



2 August 2024

Oliver Smith

BY EMAIL: foi+request-11495-77911f26@righttoknow.org.au

In reply please quote:

FOI Request: FA 24/06/00338

File Number: FA24/06/00338

Dear Oliver Smith

Freedom of Information (FOI) request – Access Decision

On 5 June 2024, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

1 Scope of request

You have requested access to the following documents:

Under the FOI Act, I seek a copy of "The Revised Citizenship Procedural Instructions" that is provided to members of the AAT to assist them adjudicating in matters. I seek the the first version of this document that was produced after Ministerial Direction 99 came into effect on 23 January 2023 and that advises AAT members how to interpret Ministerial Direction 99.

On 17 June 2024 you agreed to revise the scope of your request to the following documents:

Under the FOI Act, I seek any document produced by the Department of Home Affairs and provided to AAT members and staff after 1 January 2023 that provides advice about how to interpret or use Ministerial Direction 99.

2 Authority to make decision

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

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- consultation responses from third parties consulted in accordance with the FOI Act

4 Documents in scope of request

The Department has undertaken reasonable searches for document within the scope of your request. In summary, the searches undertaken by the relevant business areas in relation to your request included consultation with the business area with responsibility for the subject of your request.

The Department does not hold an existing discrete document that contains the data you are seeking.

Having regard to your request and the types of documents 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 your request.

5 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.

I am satisfied that the Department has undertaken reasonable searches in relation to your request and that no documents were in the possession of the Department on 5 June 2024 when your FOI request was received. As such, I am refusing your request based on the application of section 24A of the FOI Act.

6 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.

7 Your review rights

If you disagree with this decision, you have the right to apply for either an internal review or an Information Commissioner review of the decision.

Internal review

If you want the Department to review this decision, you must make your internal review request within 30 days of being notified of this decision.

When making your internal review request, please provide the Department with the reasons why you consider this decision should be changed.

You can send your internal review request to:

Or **Email:** foi.reviews@homeaffairs.gov.au

Postal mail:
Freedom of Information
Department of Home Affairs
GPO Box 241 MELBOURNE VIC 3001

The internal review will be carried out by an officer who is more senior than the original decision maker. The Department must make its decision on the review within 30 days of receiving your request for internal review.

Information Commissioner review

If you want the Australian Information Commissioner to review this decision, you must make your request to the Office of the Australian Information Commissioner (OAIC) within 60 days of being notified of this decision.

You can apply for an Information Commissioner review using the [Information Commissioner review application form on the OAIC website](#).

You can find more information about Information Commissioner reviews [on the OAIC website](#).

8 Making a complaint

You may make a complaint to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the FOI Act. This is a separate process to the process of requesting a review of the decision as indicated above.

You can make an FOI complaint to the Office of the Australian Information Commissioner (OAIC) at: [FOI Complaint Form on the OAIC website](#).

9 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.

Yours sincerely,

Peter
Position number 00003356
Authorised Decision Maker
Department of Home Affairs