



9 April 2019

[Redacted]

In reply please quote:

FOI Request: FA 19/03/00903

File Number: ADF2019/121493

Dear [Redacted]

Freedom of Information (FOI) request - Access Decision

On 13 March 2019, the Department of Home Affairs (the Department) received a request for access to document under the *Freedom of Information Act 1982* (the FOI Act).

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

1 Scope of request

You have requested access to the following document:

A copy of all documents held by the Department regarding the issue of Australian citizenship being wrongly issued to people born in Papua New Guinea, as recently reported by the Guardian and other media (see:

<https://www.theguardian.com/australia-news/2019/mar/03/theyre-putting-us-through-hell-png-born-australians-furious-at-citizenship-bungle>), including:

- 1) any briefings, reports or other documents outlining the scale of the issue and how many people may be affected and/or have been informed they are no longer regarded as Australian citizens*
- 2) any action the Government is taking to rectify the situation and*
- 3) this request does not include personal correspondence between the Department and specific individuals who may have been affected.*

2 Authority to make decision

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

3 Relevant material

In reaching my decision I referred to the following:

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

4 Document in scope of request

The Department has identified one document as falling within the scope of your request. This document was in the possession of the Department on 13 March 2019 when your request was received.

5 Decision

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

- In relation to part of your FOI request seeking access to '*briefings, reports or other documents outlining the scale of the issue*', I have decided to release one document in full.
- In relation to other parts of your FOI request seeking access to '*number of people who may be affected or informed*' and '*actions the Government is taking to rectify the situation*' I have decided to refuse access to the documents on the basis that the documents do not exist.

Reasons for my decision are set out below:

6 Reasons for Decision

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

In relation to the part of your request seeking access to '*actions the Government is taking to rectify the situation*', the Department has undertaken reasonable searches and no documents have been identified that satisfy this part of your request.

Having regard to your request and the types of document that may fall within the scope of your request I am satisfied that the searches conducted were extremely thorough and all reasonable steps have been taken to locate any document relevant to this part of your request.

Thus I am satisfied that no documents were in the possession of the Department on 13 March 2019 when your FOI request was received. As such I am refusing access to the documents requested by you based on the application of section 24A of the FOI Act.

In relation to the part of your request seeking access to '*the number of people who may be affected or informed*', there is no existing discrete document that contains the information you are seeking. The Department does not have statistics or regular reporting on the number of PNG nationals who have been affected and/or informed that they are no longer

Australian citizens. In order to identify the number of such affected nationals, a manual examination of all the files for the past 40 years (to the date of the PNG constitution) would be required.

The Department has considered whether we can create a document in accordance with the section 17 of the FOI Act. The obligation to produce a written document under this section arises if:

- the agency could produce a written document containing the information using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information, and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (s17(2))

Since the information sought is not readily available using computers, producing a written document containing the information you are requesting would substantially and unreasonably divert the agency's resources from its operations. Thus I am satisfied that the Department is not obliged to create a document to meet your request. I am therefore refusing access under s24A of the FOI Act on the ground that the document does not exist.

7 Legislation

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

8 Your Review Rights

Internal Review

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

Applications for review should be sent to:

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

OR

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

Review by the Office of the Australian Information Commissioner

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

9 Making a Complaint

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

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

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

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

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.



**Authorised Decision Maker
Department of Home Affairs**