

'AF' and Department of Immigration and Citizenship [2013] AICmr 54 (26 April 2013) – Australian Information Commissioner

'Freedom of information' – 'Material obtained in confidence' – 'Request for access to documents' – 'Visa application'

Proceedings: Review of refusal access decision under *Freedom of Information Act 1982* (Cth).

Facts: The applicant's relationship with his former partner ended and she applied for a Subclass 100 visa on domestic violence grounds. The applicant applied to the Department for access to all material in any form relating to his former partner. The Department applied the material obtained in confidence exemption (s 45) and the personal privacy exemption (s 47F) to statutory declarations made by the applicant's former partner and a competent person in relation to a visa application made by the applicant's partner under the family violence provisions of the Migration Regulations.

Issues: Whether the documents were, inter-alia, exempt under s 45 (material obtained in confidence).

Decision and reasoning: Access refused. In particular, the Commission was satisfied that the statutory declarations were communicated and received on the basis of a mutual understanding of confidence between the applicant's former partner and the Department and the competent person. Disclosure "would result in detriment to the authors of the statutory declarations as it would reveal private matters relating to the allegations of family violence. The disclosure of this information may cause a level of embarrassment and discomfort to the authors of the statutory declarations". The Commissioner was satisfied that unauthorised disclosure of the information contained in the documents would cause detriment to the applicant's former partner and the competent person.