



Our reference: FOIREQ16/00003

Mr Ben Fairless

By email: foi+request-1501-4f7cbf64@righttoknow.org.au

Dear Mr Fairless

Outcome of your Freedom of Information request

I refer to your request for access to documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act). Your request was received by the Office of the Australian Information Commissioner (OAIC) on 19 January 2016.

On 19 January 2016, you requested access to 'a copy of all applications made by an agency to have an individual declared vexatious'.

On 21 January 2016, you revised the scope of your request to:

1. Applications by agencies to have an applicant declared vexatious which were not granted, and
2. The reasons for the decision not to declare the individual or organisation vexatious.

Further, you also advised that you were willing to exclude:

1. Duplicates of documents
2. Personally identifiable information of the individuals or organisations to whom an application has been made against, and
3. Names and direct contact details of officers of the agencies making the request.

On 3 February 2016, you clarified the scope and advised that you would prefer that whole submissions (including supplementary submissions) be provided.

On 4 February 2016, you agreed to an extension of time under s 15AA of the FOI Act until 19 March 2016.

On 16 March 2016, you confirmed that you were willing to exclude from the scope of your request any FOI applications that have been provided to our office in support of an agency's application to have someone be declared a vexatious applicant.

Decision on your request

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

I have identified 37 documents that fall within the scope of your request. I have decided to provide you access to all documents within scope of your request, with some material redacted.

In making this decision, I have deleted material that can reasonably be regarded as irrelevant to your request (s 22(1)(a)(ii) of the FOI Act).

The documents and a schedule containing a full list of the documents will be provided to you via email. Due to the size of the files, we will be sending the documents to you over several emails.

The schedule also notes 40 documents that I have decided are outside the scope of your FOI request on the basis of discussions with you. My reasons for decision are provided below.

Material taken into account

I have taken the following material into account in making my decision:

- the content of the documents that fall within the scope of your request
- submissions received from agencies who were consulted
- the FOI Act (specifically section 11A and 22)
- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, in particular paragraphs [3.85]–[3.90], and
- the relevant case law.

Reasons for decision

Irrelevant matter (s22)

On 21 January 2016, you agreed to exclude the following:

- duplicates of documents
- personally identifiable information of the individuals or organisations to whom an application has been made against, and
- the names and direct contact details of officers of the agencies making the request.

On 16 March 2016, you agreed to exclude from the scope of your request any FOI applications that have been provided to our office in support of an agency's application to have someone be declared a vexatious applicant.

I have deleted the above information under s 22(1)(a)(ii) of the FOI Act on the basis that it would reasonably be regarded as being irrelevant to your request.

If you disagree with my decision

Internal review

You have the right to apply for an internal review of my decision under Part VI of the Act. An internal review will be conducted, to the extent possible, by an officer of the Office of the Australian Information Commissioner (OAIC) who was not involved in or consulted in the

making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Further Review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision. If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (including an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, it is likely that the Information Commissioner will decide (under section 54W(b) of the FOI Act) not to undertake an IC review on the basis that it is desirable that my decision be considered by the AAT.

Section 57A of the Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for internal review or IC review can be submitted to:

Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Alternatively, you may submit your application or complaint by email to enquiries@oaic.gov.au, or by fax on 02 9284 9666. For further information, please call our enquiries line on 1300 363 992.

Yours sincerely



Kevin Cheng
Merit Review and Investigation Officer
FOI Dispute Resolution

23 March 2016