

[Reference]

11 December 2023

Mr Jay Burstin

By email only: [foi+request-10919-74d981dc@righttoknow.org.au](mailto:foi+request-10919-74d981dc@righttoknow.org.au)

Dear Mr Burstin

### **Freedom of Information Request**

I refer to your email of 27 November 2023 seeking access to documents under the *Freedom of Information Act 1982* (“**FOI Act**”) from the Victorian Curriculum and Assessment Authority (“**VCAA**”) in the following terms:

*“I would like to request the full Deloitte review into the VCAA exam development process.*

*I would like to request that the FOI fees be waived, on the basis that the document is obviously in the public interest. If this is not possible, please treat my request as an informal or administrative request”. (“**Request**”).*

To the extent your email constitutes an informal request for access outside the FOI Act, the VCAA respectfully declines to provide the document you seek.

### **Validity of request**

The FOI Act creates a right of access to documents of an agency, such as the VCAA. Section 13 of the FOI Act states that the right of access is to be exercised “in accordance with this Act”. Section 17 of the FOI Act sets out the requirements to be satisfied before a valid request for access to documents exists.

### ***Application fee***

One requirement is for a request for access to be accompanied by an application fee of 2 fee units (s 17(2A), FOI Act), presently \$31.80. That application fee may be waived or reduced if payment of the fee would cause hardship to an applicant (s 17(2B), FOI Act).

The term “hardship” is not defined in the FOI Act. Accordingly, it has its ordinary meaning - severe suffering or privation, particularly from the comforts or necessities of life; severe oppression or need. In the context of the FOI Act, the term “hardship” is generally considered to mean financial hardship.

I note that in your Request you stated:

*"I would like to request that the FOI fees be waived, on the basis that the document is obviously in the public interest. If this is not possible, please treat my request as an informal or administrative request".*

Public interest is not a recognised legal reason for the waiver of any application fee under the FOI Act.

If you wish to submit that payment would cause hardship, and so that the VCAA may properly consider such an application, please provide within 21 days any evidence sought to be relied upon in support of such a hardship application. Upon receipt of that evidence, a decision will be made in relation to whether to accept any application for fee waiver.

For more information about waiver or reduction of the application fee, see the Information Commissioner's website here: <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/practice-notes/receiving-an-access-request-valid-requests-and-early-considerations/>

Otherwise, if you wish to proceed with your Request, please forward the application fee of \$31.80. Payment can be made by cheque or money order (payable to the VCAA) or by credit card. If you wish to pay by credit card, please provide the following information:

<input type="checkbox"/> Cheque or Money Order (payable to the VCAA)	<input type="checkbox"/> Mastercard	<input type="checkbox"/> Visa
Card number	<input type="text"/>	Expiry date <input type="text"/> / <input type="text"/>
Cardholder's name	<input type="text"/>	
Cardholder's signature	<input type="text"/>	Date <input type="text"/> / <input type="text"/> / <input type="text"/>

### The way forward

If you wish to obtain the document under the FOI process, please ensure the matters raised above are addressed within 21 days, otherwise the VCAA may refuse to comply with the Request by treating it as having lapsed due to not having been validly made.

Please note that until the Request is made in a manner required by s 17 of the FOI Act, it cannot be processed and the 30-day time period within which a decision must be made on the Request has not commenced to run.

I look forward to hearing from you.

Yours sincerely



Jenny Morris  
**Principal Solicitor**