



anonymous

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

To whom it may concern,

Subject: Your freedom of information request – decision on access

1. I refer to your correspondence, dated and received by the Tertiary Education Quality and Standards Agency (TEQSA) on 28 May 2018, in which you requested the following documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act):
 - relevant policies, procedures and documents which address contract cheating
 - relevant reports about how universities try to minimise student misconduct after the MyMaster case.
2. I note that the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines) require that requests “must be read fairly by an agency or minister, being mindful not to take a narrow or pedantic approach to its construction”. Accordingly, the second part of your request has been interpreted to include reports about how higher education providers try to minimise student misconduct after the MyMaster case, rather than only universities. I note also that your request has been interpreted not to include email correspondence from providers to TEQSA that simply provide a general acknowledgement of the issue.

Background

3. On 4 June 2017, TEQSA contacted you to seek clarification of your request. Specifically, you were asked to clarify whether you were seeking policies, procedures and documents of individual universities (or higher education providers more generally) that address contract cheating which TEQSA may be in possession of, or whether your request referred to internal policies, procedures and documents created by TEQSA.
4. On 13 June 2018, you clarified that you were seeking policies, procedures and documents of higher education providers that address contract cheating which TEQSA may be in possession of, reports received by TEQSA from universities in relation to the MyMaster case, and any reports prepared by TEQSA following the receipt of information received from universities about that issue.
5. On 27 June 2018, you were notified (via a practical refusal notice dated 26 June 2018) of TEQSA's intention to refuse the first part of your request on the basis that the work involved in processing that part of the request would involve a substantial and unreasonable diversion of resources. In accordance with section 24AB of the FOI Act, you were given an opportunity to make submissions in support of that part of your request as worded, or clarify or revise the scope of your request so that the practical refusal reason would no longer exist.

6. You did not respond to the practical refusal notice within the 14 day period specified by the FOI Act. As a result, that part of your request is taken to have been withdrawn under subsection 24AB(7) of the FOI Act and has not been dealt with any further.
7. You were also notified in the practical refusal notice that the second part of your request covered documents which contain information about the business affairs of third party organisations and that TEQSA considered that those organisations may wish to contend that certain information in the document is exempt from release under the FOI Act. Accordingly, you were advised that TEQSA was required to consult with those third parties under section 27 of the FOI Act and that, to allow for that consultation to occur, TEQSA would have an additional 30 days under the FOI Act to notify you of its decision on access.
8. I have decided not to impose a processing charge in relation to this request under section 29 of the FOI Act.

Decision on access to documents

9. I am authorised to make decisions under subsection 23(1) of the FOI Act.
10. TEQSA has identified 29 documents that fall within the scope of the second part of your request, consisting of 192 pages. Having considered these documents, I have decided to:
 - grant access in full to 27 documents; and
 - grant access in part to 2 documents.
11. I have decided that certain personal information in documents 21 and 26 is exempt from release under subsection 47F(1) of the FOI Act and that its disclosure would be contrary to the public interest. That exempt material has been redacted in accordance with section 22 of the FOI Act. Information in document 2 that is irrelevant to your request has also been redacted in accordance with section 22 of the FOI Act.
12. A Schedule of Documents which summarises my decision in relation to each document is at **Attachment A**.
13. Please be aware that the information contained in the documents consists of point in time responses from providers in 2014-2015 and would not necessarily reflect the most current information or practices for a particular provider. You may wish to review provider websites for the most up-to-date information about how providers are addressing the issue of student academic misconduct.
14. In reaching my decision, I have taken the following into account:
 - the terms of your request;
 - the content of the documents falling within the scope of your request;
 - submissions made by third parties consulted under section 27 of the FOI Act;
 - consultations with TEQSA staff about the nature of the documents;
 - the FOI Act; and
 - the FOI Guidelines.

Reasons for my decision

Section 47F of the FOI Act – personal information

15. Subsection 47F(1) of the FOI Act provides that:

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

16. Section 4 of the FOI Act provides that "personal information" has the same meaning as in the *Privacy Act 1988*. That Act defines personal information as:

...information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and*
- (b) whether the information or opinion is recorded in a material form or not.*

17. Document 21 contains the names of individual students identified by TOP Education in their response to TEQSA. Document 26 contains the name of an individual who has provided Holmes Institute with notice of specific cases of academic misconduct. This information is "personal information" for the purposes of the FOI Act.

18. In determining whether the disclosure of this personal information would be unreasonable, I have considered a number of factors, including those listed in subsection 47F(2) of the FOI Act, namely:

- the extent to which the information is well known;
- whether the persons to whom the information relates are known to be (or to have been) associated with the matters in the document; and
- the availability of the information from publicly accessible sources.

19. I am satisfied that disclosure of the personal information in documents 21 and 26 would be unreasonable as the information is not well known or publicly available, and the persons concerned are not known to be associated with the matters in the respective documents.

20. Disclosure would also be unreasonable in the circumstances because the individuals concerned have not consented to disclosure, the information is sensitive in nature, and the identity of the individuals is not material to the content of either document. Accordingly, I have decided that the personal information is conditionally exempt under subsection 47F(1) of the FOI Act.

21. In accordance with section 11B of the FOI Act, I have taken into account the extent to which disclosure would:

- promote the objects of the FOI Act;
- inform a debate on a matter of public importance;
- promote effective oversight of public expenditure; and
- allow a person access to his or her own personal information.

22. I am satisfied that disclosure of the personal information in the circumstances would not promote the objects of the FOI Act as disclosure of the identity of the individuals concerned would not enhance the utility of the documents, promote better-informed government decision-making or shed any light on government activities more generally. The other factors listed above are not relevant in the circumstances because the disclosure of the personal information would not result in those public interest outcomes. In my view, there are no other compelling public interest factors in favour of disclosure.

23. In making my decision, I must also consider public interest factors weighing against disclosure of the personal information. In this case, I am satisfied that disclosure of the information would unreasonably prejudice the protection of the individuals' right to privacy given that the individuals concerned would have no expectation that their involvement in these matters would potentially be made public.

24. Based on consideration of these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the personal information is outweighed by the public interest against disclosure. Accordingly, I have decided not to release these parts of the documents to you and have redacted the exempt information on the relevant pages and released the remaining material in accordance with section 22 of the TEQSA Act.
25. In making this decision, I have not taken into account any of the irrelevant factors set out in subsection 11B(4) of the FOI Act.

Documents for release

26. Subsection 27(7) of the FOI Act provides that an agency must not give an applicant access to a document unless, after all the opportunities of the person or organisation concerned for review or appeal in relation to the decision to give access to the document have run out, the decision to give access still stands, or is confirmed.
27. A number of documents to which I have decided to grant access are subject to third party objections, as identified in the Schedule of Documents. The third parties concerned have review rights in respect of my decision to grant access to those documents under section 54A of the FOI Act. Accordingly, those documents cannot be released to you at this time.
28. The remainder of the documents for release are being prepared and will be sent to you as soon as practicable.

Your review rights

29. If you are dissatisfied with my decision, you may apply in writing for an internal review of the decision by TEQSA or review by the Information Commissioner.
30. Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision to refuse access to documents. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: www.oaic.gov.au
email: enquiries@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at www.oaic.gov.au/freedom-of-information/foi-reviews.

31. If you have any questions about this matter, please contact foi@teqsa.gov.au.

Yours sincerely,



Sheena Chen

FOI Decision Maker
13 August 2018

Schedule of Documents – MyMaster FOI request

Document	Pages	Description	Decision on Access
1	1-6	Letter from University of Wollongong to TEQSA dated 11.12.14 (with attachment)	Access granted in full
2	7-22	Letter from University of Newcastle to TEQSA dated 20.11.14 (with attachments)	Access granted in full Irrelevant material on pages 20-21 redacted under s 22
3	23-24	Letter from James Cook University to TEQSA dated 26.11.14	Access granted in full
4	25-26	Letter from Western Sydney University to TEQSA dated 26.11.14	Access granted in full
5	27-28	Letter from Deakin University to TEQSA dated 28.11.14	Access granted in full
6	29-31	Letter from Curtin University to TEQSA dated 1.12.14	Access granted in full Material on pages 29 and 31 redacted (subject to third party review rights)
7	32	Letter from Australian Catholic University to TEQSA dated 3.12.14	Access granted in full
8	33-34	Letter from University of Queensland to TEQSA dated 5.12.14	Access granted in full
9	35-37	Letter from University of Canberra to TEQSA dated 5.12.14	Access granted in full
10	38-41	Letter from Monash University to TEQSA dated 8.12.14 (with attachment)	Access granted in full
11	42-58	Letter from Avondale College of Higher Education to TEQSA dated 9.12.14 (with attachments)	Access granted in full Pages 52-58 redacted (subject to third party review rights)
12	59-95	Letter from Melbourne Institute of Technology to TEQSA dated 9.12.14 (with attachments)	Access granted in full Pages 59-95 redacted (subject to third party review rights)

13	96-97	Letter from RMIT University to TEQSA dated 9.12.14	Access granted in full
14	98-100	Letter from University of Sydney to TEQSA dated 9.12.14	Access granted in full
15	101-124	Letter from Central Queensland University to TEQSA dated 10.12.14 (with attachments)	Access granted in full
16	125-131	Letter from La Trobe University to TEQSA dated 10.12.14 (with attachment)	Access granted in full
17	132-135	Letter from University of South Australia to TEQSA dated 10.12.14	Access granted in full
18	136-137	Letter from Federation University to TEQSA dated 11.12.14	Access granted in full
19	138-152	Letter from Griffith University to TEQSA dated 11.12.14 (with attachment)	Access granted in full Material on pages 148 and 151 redacted (subject to third party review rights)
20	153-157	Letter from Macquarie University to TEQSA dated 12.12.14	Access granted in full
21	158-159	Letter from TOP Education to TEQSA dated 12.12.14	Access granted in part Exempt material on pages 158 and 159 redacted under s 47F(1)
22	160-168	Letter from University of Technology, Sydney to TEQSA dated 12.12.14 (with attachment)	Access granted in full
23	169-171	Letter from University of New South Wales to TEQSA dated 12.12.14	Access granted in full
24	172-173	Letter from Queensland University of Technology to TEQSA dated 15.12.14	Access granted in full
25	174-175	Letter from The College of Law to TEQSA dated 16.12.14	Access granted in full
26	176	Letter from Holmes Institute to TEQSA dated 19.12.14	Access granted in part Exempt material on page 176 redacted under s 47F(1) Page 176 redacted (subject to third party review rights)
27	177-178	Letter from the University of New South Wales to TEQSA dated 7.12.15	Access granted in full

28	179-187	Letter from TEQSA's Chief Commissioner to the Minister for Education dated 19.12.14, attaching: <i>Confidential Report to the Minister for Education on Student Academic Integrity and Allegations of Contract Cheating by University Students</i>	Access granted in full
29	188-192	<i>Report on Student Academic Integrity and Allegations of Contract Cheating by University Students</i>	Access granted in full