



Australian Government

Australian Research Council

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Friday, 30 May 2014

Mr Mark R. Diamond

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Dear Mr Diamond

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application of 16 May 2014 seeking access to documents under the Freedom of Information Act 1982.

I am authorised pursuant to Section 23 of the *Freedom of Information Act 1982* (FOI Act) to make decisions in relation to access to documents, and I have identified one electronic file as relevant to your request.

My decision in relation to the documents listed above is at **Attachment A** to this letter; a 'Schedule of Documents' of the document within the scope of your request is **Attachment B** and the ARC's guidelines for rights of review are in **Attachment C**.

Please note this list has been superseded and is no longer in use, and that the concept of journal ranking is no longer supported or used by the ARC. The rankings were developed for the ERA 2010 evaluation only and were not intended to be used for any other purpose.

The decision to remove the journal rankings from the ERA process was made based on evidence that they were being used inappropriately in some quarters of the higher education sector, for example, in the setting of targets for publication in A and A* journals by research managers. The following statement from the then CEO of the ARC about removing the journal rankings from ERA is included for your reference:
http://www.arc.gov.au/media/releases/media_30May11.htm.

These changes to the ERA methodology were made to ensure that journal quality could remain an indicator for ERA 2012, while discouraging the use of assessments of journal quality beyond their role as an ERA indicator. Further information about changes made for ERA 2012 is available on the ARC website:
<http://www.arc.gov.au/era/faq.htm#refinements>.

If you have any questions in relation to your FOI, I can be contacted on (02) 62876622 or via email at letitia.abela@arc.gov.au.

Yours sincerely



Letitia Abela
In-House Legal Counsel
FOI Co-ordinator

Attachments:

- A. Decision relating to FOI request
- B. Schedule of documents
- C. FOI Guidelines
2010 Final Journal List 100310 - FOR WEBSITE.xls

Decision relating to FOI request by Mr M. R. Diamond

I, Letitia Abela, In House Legal Counsel, am an officer authorised under Section 23 of the FOI Act to make decisions in relation to access to documents. What follows is my decision and the reasons for that decision.

BACKGROUND

The decision relates to a request you made to the Australian Research Council for access under FOI to a document as entitled ERA_journal_list.xls containing a of approximately 9000 journals, each together with its corresponding ERA identifier, rank, areas of research and ISSN information, relating to the 2010 ERA round.

DECISION

The schedule provided in Attachment B lists the document captured by your request. The document was provided to you in its entirety.

MATERIAL ON WHICH MY FINDINGS WERE BASED

In making my decision I relied on documentary evidence including:

- the FOI Act;
- various Freedom of Information guidelines;
- previous FOI decisions.

YOUR RIGHTS OF REVIEW

If you do not agree with my decision, then you may apply for an internal review of the decision. Generally you must apply for internal review within 30 days of being told of the decision.

I have attached the ARC's *FOI Guidelines* (Attachment C) which provide further details of your review rights.

Freedom of Information Guidelines

Freedom of Information Act 1982 (Cth)

The *Freedom of Information Act 1982* (Cth) ('FOI Act') gives you the legal right to:

- Seek documents held by ARC;
- Ask for personal information concerning you to be changed if it is incomplete, out of date, incorrect or misleading;
- Appeal against a decision not to grant access to a document or amend or annotate a personal record.

What other documents may you see?

- The Act gives you a right to see:
 - documents, no matter how old, containing personal information about yourself;
 - documents, no older than 1 December 1977, relating to anything else (they can be older if you need them to understand another document you already have). Note: the ARC was created on 1 July 2001, therefore a request for documents earlier than this date may be referred to the Department of Education, Science and Training as the holder of the required document.
- Documents include files, reports, computer printouts, tapes or disks, maps, plans, photographs, microfiche, tape recordings, films or videotapes.

How do you make an FOI request?

- Identify the document you want.
- Write the request.
- Give an address in Australia at which notices under the FOI Act may be sent to you.
- Give as much information as you can about the document you want (for example, give a file number, a reference to a newspaper report about it or describe the subject matter in which you are interested).
- Enclose the \$30 application fee (in certain instances the fee is not required or can be remitted - see below).
- Post or deliver your request to the ARC.

What must the ARC do when it gets your request?

- Tell you within 14 days that it has received the request.
- Deal with it as soon as possible.
- Talk to you about any difficulties in dealing with it.

- As soon as possible, give you an estimate of the charges if any that are applicable (see below).
- Within 30 days, tell you the decision on giving you access. (Where the ARC has to consult a third party, the ARC may extend the time in which it is required to tell you its decision by another 30 days. Consultation is usually necessary where the document contains information about the third party.)

How will the documents be given to you?

- The ARC can let you see the documents, or give you a copy.
- Special procedures may apply if you want to see information which concerns your physical or mental health:
 - the ARC may decide to give it to an appropriate health care worker, social worker or marriage guidance counsellor (here called a 'qualified person') of your choice, rather than to you directly;
 - this can be done where the ARC thinks that giving it to you directly might prejudice your physical or mental health or well-being;
 - you can appeal against the decision to give it to a qualified person rather than to you directly, but what that person tells you or shows you is a matter for his or her judgement.

Can you see all official documents?

- No. The Act identifies certain types of documents which you may not be able to see (called exempt documents). These types of documents are those which the Parliament believes should normally be kept confidential to protect essential public interests or the private or business affairs of others.
- If the ARC decides not to give access to the document you asked for, it must identify the documents withheld, give you written reasons for the decision and advise you of your rights of appeal.
- In most cases, an FOI request will be refused where it would lead to an unreasonable disclosure of someone else's personal information.
- Where you want to see documents containing your own personal information, the ARC may ask to see some proof of your identity.

You can have documents containing personal information about you corrected?

- Providing you have had lawful access to the documents and they have been, or are being, used by the ARC for an administrative purpose, you may request for a document to be corrected.
- If, after seeing your documents, you believe the information they contain to be incomplete, incorrect, out of date or misleading, you have a legal right to ask that it be corrected, if one of these grounds is established.
- You can ask for corrections to be made by amending the record or adding an appropriate annotation, or both.
- Companies, incorporated associations and the like are not entitled to have records about their affairs corrected under the Act.

To ask for correction of personal records you may:

- Simply write and ask. No application fee applies.
- Identify what information is incomplete, incorrect, out of date or misleading.
- Explain with as much detail as possible:
 - what the facts are and what evidence there is to support them;
 - what changes you want made.
- Post or deliver your request to the ARC.

What will the ARC do when it gets your request for amendment of personal records?

- The ARC must deal with your request as soon as practicable and tell you within 30 days what it has decided.
- If it decides not to make the changes you asked for (or decides to make different ones), it must tell you why and advise you of your rights of appeal.

What FOI decisions can you appeal against?

- Decisions not letting you see what you want, when you want it, or in the form you want it.
- Decisions relating to remission of an application fee.
- Decisions imposing a charge to see what you want.
- Decisions in respect of the amount of the charge imposed upon you.
- Decisions refusing to change or annotate documents about you which you think are incomplete, incorrect, out of date or misleading.
- Decisions letting others see documents which you say would unreasonably disclose:
 - your personal information;
 - your lawful business or professional affairs;
 - lawful business, commercial or financial affairs of your firm.
- Decisions to give you access to documents about your physical or mental health through a qualified person and not directly to you.

What kinds of appeal do you have?

You can:

- require the ARC to reconsider its decision ('internal review');
- request a review by the Australian Information Commissioner (AIC);
- seek an independent review of the decision by the Administrative Appeals Tribunal ('AAT review');
- complain to the Commonwealth Ombudsman about the ARC's decision or action ('Ombudsman review').

You also have a legal right to appeal if the ARC does not tell you what decisions have been made on your request or delays telling you.

Internal review

- You can ask the ARC to reconsider its decision, as long as it was not made by the Minister or agency head.
- Generally, you must apply for internal review within 30 days of being told of the decision, but you can ask for extra time.
- Simply write to the ARC, enclosing the \$40 application fee, and ask for internal review. It will help if you say why you think the decision should be changed or what aspects of the decision are of concern to you.
- Someone other than the person who made the first decision will then make a fresh decision.
- You will be given the new decision within 30 days and written reasons if access or amendment is refused.
- You can then appeal to the AAT or complain to the Ombudsman if you are still dissatisfied with the decision given.

AIC review

You can request that the AIC review a decision made under the *Freedom of Information Act 1982* (FOI Act).

Most matters will be reviewed on the basis of the submissions and papers provided by the parties, rather than through formal hearings. Applicants who disagree with the Information Commissioner's decision can apply to the Administrative Appeals Tribunal (AAT) for review.

How to request a review

You can request a review:

- in writing or
- by email

AAT review

- The AAT is an independent body responsible for reviewing administrative decisions by agencies. It decides whether the decision made on your FOI request was right.
- In almost all cases, the AAT can change the ARC's decision.
- In special cases where a conclusive certificate has been issued, the AAT can only determine whether reasonable grounds exist for certain claims made in the certificate. It is then up to the Minister to decide whether access should be given.
- You can appeal to the AAT if:
 - your request was originally decided by a Minister or ARC agency head;

- you are unhappy with an internal review decision;
 - there has been ARC delay.
 - The AAT will tell you when and where your case will be heard, who will be there, what will happen, what you should bring with you, what happens at the end of the hearing and other things you should know.
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- Generally, you must apply for AAT review within 60 days of being told the decision that you are unhappy with, and enclose the AAT application fee. (If your application is against another person being given access to documents containing information about you, you must apply within 30 days.)
 - You cannot appeal to the AAT if:
 - internal review was possible, but you did not ask for it (unless you are appealing against another person being given access to documents containing information about you or your business affairs);
 - you have complained to the Ombudsman, but have not yet received the Ombudsman's report.
 - If you think the AAT has made a mistake of law in its decision, you can appeal to the Federal Court.

Ombudsman review

- The Commonwealth Ombudsman has power to investigate agency actions under the FOI Act, including decisions, delays, and refusal or failure to act.
- The Ombudsman can review FOI decisions to make sure they were made in a fair and proper way. The Ombudsman can't change the decision, but can recommend that this be done.
- Before complaining to the Ombudsman, first try to solve your problem with the ARC. Get in touch with the FOI Contact Officer in the ARC. Explain your point of view clearly and ask for the action or decision concerned to be reconsidered. The Ombudsman usually won't investigate until internal review has occurred.
- If you complain to the Ombudsman, you can't appeal to the AAT until you have received the Ombudsman's report on your complaint.

Judicial review

- As well as hearing appeals from the AAT, the Federal Court can review the original decision concerning an FOI request, but it usually won't do so if you could appeal to the AAT first.
- In this process, called judicial review, the Court decides whether the decision or action taken by the ARC was lawful. If it decides it was not, the ARC usually makes a new decision taking account of any directions by the Court.
- However, the Court can't change the decision.

What about delays?

- The ARC must tell you it's decision within:
 - 30 days, in the case of a request to see a document;

- 30 days, in the case of a request to amend or annotate personal records about you;
 - 30 days, in the case of a request for internal review;
 - 30 days, where you have lodged a contention that a charge should be reduced, or not imposed, or that an application fee should be remitted.
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- If ARC does not, you can appeal to the AAT. In some circumstances an extension of time can be claimed by the ARC, so it is advisable to check with the ARC before lodging an appeal. The FOI Contact Officer will advise you of likely delays which may occur in processing your request.

What will it cost me to appeal?

- No fees are payable for Ombudsman review.
- You will have to pay for your own legal representation (unless you represent yourself), witnesses expenses, and other costs connected with your AAT or Federal Court case unless:
 - you are given legal aid; or
 - your case is successful, or substantially successful, and the Commonwealth pays them by order of the Federal Court or recommendation of the AAT.
- If your AAT case is unsuccessful, you won't have to pay the agency's costs (but you may have to if your Federal Court case is unsuccessful).