

18 May 2016

Attention: Benjamin Forster

Via email: [foi+request-1890-ca8220a9@righttoknow.org.au](mailto:foi+request-1890-ca8220a9@righttoknow.org.au)

Dear Mr Forster,

As General Counsel for the Australia Council for the Arts I am authorised to make and convey a decision on behalf of the agency under Section 23 of the *Freedom of Information Act 1982* ('FOI Act').

On 23 April 2016 you wrote to the Australia Council with the following request:

*"I am writing to request information under the Freedom of Information Act 1982 pertaining to unfunded excellence over the last 10 years.*

*I am specifically interested in the number of applications received by the council for each grant round, those that were not funded, and those that were considered to be unfunded excellence. What was the total requested funds for each round, what was the amount funded, and how much funding would have been needed to fund the unfunded excellence.*

*In relation to the recent rounds since the major restructure, I am specifically interested in any documents concerning unfunded excellence across all funding categories."*

#### **Determination**

Under Section 24AA(1) of the FOI Act, I have determined to refuse your request as a "practical refusal reason" exists. Specifically I rely upon Section 24AA(1)(a)(i) which states:

- (1) *For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if .....*
  - (a) *the work involved in processing the request:*
    - (i) *in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations.*

In coming to this decision I have reviewed the following:

#### **Australia Council for the Arts**

372 Elizabeth Street, Surry Hills NSW 2010 Australia

PO Box 788, Strawberry Hills NSW 2012 Australia

T +61 2 9215 9000 **Toll free** 1800 226 912 **NRS** 1800 555 677

[www.australiacouncil.gov.au](http://www.australiacouncil.gov.au)

- The *Freedom of Information Act 1982*;
- FOI guidelines published by the Office of the Australian Information Commissioner (OAIC).

I have also sought the advice of the Australia Council's Executive Director Grants and Engagement to clarify the resources required to fulfil the request.

### Statement of Reasons

The Australia Council for the Arts is the Commonwealth government's primary arts funding and advisory body. Our purpose is to champion and invest in Australian arts across all art forms. We do this by leveraging a range of resources but largely by way of financial support received via our parliamentary appropriation provided by the government. As a government agency, responsible for the expenditure of public funds, operational accountability and transparency as well as identifying and implementing cost-saving opportunities and efficiencies are critical to what we do.

The Australia Council is a relatively small agency with only two full-time staff members in its legal and governance team. This team is responsible for ensuring the organisation manages and discharges all of its legal and regulatory compliance functions and maintains good corporate governance at all times. Included in these responsibilities is responding to all applications made under the FOI Act, noting there are no other employees within the agency who are trained and/or have the capacity to undertake the above.

It is estimated the information you have sought relates to in excess of 50,000 applications. Some of these documents have also been archived.

In relation to the first part of your request, it has been determined that the time it would take to collate, review and examine these documents, consult with any relevant third parties where necessary, determine which documents could be released either in part or in full, and finally make copies or edited copies of the requested documents, would create a substantial and unreasonable diversion of resources from our usual operations.

In relation to the second part of your request, regarding the financial implications of the funding decisions over the past 10 years, it has been determined that the time it would take to collate, review and examine this information, consult with any relevant third parties where necessary, determine which documents could be released either in part or in full, and finally make copies or edited copies of the requested documents, would create a substantial and unreasonable diversion of resources from our usual operations.

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## Consultation Period

You are entitled to make a “revised request” under Section 24AB of the FOI Act. If you elect to do this, you must do so within 14 days of receiving this notice. I would be happy to assist you in making a revised request. My contact details are below.

If you do not make a revised request or consult with me during the next 14 days your request will be taken to have been withdrawn under subsections 24AB(6) and (7) of the FOI Act.

## Review rights

You are entitled to seek an internal review of this decision. An application for internal review must be in writing and must be made within 30 calendar days of being notified of our decision.

An application for internal review can be made to Tim Blackwell, Executive Director, Corporate Resources.

You may send correspondence to the below address:

Australia Council for the Arts  
PO Box 788  
Strawberry Hills NSW 2012

Or by email: [t.blackwell@australiacouncil.gov.au](mailto:t.blackwell@australiacouncil.gov.au)

Alternatively you may request that the Australian Information Commissioner (Information Commissioner) review the decision. You can also apply for an Information Commissioner review (IC review) after seeking an internal review.

You can apply for an IC review in writing, within 60 days of being notified of our decision.

You can find further information on this process at: <http://www.oaic.gov.au/>

Yours sincerely,

*Rebecca Kenny*

### **Rebecca Kenny**

General Counsel

T +61 2 9215 9123 M 0498 003 270

E [r.kenny@australiacouncil.gov.au](mailto:r.kenny@australiacouncil.gov.au)

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