



To Whom It May Concern

Email: foi+request-4608-0097e25f@righttoknow.org.au

1. I refer to your correspondence received by the Tertiary Education Quality and Standards Agency (TEQSA) on 13 June 2018, in which you requested access to the following documents:
 - a. *“...policies, procedures and documents of higher education providers which address contract cheating which TEQSA may be in possession of. [and]*
 - b. *... the reports received by TEQSA from universities in relation to the MyMaster case, and the reports prepared by TEQSA following the receipt of information received from universities about that issue.”*
2. I am authorised to make decisions under the *Freedom of Information Act 1982* (FOI Act).

Treatment of request

3. In your initial request you asked that TEQSA treat your request “as an administrative/ informal request. Otherwise please proceed with my request as a formal information request under the Act.”
4. On 4 June 2018 you were requested to provide clarification about your request, and you were notified that “once the scope of your request is clear, we can make a judgement about whether it is appropriate to deal with your request administratively or under the FOI Act.” Your email of 13 June 2018 clarified the scope of your request.
5. Your request covers documents which contain information about the business affairs of third party organisations. I believe that these third parties may wish to make submissions about the release of documents within the scope of your request. To provide an appropriate framework for those submissions to be made, and considered, it is appropriate that your request be processed as a request for documents under the FOI Act.
6. I have decided that your request is a valid request under section 15 of the FOI Act.

Notice of intention to refuse part of your FOI request

7. The first part of your request asks for copies of the *“policies, procedures and documents of higher education providers which address contract cheating which TEQSA may be in possession of”*.
8. I have consulted with TEQSA staff regarding the number and nature of documents held by TEQSA which are likely to be relevant to your request, and the work involved in processing your request. I have been advised that to identify, locate or collate documents relevant to your request (other than the documents to which I have decided to consider granting access after a consultation period) would require TEQSA staff to:
 - a. search each file relating to the registration renewal applications of 168 higher education providers registered with TEQSA;
 - b. review the documents produced as a result of these searches (generally not less than 100 documents per application) to determine the extent to which the documents contain information

within the scope of your request, and the extent to which the documents contain information which is exempt or conditionally exempt;

- c. consulting with persons or bodies required to be consulted in relation to the documents produced as a result of these searches;
 - d. prepare edited copies of any documents which contain information of the kind you have requested and which also contain exempt or conditionally exempt information.
9. It is a question of fact in the individual case whether a particular FOI request to an agency imposes a 'substantial' and 'unreasonable' workload, viewed in the context of the agency's other operations or the minister's functions: *Davies and Department of the Prime Minister and Cabinet* [2013] AICmr 10.
 10. TEQSA is a small agency with fewer than 60 employees. I am satisfied that, given the nature of the staff time required to respond to your request, identifying documents within the scope of the first part of your FOI request would require TEQSA staff to be taken away from their usual duties of assisting TEQSA to perform its functions of assessing applications by the providers the subject of your request, and by other entities seeking initial registration with TEQSA. I am satisfied that this would involve a substantial diversion of resources.
 11. Further, TEQSA has no dedicated staff for handling FOI requests. I am therefore satisfied that given the matters in paragraph 12 and the complexity of the tasks described in paragraphs 10(a) to (d) of this letter, those tasks would also involve a substantial diversion of resources.
 12. The Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act also suggest that in deciding whether a practical refusal reason exists for the purposes of section 24AA of the FOI Act, it may be relevant to consider whether there is a significant public interest in TEQSA providing access to the documents requested.
 13. Standard 7.2.2d of the *Higher Education Standards Framework (Threshold Standards) 2015* requires that each higher education provider makes information available to students which includes 'information to give access to current academic governance policies and requirements including ... academic integrity ...'. TEQSA's experience is that these policies are commonly made available on the websites of individual providers.
 14. Further, given TEQSA's records largely consist of information provided as part of applications for registration or renewal of registration, the information held by TEQSA may not be current.
 15. The matters in paragraphs 15 to 16 suggest that there may not be a significant public interest in the documents requested in the first part of your request.
 16. On this basis, I am also satisfied that the work involved in processing the first part of your request would be an unreasonable diversion of resources.
 17. In reaching the view that processing your request would involve a substantial and unreasonable diversion of resources, I have not considered:
 - a. any reasons that you have given for requesting access; or
 - b. any belief of TEQSA as to what your reasons are for requesting access; or
 - c. any maximum amount payable as a charge for processing a request of this kind.

Request Consultation Process (section 24AB)

18. Before making a decision to refuse the first part of your request on the above grounds, I am required to provide you with an opportunity to contact me and make submissions in support of your request as currently worded, or clarify or revise the scope of your request, so that the practical refusal reason will no longer exist.
19. You have 14 days from the day you receive this letter to do one of the following:
 - a. withdraw your request;
 - b. make a revised request; or
 - c. indicate that you do not wish to revise the request.
20. You can consult me during this 14-day period by writing to the following address:
Freedom of Information Officer
Tertiary Education Quality and Standards Agency
GPO Box 1672
Melbourne VIC 3001
21. Alternatively, you can send an email to foi@teqsa.gov.au.
22. **If you do not contact TEQSA within this period, your FOI request will be taken to have been withdrawn under section 24AB(7) and will not be dealt with any further.**

Second part of your request - consultation

23. The second part of your request asks for *"the reports received by TEQSA from universities in relation to the MyMaster case, and the reports prepared by TEQSA following the receipt of information received from universities about that issue"*.
24. As I have noted above, I consider that third parties may wish to make submissions about the release of documents within the scope of this part of your request. In particular, I consider that those third parties may wish to contend that certain information is exempt from release under the FOI Act. Accordingly, TEQSA is required to consult with the third parties under section 27 of the FOI Act before making a decision on access to the documents.
25. To allow for consultation with the third parties, the FOI Act extends the standard 30-day statutory time period for a decision by a further 30 days. This will give TEQSA 60 days in which to notify you of its decision on access to the documents that are the subject of your request.
26. If you have any questions about this matter, please do not hesitate to contact foi@teqsa.gov.au.

Yours sincerely



Dr Michael Tomlinson
Director, Assurance Group

26 June 2018