



**Australian Government**  
**Attorney-General's Department**

14/10787

22 September 2014

Mr Ben Fairless

Sent by email: [foi+request-732-21b67491@righttoknow.org.au](mailto:foi+request-732-21b67491@righttoknow.org.au)

Dear Mr Fairless

**Freedom of Information Request no. FOI14/160**

The purpose of this letter is to advise you of my decision following your request for internal review of the Attorney-General's Department's decision to refuse access to documents you requested under the *Freedom of Information Act 1982* (FOI Act).

**Summary**

I, Maggie Jackson, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

You requested access to documents relating to your previous FOI request (FOI14/139) on 7 August 2014. Specifically you sought access to:

*'A copy of the decision letter sent to me on the 6 August 2014 in relation to FOI request FOI14/139.'*

In your request, you advised that you did not require the decision letter to be signed and requested that access be provided in a format readable by Microsoft Word. You also referred to section 20(2) of the FOI Act (Forms of access) to support your request for access to a copy of the document that was readable by Microsoft Word.

You were advised on 26 August 2014 of the decision to refuse access to the document you requested. You asked for internal review of that decision on 27 August 2014.

In your request for internal review, you submitted that:

*The Department is required to comply with s 20(2) of the Freedom of Information Act, which states, in part: "where the applicant has requested access in a particular form, access shall be given in that form".*

*The fact that access to the document has been provided (as required by s 20(1) of the Act in another form is irrelevant.*

**Decision and reasons for decision**

With regard to the documents you requested, I have decided to affirm the original decision that, as a copy of the document sought has already been provided to you in PDF format, the Department has

met the requirements of s 20. However, consistent with the objectives of the FOI Act (s 3), I have decided to release a copy of the document you have requested in Microsoft Word format outside of the FOI Act.

### **Material taken into account**

I have taken the following material into account in making my decision:

- the content of the documents that fall within the scope of your request
- your submissions to the internal review
- the FOI Act (specifically sections 3 and 20)
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act

### **Forms of access (s 20)**

Section 20 of the FOI Act relevantly provides:

*(1) Access to a document may be given to a person in one or more of the following forms:*

- (a) a reasonable opportunity to inspect the document;*
- (b) provision by the agency or Minister of a copy of the document;*
- (c) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear or view those sounds or visual images;*
- (d) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, provision by the agency or Minister of a written transcript of the words recorded or contained in the document.*

*(2) Subject to subsection (3) and to section 22, where the applicant has requested access in a particular form, access shall be given in that form.*

In my view, the intention of section 20(2) is to enable an applicant to request access to a document in one of the four forms listed in subsection (1). I do not consider that section 20(2) permits an applicant to specify, for example, that they wish to have access to a document by provision by the agency of a copy of the document (section 20(1)(b)), and to also nominate a particular format (for example, Microsoft Word) in which they wish to receive the copy of the document.

I consider that the requirements of section 20 are satisfied once an agency has provided an applicant with a copy of a document in one of the four forms of access listed in subsection (1). As the Department provided you with a copy of the document in PDF format, there is no obligation on the Department to provide you with an additional copy of the document in an alternate format.

However, while I do not consider there to be any requirement under the FOI Act for the Department to provide you with a copy of the decision letter for FOI14/139 in a format readable by Microsoft Word, I have decided, on this occasion only, to provide you with access to the document requested outside of the FOI Act. It is not the standard practice of the Department to provide applicants with a copy of the decision letter in Microsoft Word format, and it is not intended by this release that access to decision letters in Microsoft Word format will be made available to applicants in the future.

Further, I am providing you with a copy of the document in Microsoft Word format as requested on the understanding that you will not use this copy of the document to misrepresent the Department's decision in FOI14/139.

### **Information Commissioner review**

If you are dissatisfied with my decision, you may apply to the Australian Information Commissioner for review. 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: <https://forms.business.gov.au/aba/oaic/foi-review/>  
email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
post: GPO Box 2999, Canberra ACT 2601  
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. Go to <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

### **Questions about this decision**

If you wish to discuss this decision, please contact Joannah Burley, FOI case manager, 02 6141 6666 or by email [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



Maggie Jackson  
First Assistant Secretary

### **Attachments**

A. Decision letter for FOI14/139 in Microsoft Word format