be released and need to do the same – would I be able to get a copy of what you sent up so we can be consistent?

Kind regards,

s. 22(1)(a)(ii)

Offshore Humanitarian Program Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
Division

Visa and Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

For-Official-Use-Only

For-Official-Use-Only

From: [Media Operations](#)
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Cc: [Miranda LAUMAN](#); s. 22(1)(a)(ii) [Media Operations](#)
Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]
Date: Sunday, 26 August 2018 11:09:49 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see attached. I am a bit confused with this process – the attached was issued last Thursday? Do you still need them noting it's been issued without our TPs? I was just going to keep them on file unless you're going to issue a revised alert?

The TPs were finalised on Thursday afternoon. See attached for your records.

Thanks,

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

Media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 24 August 2018 5:49 PM
To: Media Operations <media@homeaffairs.gov.au>; s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Cc: Miranda LAUMAN ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: RE: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Just following up on the below email, the documents are due to go out on Tuesday 28 August 2018.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**Email: FOI.reviews@homeaffairs.gov.au**For-Official-Use-Only****From:** Media Operations**Sent:** Tuesday, 21 August 2018 9:13 AM**To:** **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**> **s. 22(1)(a)(ii)**
<**s. 22(1)(a)(ii)**>**Cc:** Miranda LAUMAN **ss. 22(1)(a)(ii)** **s. 22(1)(a)(ii)**
<**s. 22(1)(a)(ii)**> Media Operations <media@homeaffairs.gov.au>**Subject:** RE: FOI Request FA17/04/00432 - **s. 22(1)(a)(ii)** (SBS) - response due 17/08/2018
[DLM=For-Official-Use-Only]**For-Official-Use-Only**Hi **s. 22(1)(a)(ii)**

It's with my AS and she is discussing with my FAS. It's on their radar. We'll meet your deadline.

I'll keep you updated.

Thanks,

s. 22(1)(a)(ii)**Media Operations**

Department of Home Affairs

Media line: 02 6264 2244 | M: **s. 22(1)(a)(ii)**E: media@homeaffairs.gov.au**From:** **s. 22(1)(a)(ii)****Sent:** Monday, 20 August 2018 2:08 PM**To:** Media Operations <media@homeaffairs.gov.au>; **s. 22(1)(a)(ii)**
<**s. 22(1)(a)(ii)**>**Cc:** Miranda LAUMAN **ss. 22(1)(a)(ii)** **s. 22(1)(a)(ii)**
<**s. 22(1)(a)(ii)**>**Subject:** RE: FOI Request FA17/04/00432 - **s. 22(1)(a)(ii)** (SBS) - response due 17/08/2018
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Just following up on the below email.

In order to meet our set due date of 24 August 2018, we are required to Alert the Executive by no later than tomorrow on the pending release.

Are you able to advise when we can expect to receive the final TPs document.

Thanks

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

For-Official-Use-Only

From: Media Operations

Sent: Friday, 17 August 2018 9:22 AM

To: s. 22(1)(a)(ii) <**s. 22(1)(a)(ii)**>

Cc: **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**> **s. 22(1)(a)(ii)**

<**s. 22(1)(a)(ii)**> Miranda LAUMAN

<**s. 22(1)(a)(ii)**> Media Operations

<media@homeaffairs.gov.au>

Subject: RE: FOI Request FA17/04/00432 - **s. 22(1)(a)(ii)** SBS) - response due 17/08/2018

[DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks very much s. 22(1)(a)(ii)

I'll get these cleared by my AS, s. 22(1)(a)(ii) Swayer. Once cleared I will provide a final TPs document to the FOI team and they can finalise the FOI decision and send the documents to the applicant.

I'll keep you in the loop.

Regards,

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

Media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Thursday, 16 August 2018 6:10 PM

To: Media Operations <media@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)> Miranda LAUMAN

ss. 22(1)(a)(ii)

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) SBS - response due 17/08/2018 [DLM=For-Official-Use-Only]

Importance: High

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks for this. The TPs and handling strategy have been AS cleared at our end (with some minor edits in track changes for your consideration).

We note that the documents referenced in the TPs may be FOI'd – there are no particular sensitivities around this.

I have copied s. 22(1)(a)(ii) (FOI team) in for information.

Grateful advice on next steps.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Visa & Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

From: Media Operations

Sent: 15 August, 2018 1:28 PM

Released by Department of Home Affairs
under the Freedom of Information Act 1982

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: Media Operations <media@homeaffairs.gov.au>
Subject: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks so much for the chat on the phone yesterday. I have rearranged and slightly altered the talking points and updated the media handling strategy – please see attached.

I've included a couple of comments regarding the status of more recent reviews/reports on this issue and whether they are publicly available. Grateful for your advice on those. It would also be good to get a brief outline of the PV applicants' immigration history and RRT outcome for background only.

Thanks again. If I can request updated content by COB tomorrow that'd be great – happy to discuss though.

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

24-hour media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: FOI

Sent: Friday, 10 August 2018 6:15 PM

To: Media Operations <media@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)>

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good evening

I refer to FOI request FA17/04/00432 received from s. 22(1)(a)(ii) of the SBS.

Request

On 11 April 2017, s. 22(1)(a)(ii), SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

A link to the RRT matter relevant to the instigation of this FOI request:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/RRTA/2014/209.html?context=1;query=1216820;mask_path=

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request. No transcripts of the interviews existed.

Original Decision

s. 22(1)(a)(ii) Director, Protection Assessment Support Section, Onshore Protection Branch, was the authorised decision-maker under the FOI Act.

s. 22(1)(a)(ii) made a decision to exempt the documents (recordings) in full, on the grounds that the material is considered to be exempt under subsections:

- s47F(1) Personal Information

OAIC review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017.

On 13 July 2018, the Delegate of the OAIC formed a preliminary view and advised that if the matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision is to be set aside.

On 24 July 2018, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act, to release transcripts containing questions from two applicant interviews in part with deletions. The following exemptions apply to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Additionally, due to the sensitive nature of this release the Humanitarian Program Capabilities Branch has prepared the Media Handling Strategy and Talking Points.

These have been cleared by their Assistant Secretary and are **attached** for your perusal.

Could you please liaise with s. 22(1)(a)(ii) to determine whether the attached Talking Points and the Media Handling Strategy will be sufficient to support the issuing of this decision.

It would assist with the management of this request if you are able to provide cleared Talking Points on or before **COB Friday, 17 August 2018**.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Friday, 24 August 2018 2:45:29 PM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

On 21/08/2018 s. 22(1)(a)(ii) advised that they would meet our deadline however, I have not heard from her since.

I will follow up with her now and cc you in.

Additionally, I will send you a copy of the redacted documents at issue shortly.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Friday, 24 August 2018 12:44 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii) – we haven't heard back from media operations. Have you? Do we need to follow them up (given that the docs are meant to be released on Tuesday)?

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: 23 August, 2018 12:19 PM
To: Caroline STERNBERG ss. 22(1)(a)(ii) Media Operations
 <media@homeaffairs.gov.au>
Cc: Ben WRIGHT ss. 22(1)(a)(ii) Pip DE VEAU; Katie GABRIEL
 ss. 22(1)(a)(ii) Mandy NEWTON ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Miranda LAUMAN
 ss. 22(1)(a)(ii) Kaylene ZAKHAROFF
 ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
 Kylie SCHOLTEN ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Luke MANSFIELD
 ss. 22(1)(a)(ii) Tony SMITH ss. 22(1)(a)(ii)
Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA
 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262
**SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON
 ACCESS – s. 22(1)(a)(ii), SBS**

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act to release two interview transcripts in part with deletions. The following exemption applies to

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Consultation

In finalising this decision Luke Mansfield First Assistant Secretary, Refugee, Citizenship and Multicultural Programs was consulted and a brief was provided to the Secretary.

Background

On 11 April 2017, s. 22(1)(a)(ii) SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request.

Original Decision

On 22 May 2017 the Department issued an original access decision to refuse access on the grounds that the documents (audio recordings) were exempt in full.

External Review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department's decision.

On 13 July 2018, a delegate of the OAIC formed a preliminary view and advised the Department that if the matter was to progress to the Information Commissioner for decision it would be recommended that the Department's decision is to be set aside and that information was subject to release.

On 24 July 2018, in response to the preliminary view, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Identifying information will be redacted under 47F to protect the privacy of the two clients who are not known to the FOI applicant and have not been identified in the public arena.

Talking points

Talking Points have been constructed and are being cleared by s. 22(1)(a)(ii) Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: [Frances FINNEY](#)
To: [Miranda LAUMAN](#); s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Cc: s. 22(1)(a)
Subject: Re: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432
[SEC=PROTECTED,DLM=Sensitive]
Date: Thursday, 23 August 2018 3:47:47 PM

~~PROTECTED, Sensitive~~

Thanks s. 22(1)(a)(ii) and Miranda

s. 22(1)(a)(ii) yes, please send it through to s. 22(1)(a)(ii)

Regards
Frances

Sent by Email+

~~PROTECTED, Sensitive~~

From: "Miranda LAUMAN" ss. 22(1)(a)(ii)
Date: Thursday, 23 August 2018 at 3:25:22 pm
To: "s. 22(1)(a)(ii)" <s. 22(1)(a)(ii)>
"s. 22(1)(a)(ii)" <s. 22(1)(a)(ii)>
Cc: "Frances FINNEY" ss. 22(1)(a)(ii) "s. 22(1)(a)(ii)"
<s. 22(1)(a)(ii)>
Subject: FW: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii)
(SBS News) - FA 17/04/00432 [SEC=PROTECTED,DLM=Sensitive]

~~PROTECTED, Sensitive~~

Thanks Approved from me

Miranda Lauman
Assistant Secretary
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

~~PROTECTED, Sensitive~~

From: s. 22(1)(a)(ii)
Sent: Thursday, 23 August 2018 2:37 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: Miranda LAUMAN ss. 22(1)(a)(ii)
Subject: RE: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) SBS News) - FA 17/04/00432 [SEC=PROTECTED,DLM=Sensitive]

~~PROTECTED, Sensitive~~

Can!

How about this?

- On Tuesday, 28 August 2018, redacted transcripts of two applicant interviews will be released under the FOI Act to a former SBS journalist ~~s. 22(1)(a)(ii)~~. The interviews were conducted in 2012 between a departmental officer and two ~~s. 47F(1)~~ Protection visa applicants in a same sex relationship. Some of the lines of questioning used during the 2012 interviews were inappropriate and insensitive. Since 2012, the Department has significantly strengthened its guidelines, and provided additional training, on assessing LGBTI claims and conducting applicant interviews in a sensitive manner. A media handling strategy and talking points have been prepared. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

K.

~~PROTECTED, Sensitive~~

From: ~~s. 22(1)(a)(ii)~~
Sent: 23 August, 2018 2:18 PM
To: ~~s. 22(1)(a)(ii)~~ <~~s. 22(1)(a)(ii)~~>
Cc: Miranda LAUMAN ~~ss. 22(1)(a)(ii)~~
Subject: FW: FOI Alert - External Review - Pending Revised FOI Decision - ~~s. 22(1)(a)(ii)~~ (SBS News)
 - FA 17/04/00432 [~~SEC=PROTECTED, DLM=Sensitive~~]

~~PROTECTED, Sensitive~~

Hey ~~s. 22(1)(a)(ii)~~

Can you do a para on this one as per Frances's email?

~~s. 22(1)(a)(ii)~~
 Executive Officer to Frances Finney
 A/g First Assistant Secretary I Refugee, Citizenship and Multicultural Programs Division
 Department of Home Affairs
 ph: ~~s. 22(1)(a)(ii)~~ | m: ~~s. 22(1)(a)(ii)~~ e: ~~s. 22(1)(a)(ii)~~

~~PROTECTED, Sensitive~~

From: Frances FINNEY

Sent: Thursday, 23 August 2018 1:54 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> Miranda LAUMAN
ss. 22(1)(a)(ii)

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: Fwd: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [SEC=PROTECTED,DLM=Sensitive]

~~PROTECTED, Sensitive~~

Hi s. 22(1)(a)(ii) and Miranda

Would you please arrange for this to go into the Daily Issues Brief ideally tomorrow or Monday (needs to be at least a day ahead of public release of the FOI). The entry should also mention that a handling strategy has been prepared in advance with the Executive Division.

Thanks
Frances

Sent by Email+

~~PROTECTED, Sensitive~~

From: "Miranda LAUMAN" ss. 22(1)(a)(ii)

Date: Thursday, 23 August 2018 at 1:44:27 pm

To: "Frances FINNEY" ss. 22(1)(a)(ii) "s. 22(1)(a)(ii)"
<s. 22(1)(a)(ii)>

Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Miranda Lauman
Assistant Secretary
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Immigration and Citizenship Services Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Thursday, 23 August 2018 12:19 PM

To: Caroline STERNBERG ss. 22(1)(a)(ii) Media Operations
<media@homeaffairs.gov.au>

Cc: Ben WRIGHT ss. 22(1)(a)(ii) Pip DE VEAU; s. 22(1)(a)(ii)

s. 22(1)(a)(ii) Mandy NEWTON ss. 22(1)(a)(ii) s. 22(1)(a)(ii)

s. 22(1)(a)(ii) <s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Miranda LAUMAN
 ss. 22(1)(a)(ii) Kaylene ZAKHAROFF
 ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii) s. 22(1)(a)(ii) <s. 22(1)(a)(ii)
 Kylie SCHOLTEN ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Luke MANSFIELD
 ss. 22(1)(a)(ii) Tony SMITH ss. 22(1)(a)(ii)
Subject: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA
 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262

**SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON
 ACCESS – s. 22(1)(a)(ii), SBS**

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act to release two interview transcripts in part with deletions. The following exemption applies to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Consultation

In finalising this decision Luke Mansfield First Assistant Secretary, Refugee, Citizenship and Multicultural Programs was consulted and a brief was provided to the Secretary.

Background

On 11 April 2017, s. 22(1)(a)(ii) SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request.

Original Decision

On 22 May 2017 the Department issued an original access decision to refuse access on the grounds that the documents (audio recordings) were exempt in full.

External Review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department's decision.

On 13 July 2018, a delegate of the OAIC formed a preliminary view and advised the Department that if the matter was to progress to the Information Commissioner for decision it would be recommended that the Department's decision is to be set aside and that information was subject to release.

On 24 July 2018, in response to the preliminary view, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Identifying information will be redacted under 47F to protect the privacy of the two clients who are not known to the FOI applicant and have not been identified in the public arena.

Talking points

Talking Points have been constructed and are being cleared by s. 22(1)(a)(ii) Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

For-Official-Use-Only

This document may contain ‘personal identifiers’ and ‘personal information’ as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: [Frances FINNEY](#)
Subject: FW: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Thursday, 23 August 2018 1:58:00 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi Frances – for your visibility too.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 23 August, 2018 12:28 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FW: FOI Alert - External Review - Pending Revised FOI Decision - s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

Just a heads up that the two interview transcripts from 2012 will be released on 28 August.

The final Talking Points are still being cleared by Media Opps.

Kind Regards,

s. 22(1)(a)(ii)

Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Thursday, 23 August 2018 12:19 PM
To: Caroline STERNBERG ss. 22(1)(a)(ii) Media Operations
 <media@homeaffairs.gov.au>
Cc: Ben WRIGHT ss. 22(1)(a)(ii) Pip DE VEAU; k s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Mandy NEWTON <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Miranda LAUMAN
 ss. 22(1)(a)(ii) Kaylene ZAKHAROFF
 ss. 22(1)(a)(ii) s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
 Kylie SCHOLTEN <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) s. 22(1)(a)(ii)
 s. 22(1)(a)(ii) Luke MANSFIELD
 ss. 22(1)(a)(ii) Tony SMITH ss. 22(1)(a)(ii)
Subject: FOI Alert - External Review - Pending Revised FOI Decision s. 22(1)(a)(ii) (SBS News) - FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Our References: FA 17/04/00432; ADF2017/39262

SUBJECT: FREEDOM OF INFORMATION (FOI) REQUEST – DECISION ON ACCESS – s. 22(1)(a)(ii), SBS

Good afternoon

The purpose of this email is to inform you that a revised decision under the *Freedom of Information Act 1982* (FOI Act) on access to documents relating to the *interview transcripts of two protection visa applicants conducted in 2012 regarding a same sex relationship* will be dispatched to the applicant on **Tuesday 28 August 2018**.

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Consultation

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Background

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Talking Points have been constructed and are being cleared by s. 22(1)(a)(ii) Acting Assistant Secretary, Media and Communication.

Publication of the documents authorised for release

In accordance with the requirements of section 11C of the FOI Act, the Department is

required to publish details of information released under the FOI Act within ten working days of receipt of the documents by the applicant. The Department's FOI Disclosure Log is updated every Friday. It is anticipated that the released documents will be publicly available on Friday, 7 September 2018.

If you have any questions in relation to the FOI processes please do not hesitate to contact me.

Kind Regards

s. 22(1)(a)(ii)

Director FOI

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii) | s. 22(1)(a)(ii)

Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: [Miranda LAUMAN](#)
Cc: s. 22(1)(a) s. 22(1)(a)(ii)
Subject: For final clearance please - FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]
Date: Thursday, 16 August 2018 1:27:00 PM
Attachments: s. 22(1)(a)(ii)

Importance:

For-Official-Use-Only

Hi Miranda

Media Operations made some amendments to the TPs and media handling strategy – mostly to how the information was presented, not the content itself. Proposed finals for your clearance (today if possible please).

For-Official-Use-Only

Media brought to our attention that in addition to the documents already released under an old FOI (old LGBTI guidelines and training package), three other documents mentioned in the TPs may be FOI'd. They have asked us to consider sensitivities around releasing those. We have no concerns with a possible release of documents 2 and 3, but please confirm you are comfortable with the possibility that the QA review could be requested for release if included in the TPs.

1. January 2018 QA review -- PV interviews Sexual orientation and gender identity claims (attached).
2. Updated standalone Procedural Instructions – Gender and Sexual Orientation PI. These are available on LEGEND and we have no concerns with releasing them.
3. Material provided during Policy Conversation to discuss the new Gender and Sexual Orientation Guidelines (attached). These only include five slides and we have no concerns about releasing these.

The release date for this material is currently set at 23 August, which means (subject to your clearance of the attached) the “FOI pending decision alert” will go to the executive cohort (including the Minister’s Office) tomorrow, so they have three full days notice before release. Let me know if you would like us to prepare any additional briefing for the MO.

Happy to discuss.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: Media Operations
Sent: 15 August, 2018 1:28 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: Media Operations <media@homeaffairs.gov.au>
Subject: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks so much for the chat on the phone yesterday. I have rearranged and slightly altered the talking points and updated the media handling strategy – please see attached.

I've included a couple of comments regarding the status of more recent reviews/reports on this issue and whether they are publicly available. Grateful for your advice on those. It would also be good to get a brief outline of the PV applicants' immigration history and RRT outcome for background only.

Thanks again. If I can request updated content by COB tomorrow that'd be great – happy to discuss though.

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

24-hour media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: FOI
Sent: Friday, 10 August 2018 6:15 PM

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

To: Media Operations <media@homeaffairs.gov.au>

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
<s. 22(1)(a)(ii)>

Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good evening

I refer to FOI request FA17/04/00432 received from s. 22(1)(a)(ii) of the SBS.

Request

On 11 April 2017, s. 22(1)(a)(ii) SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

A link to the RRT matter relevant to the instigation of this FOI request:

http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/RRTA/2014/209.html?context=1;query=1216820;mask_path=

Documents captured by the request

There were two audio recordings, totalling 3 hours 52 minutes, captured by the FOI request. No transcripts of the interviews existed.

Original Decision

s. 22(1)(a)(ii), Director, Protection Assessment Support Section, Onshore Protection Branch, was the authorised decision-maker under the FOI Act.

s. 22(1)(a)(ii) made a decision to exempt the documents (recordings) in full, on the grounds that the material is considered to be exempt under subsections:

- s47F(1) Personal Information

OAIC review

On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017.

On 13 July 2018, the Delegate of the OAIC formed a preliminary view and advised that if the matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision is to be set aside.

On 24 July 2018, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program Capabilities Branch made a revised decision under s55G of the FOI Act, to release transcripts containing questions from two applicant interviews in part with deletions. The following exemptions apply to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Additionally, due to the sensitive nature of this release the Humanitarian Program Capabilities Branch has prepared the Media Handling Strategy and Talking Points. These have been cleared by their Assistant Secretary and are **attached** for your perusal.

Could you please liaise with s. 22(1)(a)(ii) to determine whether the attached Talking Points and the Media Handling Strategy will be sufficient to support the issuing of this decision.

It would assist with the management of this request if you are able to provide cleared Talking Points on or before **COB Friday, 17 August 2018**.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]
Date: Thursday, 16 August 2018 12:35:32 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

As discussed, I made minor amendments and included comments in the TPs and Media Handling Strategy that have been slightly amended by Media Operations. There are no major concerns with the amendments made by Media Operations.

Media Operations brought to our attention that in addition to the documents already released under an old FOI (old LGBTI guidelines and training package), three other documents mentioned in the TPs are likely to be FOled. They have asked us to consider sensitivities around releasing those. We have no concerns with a possible release of documents 2 and 3.

1. January 2018 QA review -- PV interviews Sexual orientation and gender identity claims (attached). Are there concerns about releasing these?
2. Updated standalone Procedural Instructions – Gender and Sexual Orientation PI. These are available on LEGEND and we have no concerns with releasing them.
3. Material provided during Policy Conversation to discuss the new Gender and Sexual Orientation Guidelines (attached). These only include five slides and we have no concerns about releasing these.

Kind Regards,

s. 22(1)(a)(ii)
 Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Thursday, 16 August 2018 10:28 AM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: FW: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Sorry!

For-Official-Use-Only

From: Media Operations
Sent: 15 August, 2018 1:28 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: Media Operations <media@homeaffairs.gov.au>
Subject: For input/clearance: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Thanks so much for the chat on the phone yesterday. I have rearranged and slightly altered the talking points and updated the media handling strategy – please see attached.

I've included a couple of comments regarding the status of more recent reviews/reports on this issue and whether they are publicly available. Grateful for your advice on those. It would also be good to get a brief outline of the PV applicants' immigration history and RRT outcome for background only.

Thanks again. If I can request updated content by COB tomorrow that'd be great – happy to discuss though.

s. 22(1)(a)(ii)

Media Operations

Department of Home Affairs

24-hour media line: 02 6264 2244 | M: s. 22(1)(a)(ii)

E: media@homeaffairs.gov.au

For-Official-Use-Only

From: FOI
Sent: Friday, 10 August 2018 6:15 PM
To: Media Operations <media@homeaffairs.gov.au>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FOI Request FA17/04/00432 - s. 22(1)(a)(ii) (SBS) - response due 17/08/2018 [DLM=For-Official-Use-Only]

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

For-Official-Use-Only

Good evening

I refer to FOI request FA17/04/00432 received from s. 22(1)(a)(ii) of the SBS.

Request

On 11 April 2017, s. 22(1)(a)(ii), SBS, requested access under the FOI Act to the following documents:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820, 1216828 [2014] RRTA 209 (12 March 2014).

I do not require any personal, identifying information relating to the two asylum seekers, and will accept a transcript in place of an AV recording, if one exists.

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Documents captured by the request

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Original Decision

s. 22(1)(a)(ii), Director, Protection Assessment Support Section, Onshore Protection Branch, was the authorised decision-maker under the FOI Act.

s. 22(1)(a)(ii) made a decision to exempt the documents (recordings) in full, on the grounds that the material is considered to be exempt under subsections:

- s47F(1) Personal Information

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On 5 June 2017, the FOI applicant requested that the Information Commissioner review the Department of Immigration and Border Protection's (the Department) decision made on 22 May 2017.

On 13 July 2018, the Delegate of the OAIC formed a preliminary view and advised that if the matter was to progress to the Information Commissioner for decision, the Delegate would be recommending that the Department's decision is to be set aside.

On 24 July 2018, the Department advised the OAIC that it will be revising its decision and providing the FOI applicant with the transcript of questions. Minimal information will be redacted under 47F in order to protect the privacy of the two departmental clients who are not known to the FOI applicant and have not been identified in the public arena.

Revised decision and documents relevant to the request:

On 10 August 2018 s. 22(1)(a)(ii) Acting Assistant Secretary, Humanitarian Program

Capabilities Branch made a revised decision under s55G of the FOI Act, to release transcripts containing questions from two applicant interviews in part with deletions. The following exemptions apply to information contained within the documents:

- s47F Personal Information

A copy of the documents, proposed for release is **attached** for your reference.

Additionally, due to the sensitive nature of this release the Humanitarian Program Capabilities Branch has prepared the Media Handling Strategy and Talking Points. These have been cleared by their Assistant Secretary and are **attached** for your perusal.

Could you please liaise with s. 22(1)(a)(ii) to determine whether the attached Talking Points and the Media Handling Strategy will be sufficient to support the issuing of this decision.

It would assist with the management of this request if you are able to provide cleared Talking Points on or before **COB Friday, 17 August 2018**.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
Freedom of Information (FOI) Section | FOI and Records Management Branch
Productivity and Compliance Division | Corporate and Enabling Group
Department of Home Affairs
Telephone: s. 22(1)(a)(ii)
Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)
Subject: FW: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Friday, 10 August 2018 1:39:00 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Just for your visibility.

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 10 August, 2018 1:38 PM
To: FOI Reviews mailbox <foi.reviews@homeaffairs.gov.au>; s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii) s. 22(1)(a)(ii)>
 <s. 22(1)(a)(ii)>
Subject: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please find attached the signed decision.

I corrected one typo on page two of the transcript for Applicant A. We would also like to redact the word **s. 47F(1)** in both transcripts (Applicant A and Applicant B) in a few additional places (marked up in red font).

I am also attaching Media Handling Strategy and Talking Points that have been cleared by our AS.

In your email below you suggested that we set up a teleconference to discuss the next steps. Let me know if you still want to proceed with the teleconference. We are particularly interested in finding out the following points:

- When do you intend to release the documents?
- What briefing will be provided to the executive and when?
- How do we liaise with Media Operations (is this something you organise)?

Thanks

s. 22(1)(a)

s. 22(1)(a)(ii)

Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox

Sent: Monday, 30 July 2018 2:21 PM

To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>

Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision.

Once you have had the opportunity to make additions, we can set up a quick teleconference to discuss next steps. Please be mindful that we may only have up until 24 August 2018 to finalise this matter and issue the documents to s. 22(1)(a)(ii) (SBS journalist). Let's aim to have the decision draft finalised by the end of this week so that we can commence our liaison with Media Operations - drafting of TPs.

Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a) [Miranda LAUMAN](#)
Cc: s. 22(1)(a)(ii)
Subject: FW: Sensitive FOI request 17/04/00432 s. 22(1) [SEC=UNCLASSIFIED]
Date: Tuesday, 7 August 2018 4:01:00 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

s. 22(1)(a)(ii)/Miranda

Attached is the sensitive FOI decision (and supplementary material) for your clearance please. I will bring the hard copy down to s. 22(1)(a)(ii) in a jiffy.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: 7 August, 2018 3:57 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: Sensitive FOI request 17/04/00432 s. 22(1)(a)(ii) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

Attached are the latest copies of documents relating to the FOI request for transcript of two interviews – FA17/04/00432.

Kind Regards,

s. 22(1)(a)(ii)
 Assistant Director | Protection Assessment Support Section

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Humanitarian Program Capabilities Branch
Refugee, Citizenship and Multicultural Programs Division
Visa and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

UNCLASSIFIED

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: FOI decision s. 22(1)(a)(ii) FA17/04/00432 [SEC=UNCLASSIFIED]
Date: Monday, 6 August 2018 4:58:40 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

We have added explanatory statements in the FOI decision in track changes. Our AS has reviewed the decision with our changes and wants it to be cleared through our FAS. Before we seek FAS clearance, would you be able to respond to the question in the comments on page 6. Is it standard text? What's its purpose and should it be a dot point rather than a separate paragraph.

Happy to discuss.

Kind Regards,

s. 22(1)(a)(ii)
Assistant Director | Protection Assessment Support Section
Humanitarian Program Capabilities Branch
Refugee, Citizenship and Multicultural Programs Division
Visa and Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

UNCLASSIFIED

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)
Cc: s. 22(1)(a)(ii)
Subject: FOI decision (and associated docs) for clearance please [SEC=UNCLASSIFIED]
Date: Friday, 3 August 2018 12:20:00 PM
Attachments: s. 22(1)(a)(ii)

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

Further to below, we now have the draft FOI decision ready for clearance. I have also submitted this package to you in hard copy as I wasn't sure your preference. We have kept track changes on at this stage but can quickly accept the changes once we have your feedback or clearance.

Given the sensitivity and previous engagement on this matter, we may also wish to seek FAS clearance of this package of material:

- the proposed FOI decision
- redacted interview transcripts (x2)
- talking points
- media handling strategy

Once these are OK'd by us as the business area, FOI will clear through the media team, including our draft TPs and media handling strategy.

Once the final products have been agreed, FOI will alert the Executive and all the EOs by sending both the decision and TPs. The Executive will have three days to comment. That would also be our window to separately brief the Minister's Office (we should check Miranda's preference on this – happy to prepare an email or brief, but she may want to do it verbally). Grateful your clearance/comments. Happy to discuss.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs
 Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: 27 July, 2018 1:07 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Subject: fyi - FOI matter - media handling strategy and TPs [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s. 22(1)(a)(ii)

As discussed at our 1:1, below is the timeline for the sensitive FOI request PASS is currently managing. Also attached is the email exchange with HPOB where they provided comments on the draft media handling strategy and TPs (Frances comments have been reflected in the attached versions.)

Once we have the draft FOI decision (and redactions) from the FOI area, we will need to pull all this together and seek clearance of the whole package through FOI, you, Frances, Miranda and the media team. We will also work through whether separate briefing for the Minister's Office is required.

Happy to discuss, and we'd welcome any comments you might have on the early draft of the handling strategy or TPs.

Will keep you posted.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

UNCLASSIFIED

From: s. 22(1)(a)(ii)
Sent: 25 July, 2018 4:07 PM
To: Miranda LAUMAN s. 22(1)(a)(ii)

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>

Subject: An update on FOI timings as we discussed this morning [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi M – a quick update on the FOI time frames:

- FOI area will send us the revised decision and redacted transcripts (possibly tomorrow now). We will need to review those documents and the additional explanatory statements. We and FOI will need to agree on the final versions.
- FOI will contact the Office of the Information Commissioner on 27 July to tell them that the Department has revised the decision not to release the information and that the information will be prepared for release within 30 days (from 27 July)
- FOI will send the decision and redacted transcripts to Media to ask whether they would like the business area to prepare TPs. Media are likely to say yes. We have TPs drafted already.
- FOI will alert the Executive and all the EOs by sending both the decision and TPs. The Executive are given three days to comment.
- The information will be released.

We will meet with the FOI team to discuss all the steps once we receive the draft decision. At that time, I will confirm exactly what the Minister's Office will get from the usual FOI process, so you can decide whether you'd like to brief s. 22(1)(a)(ii) separately.

S - I can catch you up on this FOI request at our 1:1 on Friday.

K.

UNCLASSIFIED

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: RE: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Tuesday, 31 July 2018 11:05:14 AM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I included additional points into the FOI decision (attached).

I have also scanned the two transcripts and highlighted in red font the word s. 47F(1) as we also wanted to redact those words.

I haven't gone through the transcripts forensically to check if everything has been redacted as per our suggestions but didn't notice any issues either.

Let me know what you think.

Kind Regards,

s. 22(1)(a)(ii)

Assistant Director | Protection Assessment Support Section
 Humanitarian Program Capabilities Branch
 Refugee, Citizenship and Multicultural Programs Division
 Visa and Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI Reviews mailbox
Sent: Monday, 30 July 2018 2:21 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)
 <s. 22(1)(a)(ii)>
Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision.

Once you have had the opportunity to make additions, we can set up a quick teleconference to discuss next steps. Please be mindful that we may only have up until 24 August 2018 to finalise this matter and issue the documents to s. 22(1)(a)(ii) (SBS journalist). Let's aim to have the decision draft finalised by the end of this week so that we can commence our liaison with Media Operations - drafting of TPs.

Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: [FOI Reviews mailbox](#)
To: s. 22(1)(a)(ii) s. 22(1)(a)(ii)
Subject: FA 17/04/00432 - MR17/00265 - Draft decision and marked up documents [DLM=For-Official-Use-Only]
Date: Monday, 30 July 2018 2:20:43 PM
Attachments: s. 22(1)(a)(ii)

For-Official-Use-Only

Good afternoon s. 22(1)(a)(ii) and s. 22(1)(a)(ii)

Please find attached a draft decision and associated documents with marked up redactions. Please peruse these and add the additional communication you wanted included. Additionally, you are most welcome to add comments or alterations that you may consider necessary and advise who will be the authorised FOI decision maker (EL2 and above) signing this decision.

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Please do not hesitate to contact me if you have any questions or need further assistance.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Cc: s. 22(1)
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]
Date: Monday, 14 May 2018 11:31:17 AM

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

The TRIM reference folder is ADF2017/39262 and the response document reference is ADD2018/1794883.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: s. 22(1)(a)(ii)

Email: FOI.reviews@homeaffairs.gov.au

From: s. 22(1)(a)(ii)
Sent: Friday, 11 May 2018 12:01 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a) <s. 22(1)(a)(ii)>
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Could we please get a copy for our records of the TRIM reference for where this response to the OAIC was saved?

Many thanks

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section

Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural

Programs Division

Visa & Citizenship Services Group

Department of Home Affairs

P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)

E: s. 22(1)(a)(ii)

For-Official-Use-Only

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 9 May, 2018 2:43 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: Miranda LAUMAN ss. 22(1)(a)(ii) s. 22(1)(a)
 <s. 22(1)(a)(ii)>
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

Please see the final submission in black below. I plan to send it out by 3:30 pm this afternoon. Let me know if you have any further suggestions or comments before that time. I also want to point out that this is an open submission and will be shared with the FOI applicant.

Dear s. 22(1)(a)(ii)

Thank you for the opportunity to provide your office with a further submission addressing the points raised by the applicant.

In addition to the Department's previous submission, the Department's view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims. Based on the above, the Department maintains that the interview questions are exempt from disclosure under s47E(d) of the FOI Act.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if

the answers were redacted, the personalised lines of questioning will provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individual. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legally enforceable right under the FOI Act to access documents that contain their own personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

It is worth noting that the Department's decision which is being referenced was remitted by the RRT in 2014, with the primary interview taken place prior to this date. Since then the Department's guidance on assessing claims related to sexual orientation and gender identity has much improved, this information has previously been shared with the FOI applicant.

If you require any further information or wish to discuss this matter, please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Thanks

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch

Productivity and Compliance Division | Corporate and Enabling Group

Department of Home Affairs

Telephone: **s. 22(1)(a)(ii)**

Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: **s. 22(1)(a)(ii)**

Sent: Wednesday, 9 May 2018 12:52 PM

To: **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**>

Cc: Miranda LAUMAN **ss. 22(1)(a)(ii)** **s. 22(1)(a)**

<**s. 22(1)(a)(ii)**>

Subject: RE: New FOI Request – Seeking documents – **s. 22(1)(a)(ii)** (SBS) – FA 17/04/00432

[DLM=For-Official-Use-Only]

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Hi ^{s. 22(1)(a)(ii)} – we've added some suggested text in red below, for your consideration. Grateful if you could please send us a copy of the final submission that goes to the OAIC. Happy to discuss.

S. ^{s. 22(1)(a)(ii)} – fyi, this approach has been endorsed by the Divisional Executive (verbally confirmed by Miranda this morning). Please save to file.

^{s. 22(1)(a)(ii)}

^{s. 22(1)(a)(ii)}

Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
 Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: ^{s. 22(1)(a)(ii)} | M: ^{s. 22(1)(a)(ii)}
 E: ^{s. 22(1)(a)(ii)}

For-Official-Use-Only

From: ^{s. 22(1)(a)(ii)}

Sent: 7 May, 2018 2:08 PM

To: ^{s. 22(1)(a)(ii)} <^{s. 22(1)(a)(ii)}>

Subject: RE: New FOI Request – Seeking documents – ^{s. 22(1)(a)(ii)} (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi ^{s. 22(1)(a)(ii)}

The FOI coordination team has already addressed the technical component of s47F and s47E(d) in its previous submission. We are now relying on your area's technical expertise to provide further arguments that would substantiate the harm if the questions are released.

The submission would be along the lines of:

Dear ^{s. 22(1)(a)(ii)}

Thank you for giving us the opportunity to provide further submissions.

The Department view continues to be that disclosure of the interview questions, whether they were routine or not, may provide future non-genuine applicants opportunities to exploit the

Protection visa (PV) program. In cases such as these, the assessment of LGBTI claims will frequently centre on credibility because of the personal nature of the claims and the likely absence of objective evidence to support them. If the material was made publically available, any individual would be able to prepare and practice answers to these questions, severely reducing officers' ability to assess an applicant's genuineness. Any prejudice to the effectiveness of the methods and procedures used in undertaking PV assessments would result in a substantial adverse effect on the operations of the Department. The harm that would, or could reasonably be expected to arise from the disclosure of this information would extend beyond this Department and the Australian government to other governments and international organisations that assess asylum claims.

Furthermore, the Department considers that disclosure of the interview questions themselves would involve the 'unreasonable disclosure of personal information' under s47F(1) as the subject material is of a highly personal nature and not available from publicly accessible sources. Even if the answers were redacted, the personalised lines of questioning ~~may~~ provide an indication of what answers were provided (and on occasion, the questions repeat the answers provided). This information will reveal ~~TPV~~ the client's personal information and, without their consent, will result in a breach of personal privacy. While the information in the lines of questioning may not enable a general member of the public to identify the individual visa applicant, the information is sufficient to enable a person to be identified by those familiar with the circumstances of the particular individuals. The disclosure of this information could therefore reasonably be expected to prejudice the protection of those individuals' right to privacy.

The Department further considers that the TPV applicant has a legal right under the FOI Act to access documents that contain their personal information should they wish to pursue legal representation. The Department can confirm that the protection visa applicant in this matter was represented by a migration agent throughout the full protection visa interview, and was also provided with a recording of the interview.

The Department has already addressed the Public Interest test, therefore we are not required to go over it again in our additional response.

In answer to your question: Can I get a bit more information about the powers of the OAIC? Could the OAIC compel the department to release the requested documents (and if so, do you get a sense that is where we're heading)?

The regular practice of the OAIC is to make a preliminary assessment of the matter at hand. If the IC delegate's view is that the Department has not discharged its onus correctly, the OAIC will ask the Department to reconsider revising its decision. The Department may then consider revising the decision and release some of the material or advise the OAIC that the decision will not be revised. The IC will then progress to a decision and may direct the Department to release some parts or full the document. The Department will have 28 days from the date of the IC's decision to seek merit review with the AAT or release the documents to the FOI applicant.

If you would like to discuss this further please do not hesitate to contact me.

Regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: s. 22(1)(a)(ii)
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: Monday, 7 May 2018 12:00 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a) <s. 22(1)(a)(ii)>
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

I'm trying to get some time with my AS today to discuss this as I'm conscious that we only have until COB Wed to get back to the OAIC. Has your area started drafting the reply to the OAIC? If so, could I have a copy please, as that may help to guide our input.

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)
 Director, Protection Assessment Support Section
 Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural
 Programs Division
 Visa & Citizenship Services Group
 Department of Home Affairs
 P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
 E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 2 May, 2018 3:43 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a) <s. 22(1)(a)(ii)>
Subject: RE: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Thanks s. 22(1)(a)(ii) A small win!

We're reviewing the file and the interview recording today, and we will try to have something together for our AS to clear when she is back on Monday. As discussed on the phone, if you can share with us the first draft of your proposed response to the OAIC, we can add our bits in. It would help us to craft our arguments etc if we can see what kind of letter/response is being provided rather than starting from a blank page.

Many thanks,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

Director, Protection Assessment Support Section
Humanitarian Program Capabilities Branch | Refugee, Citizenship and Multicultural Programs Division
Visa & Citizenship Services Group
Department of Home Affairs
P: s. 22(1)(a)(ii) | M: s. 22(1)(a)(ii)
E: s. 22(1)(a)(ii)

For-Official-Use-Only

From: s. 22(1)(a)(ii)
Sent: 2 May, 2018 2:12 PM
To: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)>
Cc: s. 22(1)(a) <s. 22(1)(a)(ii)>
Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s. 22(1)(a)(ii)

As previously advised the OAIC have only agreed to additional 7 days. The Department's response is now due by COB 9 May 2018.

Could I therefore please have your response back to me by COB Tuesday 8 May 2018.

If you have any further questions or require assistance please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director

Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: **s. 22(1)(a)(ii)**
 Email: FOI.reviews@homeaffairs.gov.au

For-Official-Use-Only

From: FOI
Sent: Wednesday, May 2, 2018 9:45 AM
To: **s. 22(1)(a)(ii)** <**s. 22(1)(a)(ii)**>
Cc: **s. 22(1)(a)** <**s. 22(1)(a)(ii)**>
Subject: FW: New FOI Request – Seeking documents – **s. 22(1)(a)(ii)** (SBS) – FA 17/04/00432
 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi **s. 22(1)(a)(ii)**

As discussed, please find below the relevant TRIM references for the PV interview recordings. The dedicated TRIM folder for this FOI request is ADF2017/39262, it contains all the associated correspondence and initial decision record.

Additionally, I am including the extract of the Department's submission that was provided to the OAIC and on forwarded to the FOI applicant for his response. The applicant's last correspondence was in contention of the Department's below submission.

I will contact the OAIC today in an effort to obtain an extension of time agreement and will advise you of the outcome as soon as the OAIC responds.

In the meantime if you require anything else please do not hesitate to contact me.

Kind regards

s. 22(1)(a)(ii)

Acting Assistant Director
 Freedom of Information (FOI) Section | FOI, Privacy and Records Management Branch
 Productivity and Compliance Division | Corporate and Enabling Group
 Department of Home Affairs
 Telephone: **s. 22(1)(a)(ii)**
 Email: FOI.reviews@homeaffairs.gov.au

Dear **s. 22(1)(a)(ii)**

I refer to previous correspondence in relation to your request for Information Commissioner

review of decision by the Department of Home Affairs (previously Department of Immigration and Border Protection) under the *Freedom of Information Act 1982* (FOI Act).

In addition to s 47F, the department seeks to rely on s 47E(d) exemption (certain operations of an agency) in this IC review. Please find below the departments submissions. I look forward to receiving your response by close of business 21 February 2018:

DEPARTMENT'S SUBMISSIONS ON S 47E(d)

As already agreed, we consider that the personal details of the entry interview applicant(s) and their answers and their communication on the audio interviews should be redacted under personal privacy (s47F), given the FOI applicant does not have the authority to access the applicant(s)' identifying or personal information.

With regards to the interview questions posed by the visa processing officer(s), we have gone through all the consultation correspondence in relation to the original FOI request to determine the relevant business area's views on the matter. The relevant business area requested that the interview questions be redacted, given the release of the questions to the public would allow malicious applicants to circumvent the protection visa assessment processes by changing their stories and claims to gain an unfair advantage of the program. Having listened to the audio we agree that releasing the interview questions will adversely affect the proper and efficient operations of the Department, specifically the onshore protection program. The disclosure of the information may also require the Department to change the assessment methods and procedures of the program, unnecessarily diverting the Department's resources to establish interview questions and processing procedures to assess a delicate cohort of visa applicants, affecting the ability of the Department to effectively carry out one of its primary roles. As such, we ask that the OAIC consider our submission to utilize s47E(d) in exempting the interview questions from being released to the FOI applicant.

We note that we have also considered the applicant's submissions (first and second) in asking for the release of information that he considers to be of public importance/interest. We acknowledge his arguments and agree that the public may have genuine public interest on this topic. We further consider that the release of this information may promote the objectives of the FOI Act. However, the release of the interview questions do not provide oversight of public expenditure, nor does it allow the FOI applicant to access his or her own personal information. We further note that while this may be a topic of public importance, the public places high expectations on the Department to rigorously assess those who claim protection in Australia and to protect the Australian community from those individuals who may pose harm to our society. The Department will lose its ability to meet public expectation, if the information is disclosed. On balance, we place more weight on the damage the disclosure would cause to the protection visa program and the expectations placed on the Department to run the program with the highest of integrity, over the benefits of disclosing the interview questions.

For-Official-Use-Only

From: s. 22(1)(a)(ii)

Sent: Friday, May 5, 2017 9:21 AM

To: FOI <foi@border.gov.au>

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

Cc: s. 22(1)(a)(ii) <s. 22(1)(a)(ii)> s. 22(1)(a)(ii)

<s. 22(1)(a)(ii)>

Subject: FW: New FOI Request – Seeking documents – s. 22(1)(a)(ii) – FA 17/04/00432
[DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi.

As discussed with s. 22(1)(a)(ii) this morning, the relevant TRIM references for the requested Protection visa interview recordings are: CLD2012/4299607 and CLD2012/4298847.

Please advise if you require further assistance.

Kind regards,

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

A/g Assistant Director
Protection Processing Administration
Refugee and Humanitarian Programme Branch
Refugee and Humanitarian Visa Management Division
Department of Immigration and Border Protection
Telephone: s. 22(1)(a)(ii)
Email: s. 22(1)(a)(ii)

For-Official-Use-Only

From: FOI

Sent: Thursday, 13 April 2017 3:34 PM

To: s. 22(1)(a)(ii)

Subject: New FOI Request – Seeking documents – s. 22(1)(a)(ii) (SBS) – FA 17/04/00432
[DLM=For-Official-Use-Only]

Our references: SCR; FA17/04/00432; ADF2017/39262

Good afternoon s. 22(1)(a)(ii)

For Action by Friday 21 April 2017

On 11/04/2017, the Department received an FOI request from s. 22(1)(a)(ii) of SBS, seeking access to:

Recordings of the asylum seeker assessment interview performed in relation to a dual protection visa applicants later subject to the RRTA appeal case 1216820,

1216828 [2014] RRTA 209 (12 March 2014).

Do not require any personal, identifying information relating to the two asylum seekers.

Will accept a transcript in place of an AV recording, if one exists.

The **Refugee and Humanitarian Visa Management Division** has been identified as holding documents that fall within the scope of this request. Could you please assign this request to the relevant business area for action.

If you consider that other business areas within the Department also hold documents that would be relevant to this request, could you please advise us as soon as possible.

Action required:

Documents identified:

- Please forward any documents that fall within the scope of this request to foi@border.gov.au by **COB Friday 21 April 2017**.
- If there are any problems with meeting this deadline please advise me **as soon as possible**.
- Documents will be reviewed by the FOI Section and possible exemptions considered in consultation with the nominated decision maker. Please note that no information will be released to the FOI applicant without further consultation with you.
- When providing documents to FOI please advise us of any high level concerns; sensitivities; or any harm that would be caused, should the documents/specific information be released. This information will be taken into consideration during the processing of the request.

No documents identified:

- If your area does not have any documents within the scope of this request, please let us know **as soon as possible**.

Assistance

Please find attached a checklist designed to assist your area in identifying documents and how to respond to the FOI Section. The advice provided in this checklist will assist in the processing of this FOI request.

The FOI Section is available to provide advice and assistance throughout this matter. If you have questions or require more information please do not hesitate to contact me on the details below.

Thank you for your assistance with processing this request.

With kind regards

s. 22(1)(a)(ii)

FOI Officer | Freedom of Information Section

Freedom of Information, Privacy and Records Management Branch | Corporate Support Division

Department of Immigration and Border Protection

E| foi@border.gov.au

Please consider the environment before printing this email