



29 February 2012

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

Dear Information Commissioner,

SUPPLEMENTARY INFORMATION: APPLICATION TO DECLARE A PERSON A VEXATIOUS APPLICANT

1. I refer to the application made by APRA to the Information Commissioner (IC) dated 29 November 2011 to declare Mr. Phillip Sweeney of 12 Highland Way, Highton 3216 VIC to be a vexatious applicant under section 89K(1) of the *Freedom of Information Act 1982* ('FOI Act').
2. APRA wishes to reinforce the substance of its application and alert the IC to the current situation that the applicant continues to make access actions that are unreasonably interfere with its operations. Regrettably, the numbers of access actions received from the applicant since APRA made its application to the IC have increased, further unreasonably interfering with APRA's operations. As outlined in the supplementary information below, APRA continues to have the view the applicant is abusing the process provided under the FOI Act by reason of the repeated access actions.

A. Continuous repeated access actions from the applicant

3. APRA noted in its application that for the period of 1 November 2010 until 22 November 2011, it received 29 access actions from the applicant. This represented a significantly high number of access applications received from one person, when compared to the total of 46 applications received from all other persons for that same time period. APRA's application included its view that the repeated access applications amounted to an abuse of process.
4. Since APRA's application of 22 November 2011, APRA has received 33 access actions from the applicant at the date of this letter. The applicant's access actions comprise 23 initial requests and 10 applications for internal review. For the consideration and information of the IC, APRA only received a total of 3 access requests under the FOI Act from all other persons for the same time period.
5. Since APRA made its application in November 2011, APRA has spent approximately 250 further hours processing the applicant's access requests. As the nature of access actions now includes an increased number of applications for internal review, APRA has been required to find and devote more time and resources to process and finalise the applications for internal review in conjunction with its normal processing of the applicant's initial requests. Please find at **Tab 1** a copy of the 33 access actions received from the applicant from 22 November 2011 until the date of this letter.

B. Abuse of the process for an access action

6. On the basis there has been a substantial increase in the already unreasonably high number of access actions from the applicant, the limited resources APRA has available to prudentially supervise banks, insurance and reinsurance companies, superannuation funds, credit unions, building societies and friendly societies are continuing to be unreasonably diverted.
7. Whilst the applicant's access actions are not harassing or intimidating APRA staff, in the view of APRA, the applicant's access actions are likely being made to interfere with its operations, rather than to seek access to information under the process provided by the FOI Act.
8. To support this view of APRA, please find at Tab 2 a copy of correspondence from the applicant directly related to the outcome of an access action. This correspondence includes the following statement "*...if you [APRA] had decided to release the audited accounts for the 30 June 2007. I would have been disappointed, since I have already have a copy of these accounts. I was just putting APRA to the test!*"
9. Statements along similar lines are usually included in conjunction with access actions received from the applicant. The inclusion of statements along these lines implies the applicant is more concerned with interfering with APRA's operations, rather than seeking information under the FOI Act.
10. This view of APRA is further supported by the continued receipt of voluminous correspondence from the applicant related to the applicant's access actions: please see Tab 3. Dealing with this access action related correspondence at the same time APRA is required to deal with the applicant's repeated access actions results in an unreasonably interference with its operations.
11. APRA wishes to reiterate to the IC that the continued receipt of repeated access actions from the applicant has and is placing considerable strain on APRA's resources and is unreasonably interfering with its ability to allocate resources for its ongoing prudential supervisory processes.

Please contact Benjamin Fogwell on 02 9210 3082 or by e-mail benjamin.fogwell@apra.gov.au to discuss any matter raised in respect of APRA's application.

Sincerely,



Warren Scott
General Counsel
Supervisory Support Division

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Tabs:

Tab 1 - Copies of the 33 access actions received from the applicant from 22 November 2011 until date of this letter.

Tab 2 - Copy of correspondence from the applicant directly related to the outcome of an access action.

Tab 3 - Copies of access action related correspondence from the applicant to APRA.