
October 2009

Freedom of Information Policy

Version 1.0

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Document information

Document purpose To outline FOI process and procedures

Related documents

Document manager

Amendment history

Date	Version	Comment	Person
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Approvals

Name/Position	Signature	Date
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Table of contents

Contents

1.0	THE FUNCTION, PURPOSE, AND OBJECTIVES OF THE <i>FREEDOM OF INFORMATION ACT 1982</i> ('FOI ACT').....	3
2.0	PURPOSE OF THIS FOI POLICY	3
3.0	HOW THE FOI ACT TIES INTO THE FUNCTIONS OF ACARA INCLUDING ITS LEGISLATIVE FRAMEWORK	3
4.0	RIGHTS OF APPLICANTS AND OBLIGATIONS OF DECISION-MAKERS UNDER THE FOI ACT	4
5.0	CATEGORIES OF DOCUMENTS HELD BY ACARA.....	4
1.1.	Publicly available documents.....	4
1.2.	Documents maintained by ACARA generally.....	4
1.3.	Documents for which exemption may apply under FOI	5
6.0	APPLICATION PROCESS.....	5
1.4.	FOI Applications to be made to the FOI Coordinator	5
1.5.	Application fees.....	6
1.6.	Processing charges.....	6
1.7.	Remission of fees.....	6
1.8.	How access to documents is granted.....	7
7.0	TRANSFER OF FOI APPLICATIONS BETWEEN AGENCIES UNDER S.16 OF THE FOI ACT.....	8
8.0	THIRD PARTY INFORMATION	8
1.9.	Personal Information.....	8
9.0	REPORTING REQUIREMENTS.....	9
10.0	FURTHER INFORMATION.....	9

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1.0 The function, purpose, and objectives of the *Freedom of Information Act 1982* ('FOI Act')

The object of the FOI Act is to extend, as far as possible, the Australian community's right of access to information in the possession of the Australian Government and its agencies. This includes information held by Australian, Curriculum, Assessment and Regulatory Authority (**ACARA**).

2.0 Purpose of this FOI Policy

This policy has been created, in accordance with s.8 of the FOI Act, to provide members of the public with information to allow them to effectively exercise their rights under the FOI Act. It provides a framework for balancing the public's right to access information held by the Government against protecting the privacy of individuals. An outline of the types of documents held by ACARA and the procedures for gaining access to those documents are provided in this policy.

3.0 How the FOI Act ties into the functions of ACARA including its legislative framework

ACARA is established under the *Australian Curriculum, Assessment and Reporting Authority Act 2008*, and is a prescribed authority to which the FOI Act applies.

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4.0 Rights of applicants and obligations of decision-makers under the FOI Act

The FOI Act provides a prima facie right of access to all relevant records. It is up to ACARA to justify a denial of access in the statement of reasons and that can only be done by calling on one or more of the statutory exemptions.

5.0 Categories of documents held by ACARA

Some documents held by ACARA are generally available while others are available under the FOI Act.

5.1. Publicly available documents

A wide range of reports and publications are available to the public in electronic format, free of charge, through ACARA's website at <http://www.acara.edu.au>.

These include:

- Documents detailing the curriculum development process
- Consultation reports
- Position papers;
- Past papers; and
- Annual reports.

A telephone number and email address, provided both on the internet and in publications, can be used to contact ACARA to obtain free-of-charge copies of these documents.

Similarly, a variety of other publications relating to schools and education are available on the Department of Education, Employment and Workplace Relations website at <http://deewr.gov.au>.

5.2. Documents maintained by ACARA generally

A list of the categories of documents maintained by ACARA is included in our annual report available on our website.

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5.3. Documents for which exemption may apply under FOI

While the FOI Act promotes openness and accountability in government decision-making, there are some categories of documents that are exempt from release. Documents that may have the potential to cause harm if disclosed, or are of a particular class that they are by their nature protected, are exempt. These categories of documents include:

- Cabinet documents and ministerial briefings (s.34)
- Documents which affect relationships with other governments (s.33A)
- Documents affecting the personal affairs of another person (s.41)
- Documents subject to secrecy provisions in other legislation (s.38)
- Documents subject to legal professional privilege (s.42)

ACARA may also decline to provide information that is available for public access by other means, including public registers, libraries, and documents available for purchase.

More information about the exemptions which ACARA may apply to preclude documents from release is available in the document "[Freedom of Information Guidelines - Exemption Sections in the FOI Act](#)" available on the Department of Prime Minister and Cabinet website.

6.0 Application Process

6.1. FOI Applications to be made to the FOI Coordinator

The role of the FOI Coordinator is to receive and manage FOI requests. The FOI Coordinator, upon receiving a request, will coordinate the process and ACARA's response.

1. *Receipt of request*

A valid request under the FOI Act must:

- 1) be in writing;
- 2) be accompanied by an application fee of \$30 or a remission request;
- 3) provide sufficient information to identify relevant documents; and
- 4) specify a return address in Australia and a telephone contact number.

All FOI requests should be addressed to:

The FOI Coordinator

The Australian Curriculum, Assessment and Reporting Authority

PO Box 177

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Carlton South
VIC 3053

Once a valid FOI request is received, ACARA must acknowledge the request in writing within 14 days or receipt.

Inquiries can be made by letter, telephone or in person. Email inquiries may be sent to info@acara.edu.au.

2. *Identification of the relevant documents*

The FOI Coordinator will consider the terms of the request and identify the relevant documents. The FOI Act applies to all documents in ACARA's possession, whether on file or not. The definition of 'document' is broad and includes electronic documents and email.

3. *Assessment of charges*

The rate of the charges is set out in Regulations made under the Act.

6.2. Application fees

An application fee is payable for both an original request and a request for internal review.

- There is an application fee of \$30 for FOI requests.
- There is a separate application fee of \$40 for internal review of a decision.

6.3. Processing charges

In many cases, the applicant will be liable to pay a charge to have the request processed. Charges are *pro rata* to the hours of work involved in processing the application.

- The charge for locating documents is \$15 per hour.
- The charge for ACARA's decision-making and consultation time with third parties is \$20 per hour.
- There are charges in relation to the provision of access (e.g.: 10c per photocopy, \$6.25 per half hour supervised inspection and special rates for special services such as tape transcription or computer output).

Requests for personal information may incur a maximum charge of two hours for locating documents and a further two hours for decision making time. However, full rates for the provision of access apply.

6.4. Remission of fees

The applicant can request that the fees be waived ('remitted') in part or totally. The FOI Coordinator will consider the financial hardship incurred as a result of the applicant having to

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pay the fee, or whether granting access is in the general public interest or in the interest of a substantial section of the public.

4. *Making a decision*

The FOI Coordinator and the ACARA CEO are authorised under the FOI Act to make decisions regarding FOI applications.

The FOI Coordinator holds the primary responsibility for FOI decision making. The FOI Coordinator may, from time to time, refer FOI requests to the ACARA CEO, and provide advice and assistance throughout the decision-making process.

The decision maker will consider each requested document and assess its relevance and whether the document or any part of it is exempt.

A schedule of documents will be provided to the applicant listing the documents that the decision maker has assessed, accompanied by a statement of reasons for their release or otherwise.

5. *Notifying the applicant and releasing the documents*

The decision maker will notify the applicant in writing of the decision/s, and provide a copy of the schedule of documents and a bill of costs. The applicant will have the choice of paying the charges (where applicable) and receiving copies of the documents (or inspecting the documents), or seeking an internal review of the decision/s.

6.5. How access to documents is granted

ACARA may give you a copy or allow you inspect the documents.

If you inspect the documents, ACARA will let you know how, when and where you can see them. This may be at the ACARA's office, or an Australian Government agency's office nearest to where you live.

If you have a preference, please specify this when making your FOI request. Generally, you will be given access in that form.

6. *Internal review*

The applicant has 30 days after being notified of the decision to seek an internal review. The review will be carried out by an officer at a higher level than the FOI Coordinator, and will start the decision-making process again.

Internal review is available for decisions in relation to the documents, and the fees and charges where the decision has been made by the FOI Coordinator. There is no internal review available of a decision made by the ACARA CEO.

7. *Further appeals*

If the decision is still in dispute following the internal review, it is open to the applicant to appeal to the Administrative Appeals Tribunal (AAT), which reviews the merits of the decision.

A further right of appeal lies in the Federal Court, however only on points of law.

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7.0 Transfer of FOI Applications between agencies under s.16 of the FOI Act

Where documents are sought that belong to or are more closely associated with another agency, or are not in the possession of ACARA but are thought to be in the possession of another agency, the FOI Coordinator can make arrangements to transfer all or part of the request to that other agency.

8.0 Third party information

The FOI Act in some cases requires that the view of third parties be sought in relation to decisions on access when information about them is contained in requested documents. These third parties include identifiable individuals, State and Territory governments, and commercial bodies.

Third parties, except other Australian government agencies and foreign governments may dispute a decision to release documents containing information on them and request an internal review or appeal directly to the AAT.

8.1. Personal Information

In some cases requested documents may contain personal information about an identifiable individual. 'Personal information' is defined as information or an opinion, whether true or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. Examples of personal information include:

- personal contact details such as an email, street address or phone number;
- information about family and marital relationships;
- information about a person's private life and circumstances.

A document does not contain personal information just because it:

- records a policy, or contains information about an activity impacts on you
- refers to your name
- contains information about your professional and/or business affairs.

The FOI decision-maker must consider whether there are reasonable grounds for the individual, or his or her successors, to claim that the information is exempt as an unreasonable

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disclosure of personal information (s.41). Factors in assessing whether the individual should be consulted include:

- how well known the information is already
- whether the person is known to be associated with the matters dealt with in the document
- the availability of the information from publicly accessible sources, and
- any other matter the FOI decision-maker believes is relevant in the circumstances.

Where the FOI decision-maker believes consultation is required, the subject person or their legal personal representative must be given a reasonable opportunity to make submissions, and the FOI decision-maker must consider those submissions before making a decision on the documents.

Following consultation, if it is decided that disclosure would not be unreasonable, the decision-maker must inform the individual of this decision in writing and of the right to seek internal review or to apply to the AAT. No access to the records will be granted to the applicant until either the period in which the identifiable individual can appeal to the AAT has expired (30 days), or the AAT has dismissed or ruled against such an appeal.

9.0 Reporting Requirements

The FOI Coordinator is responsible for the compilation of statistics required by the Department of the Prime Minister and Cabinet for inclusion in the Annual FOI Report to the Parliament.

10.0 Further information

If you would like further information about making an FOI request or about the FOI Act generally, information is available on the Department of the Prime Minister and Cabinet website at <http://www.pmc.gov.au/foi/faq.cfm>.

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