

OFFICE OF THE INFORMATION )  
COMMISSIONER (QLD) )

S 209 of 1993  
S 210 of 1993  
(Decision No. 95016)

Participants:

S 209 of 1993

WILLIAM D CAMPBELL  
Applicant

- and -

UNIVERSITY OF SOUTHERN QUEENSLAND  
Respondent

S 210 of 1993

WILLIAM D CAMPBELL  
Applicant

- and -

DEPARTMENT OF EDUCATION  
Respondent

### **DECISION AND REASONS FOR DECISION**

FREEDOM OF INFORMATION - applicant challenging sufficiency of search by respondents for documents falling within the terms of his FOI access applications - whether reasonable grounds exist for believing that either respondent has possession or control of other documents not dealt with in their responses to the applicant's FOI access applications - whether search efforts by the respondents have been reasonable in all the circumstances.

*Freedom of Information Act 1992 Qld s.7*

*Cannon and Australian Quality Egg Farms Limited, Re* (Information Commissioner Qld, Decision No. 94009, 30 May 1994, unreported)

*Shepherd and Department of Housing, Local Government & Planning, Re* (Information Commissioner Qld, Decision No. 94007, 18 April 1994, unreported)

*Smith and Administrative Services Department, Re* (1993) 1 QAR 22

## **DECISION**

1. In respect of application for review No. S 209 of 1993, I am satisfied that the respondent has located and dealt with the documents in its possession or control which fall within the terms of the applicant's FOI access application, and I affirm the decision under review.
2. In respect of application for review No. S 210 of 1993, I am satisfied that the respondent has located and dealt with the documents in its possession or control which fall within the terms of the applicant's FOI access application, and I affirm the decision under review.

Date of Decision: 26 May 1995.

.....

F N ALBIETZ  
**INFORMATION COMMISSIONER**

## TABLE OF CONTENTS

	<b>Page</b>
<b><u>Background</u></b> .....	1
<b>The applicant's FOI access application to the University</b> .....	2
<b>The applicant's FOI access application to the Department</b> .....	2
<b><u>"Sufficiency of search" issues</u></b> .....	3
<b><u>The external review process</u></b> .....	4
<b>Application to review the University's decision</b> .....	4
<b>Application to review the Department's decision</b> .....	4
<b><u>Applicant's Submissions</u></b> .....	5
<b><u>Agency responses</u></b> .....	6
<b>University's response</b> .....	6
<b>Department's response</b> .....	7
<b><u>Findings on sufficiency of search issues</u></b> .....	8
<b><u>General observations on agency responses to applicants in potential 'sufficiency of search' cases</u></b> .....	10
<b><u>Conclusion</u></b> .....	11

OFFICE OF THE INFORMATION )  
COMMISSIONER (QLD) )

S 209 of 1993  
S 210 of 1993  
(Decision No. 95016)

Participants:

S 209 of 1993

WILLIAM D CAMPBELL  
Applicant

- and -

UNIVERSITY OF SOUTHERN QUEENSLAND  
Respondent

S 210 of 1993

WILLIAM D CAMPBELL  
Applicant

- and -

DEPARTMENT OF EDUCATION  
Respondent

## **REASONS FOR DECISION**

### **Background**

1. The applicant complains that each respondent has failed to locate and deal with all documents falling within the terms of his respective FOI access applications, in which the applicant sought access to documents held by the University of Southern Queensland (the University) and the Department of Education (the Department) in relation to a course of study he undertook at the former Darling Downs Institute of Advanced Education (the DDIAE) in the early 1980's. A number of documents were supplied to the applicant by each agency, but the applicant claims that each agency holds further documents to which it is required to grant access under the *Freedom of Information Act 1992* Qld (the FOI Act). Each agency claims that it holds no further documents which fall within the scope of the respective FOI access applications. The issues which remain to be determined in these external reviews, therefore, relate solely to the sufficiency of search conducted by the two agencies in relation to Mr Campbell's FOI access applications.
2. At the time Mr Campbell undertook the Associate Diploma of Mathematics and Computing course (the ADMC course), the DDIAE was one of a number of institutes providing tertiary education in Queensland under the auspices of the Board of Advanced Education (the BAE), a body which was in turn subject to the supervision of the Department. More recently, these institutes have been transformed into universities (either directly or through an intermediate stage as university colleges) and the BAE, having lost its supervisory role, has been dissolved. The University has taken over the functions of the DDIAE and retains records which were once in the possession of the DDIAE. On dissolution of the BAE, its records became the responsibility of the Department.

### **The applicant's FOI access application to the University**

3. By a letter dated 10 July 1993, the applicant sought access to numerous documents from the University. In that part of his FOI access application which is still in issue, Mr Campbell sought access to documents as follows:

(E) *I understand that with the DDIAE's semesterisation for 1981, three committees, the School Course Planning and Review Committee, the Academic Board and the Board of Advanced Education agreed that:*

(1) *It wasn't wise to have UG3 [i.e. Associate Diploma] students enrolled in UG1 [i.e. Bachelor degree] units, and*

(2) *The goals and material of the ADMC course hadn't altered significantly.*

*I would like a copy of the committees' reports.*

4. The initial decision of the University was given by Ms A Winter, by letter dated 17 August 1993. In relation to part (E)(1) of Mr Campbell's FOI access application, Ms Winter stated that a search of various sections of the University had been conducted but that no documents responsive to that part of the FOI access application had been found. In relation to part (E)(2), Ms Winter stated that a search had located a document produced by the University's School of Applied Science and a document produced by the Academic Board, but that no document from the BAE had been located.
5. By letter dated 14 September 1993, the applicant sought internal review of Ms Winter's decision. In his internal review decision dated 23 September 1993, Mr A Finch, University Registrar, listed the sections of the University which had been searched, and affirmed the initial decision that no further documents responsive to the FOI access application were held by the University. On 19 November 1993, Mr Campbell applied to the Information Commissioner for external review under Part 5 of the FOI Act.

### **The applicant's FOI access application to the Department**

6. On the same day that he applied to the University, Mr Campbell made an application to the Department for access to a number of documents. In part (C) of that application, Mr Campbell sought access to documents in identical terms to those set out in paragraph 3 above. In the only other part of Mr Campbell's FOI access application to the Department which is still in issue, he sought documents as follows:

(D) *According to the BAE's "PROCEDURES FOR THE ACCREDITATION OF COURSES IN THE QUEENSLAND ADVANCED EDUCATION SYSTEM" the Board, as the accrediting authority for CAE courses in Queensland, is to determine when a major change takes place.*

*I would like a copy of the BAE's report with respect to whether the changes to the ADMC course resulting from semesterisation were consistent with its criteria defining major changes.*

7. By letter dated 25 August 1993, Mr E M Spring gave the Department's initial decision, stating that a search of records in relation to the matter had failed to locate any relevant documents. Mr Campbell applied for internal review and, in a decision dated 28 September 1993, Mr P M Parsons, on behalf of the Department, stated that no documents had been found which were within the scope of parts (C) and (D) of Mr Campbell's FOI access application, and explained why he considered that no such documents were held by the Department. By letter dated 18 November 1993, Mr Campbell applied to the Information Commissioner for external review under Part 5 of the FOI Act.

**"Sufficiency of search" issues**

8. As I indicated in paragraphs 12-61 of my decision in *Re Smith and Administrative Services Department* (Information Commissioner Qld, Decision No. 93003, 30 June 1993; now reported at (1993) 1 QAR 22) and in paragraphs 14-15 of my decision in *Re Cannon and Australian Quality Egg Farms Limited* (Information Commissioner Qld, Decision No. 94009, 30 May 1994, unreported), I have jurisdiction to conduct a review under Part 5 of the FOI Act where an applicant, who has applied to an agency for access to a document, complains that access to the document has been denied because of the agency's failure to locate and deal with the document in its response to the relevant FOI access application.
9. As I explained in *Re Shepherd and Department of Housing, Local Government & Planning* (Information Commissioner Qld, Decision No. 94007, 18 April 1994, unreported) it is my view that in an external review application involving "sufficiency of search" issues, the basic issue for determination is whether the respondent agency has discharged the obligation, which is implicit in the FOI Act, to locate and deal with (in accordance with Part 3, Division 1 of the FOI Act) all documents of the agency (as that term is defined in s.7 of the FOI Act), to which access has been requested. It is provided in s.7 of the FOI Act that:
7. *In this Act -*
- ...
- "document of an agency" or "document of the agency" means a document in the possession or under the control of an agency, or the agency concerned, whether created or received in the agency, and includes -*
- (a) *a document to which the agency is entitled to access; and*
- (b) *a document in the possession or under the control of an officer of the agency in the officer's official capacity;*
10. In dealing with the basic issue referred to in the above paragraph, there are two questions which I must answer:
- (a) whether there are reasonable grounds to believe that the requested documents exist and are documents of the agency (as that term is defined in s.7 of the FOI Act); and if so
- (b) whether the search efforts made by the agency to locate such documents have been reasonable in all the circumstances of a particular case.

## **The external review process**

### **Application to review the University's decision**

11. In support of his external review application, Mr Campbell provided me with a number of documents which he considered were relevant to the issues raised. Of particular relevance to that part of the FOI access application still in issue was a letter dated 10 July 1981 from Mr E G Siebuhr, Head of Program, Mathematics, in the School of Applied Science of the DDIAE.
12. Mr Campbell had commenced the ADMC course at the DDIAE in 1980. In 1981, all courses at the DDIAE were changed from a term system to a semester system reflecting a change in the secondary school system and in other tertiary institutions throughout Queensland. In 1981, Mr Campbell wrote a letter to the Dean of the School expressing concern about a number of issues including the effect of semesterisation on his course. That letter was passed on to Mr Siebuhr for reply. In his letter dated 10 July 1981 in reply to the applicant, Mr Siebuhr made the following statement:

*When the changes were made to the ADMC as a result of the move to semesters, three successive committees - the School Course Planning and Review Committee, the Academic Board and the Board of Advanced Education - all saw the changes as minor modifications. They agreed that (a) the goals of the course and the material in it had not altered significantly, and (b) it is unwise to have UG3 students enrolled in UG1 units.*

13. On 25 July 1994, a member of my staff held a conference with Mr Campbell to clarify the nature of his application for review, at which Mr Campbell asserted that Mr Siebuhr's letter suggested that there should be written documents recording the decisions of each of the committees referred to in Mr Siebuhr's letter. After that conference, a number of past and present University staff, including Mr Siebuhr, were interviewed.
14. Subsequent to those interviews, I communicated my preliminary views to Mr Campbell in relation to the sufficiency of search issues raised by his application for review, and provided him with the opportunity to make a submission to me in the event that he did not agree with my preliminary views. Mr Campbell accepted my preliminary views in relation to the greater part of his FOI access application, but stated that he could not accept my views in relation to that part of his FOI access application set out in paragraph 3 above, and provided a submission in that regard.

### **Application to review the Department's decision**

15. In like manner, a conference was held with Mr Campbell to clarify the nature of his application for review of the Department's decision, and his claims that further documents exist or should exist. Mr Campbell indicated that he only wished to pursue sufficiency of search issues with regard to parts (C) and (D) of his FOI access application (see paragraph 6 above).
16. At my request, the Department provided a written response dated 30 September 1994 in which it set out further information in relation to the searches it had carried out for all relevant documents, and the likelihood that it held any other relevant documents.
17. I then wrote to Mr Campbell providing him with a copy of the Department's response and informing him of my preliminary views. I invited him, should he not agree with my preliminary views, to provide a written submission. The applicant did so by letter dated 4 October 1994.

## **Applicant's Submissions**

18. It is clear from the applicant's submissions that his main concern is to obtain copies of any documents which show that the BAE considered the impact of semesterisation on the ADMC course, or to obtain confirmation that it did not. At the relevant time, institutes of advanced education were required to obtain approval from the BAE for new courses which they proposed to offer and also for "major" changes to courses. Mr Campbell clearly considers that semesterisation brought about a major change in his course, which should have been referred to the BAE. This is contradicted by the passage from Mr Siebuhr's letter (see paragraph 12 above) which indicates that the BAE saw the changes as minor modifications.
19. The bulk of Mr Campbell's submissions, in relation to his application for review of the University's decision, were aimed at establishing that documents should exist which show that the BAE had considered whether the changes to the ADMC course represented a major change. In summary, Mr Campbell's submissions on this point were as follows:

BAE procedures required that all major changes to a course be considered by the BAE.

The DDIAE was well aware of the requirements of the BAE because they had been drawn to its attention in a number of cases preceding the semesterisation of the course.

The changes which were implemented at the time of semesterisation represented a major change to the ADMC course because:

- . . . . . electives were to be eliminated from the course which was restructured to provide compulsory units only
- . . . . . most unit number codes were changed, a step which DDIAE regulations only required to be undertaken if the objectives of a unit were significantly altered
- . . . . . a document relating to the changes consequent on semesterisation prepared by the School of Applied Science described the elimination of electives as a "major" change
- . . . . . there were a number of new units including units from the degree course which were incorporated into the ADMC for the first time
- . . . . . there was a shift in emphasis of the course to commercial computing by incorporation of subjects from the Bachelor of Business Studies degree and a resultant change in course objectives and content.

A proposal for changes to the course put forward in 1986 showed that a reversion to inclusion of electives within the course structure was considered by the Academic Board as a "major" change worthy of referral to the BAE.

20. Mr Campbell's submissions were weakened to some extent by statements that he made in both his application for external review of the University's decision and his final submission to me. After setting out in his external review application the reasons why he believed documents within the scope of his initial application should exist, Mr Campbell went on to state:

*Even the BAE's comment that "The Board cannot be held responsible for opinions attributed to it and expressed in letters from staff of colleges of advanced education", and the OHE's*



[Office of Higher Education's] *Policy Co-ordinator's belief that there was no BAE committee report of the kind requested by me, tends to suggest that no such documentation ever existed and hence no such evaluation occurred.*

21. In his final submission, Mr Campbell stated:

*... It's my further conclusion, based on the available documents, that the BAE never made the evaluations attributed to it by Mr Siebuhr and hence these opinions were the personal opinion of Mr Siebuhr which weren't consistent with DDIAE documents.*

*With respect to your preliminary view regarding documents to this specific area of requested documents, I find it strange that there are no documents referring to the BAE's evaluation of the ADMC course given that the other documents exist. Whilst I don't dispute your preliminary view regarding the reasonable grounds for believing the documents don't exist, I find I cannot accept it because of the assortment of documents enclosed and the inconsistency between Mr Siebuhr's initial statement and the DDIAE's document. I conclude that if the BAE made the comments that were attributed to it by Mr Siebuhr, then it is reasonable for me to expect documents exist, hence I would like those documents. However, if the view expressed by Mr Siebuhr was his personal opinion and the BAE made no assessment of the ADMC course structure as suggested by Mr Siebuhr, then no documents ever existed.*

22. In relation to his application for review of the Department's decision, Mr Campbell raised similar arguments as to the likely existence of documents falling within the scope of his FOI access application.

### **Agency responses**

#### **University's response**

23. As noted above, a member of my staff interviewed Mr Siebuhr in relation to his letter of 10 July 1981 and the likelihood that documents that fall within the scope of Part (E) of Mr Campbell's FOI access application to the University were ever created or still exist. Mr Siebuhr noted that the letter referred to the committees agreeing to the matters identified in Part (E) of Mr Campbell's FOI access application, but that it did not indicate whether the agreement was recorded in minutes of various committee meetings or simply discussed at meetings. Mr Siebuhr advised that the School Course Planning and Review Committee discussed matters informally and did not keep any minutes of meetings, but that the Academic Board did keep minutes. Mr Siebuhr stated that he could not recall any written submission being forwarded to the BAE in relation to semesterisation. He said that the BAE's eventual acceptance of the changes is reflected in the fact that, to his knowledge, the course had been re-accredited subsequently by the BAE. Mr Siebuhr indicated that he has retired from the University and has not retained copies of submissions or correspondence from the BAE in relation to the ADMC course. Mr Siebuhr also indicated that he moved office on three occasions between 1981 and his retirement, and that each time he moved office he conducted a cull of documents which he considered were no longer required.

24. The position of the University is that no submission was made to the BAE for accreditation of changes to the ADMC course due to semesterisation. The School of Applied Science's submission in relation to the changes states that the course objectives had not changed and that the School had restructured its programs to account for semesterisation, and had taken advantage of the opportunity to incorporate minor changes to its programs in order to improve their effectiveness. The University has located and provided the applicant with a copy of the Academic Board minute which approved the proposed revision and semesterisation of the ADMC course. The University has indicated that

semesterisation was an Institute-wide (and indeed a State-wide) move which involved all of its courses. In the special circumstances surrounding semesterisation of all courses, it did not consider it necessary to submit each course for re-accreditation to the BAE solely because of semesterisation.

### **Department's response**

25. The Department first sought to establish that it was not reasonable to believe that any document falling within the scope of Parts (C) and (D) of Mr Campbell's FOI access application to the Department had ever been held by it. It secondly argued that even if such a document had existed and been held by it, it would not now be a document of the agency in terms of s.7 of the FOI Act.

26. In his internal review decision, Mr Parsons stated:

*The Co-ordinator of Policy in the OHE believes that [there is] no "report with respect to whether changes to the ADMC course resulting from semesterisation were consistent with its criteria defining major changes". The Co-ordinator of Policy further advises that "as semesterisation was institute-wide, all courses would have been subject to that change. To require review of all courses on the grounds that this was a major change would have been an unreasonable demand on resources. In any case the Board would not have considered this to be a major change requiring re-accreditation because essentially it had to deal with timing and timetabling of the course, not the nature of the content, or expected student effort. It is more than likely that the institution would have been allowed extensions of time to complete accreditation documentation then such an arrangement may well have been arrived at by telephone." The Board expected institutions would make some changes to content and structure of courses to maintain relevance and did not consider these major.*

27. In its response of 30 September 1994, the Department set out at some length the circumstances surrounding the dissolution of the BAE and the disposal of its records. The Department indicated that the BAE was dissolved on 31 December 1989 and that, in the main, its staff transferred to the Office of Higher Education. This involved, among other things, relocation to Education House and the making of decisions in relation to handling and storing of the BAE records, in consultation with officers of the State Archives.

28. The outcome of this process was that certain BAE records including office files, minutes of meetings and agenda papers for meetings (other than submissions for the accreditation of courses) have been retained by the Department.

29. A decision was taken that it was not necessary for the Department to retain copies of individual submissions for the accreditation of courses as it was believed that all institutions had, to that stage, kept copies of those submissions for their own purposes and the collection of submissions over two decades posed a huge storage problem. Institutions were given an opportunity to take back copies of submissions. Some institutions took this opportunity but others indicated that they already held a complete set for their own records (it is not clear whether the University took back copies of submissions in this manner). Documents which were not reclaimed by a particular institution were destroyed.

30. The Department also stated that its records showed that details of the ADMC course had been submitted for accreditation or re-accreditation on four occasions. The first submission was made in 1977 when the course was accredited for introduction in 1978. The second submission was made in 1979 when it was proposed that the course be offered by external studies. The course was then routinely re-accredited in 1983 and 1988.

### **Findings on sufficiency of search issues**

31. In accordance with my comments at paragraphs 9-10 above, I must consider whether there are reasonable grounds to believe that the requested documents exist, and are documents of the respective respondent agencies. It appears that the original basis for Mr Campbell's assertion that relevant documents must exist is the passage quoted above (see paragraph 12) from Mr Siebuhr's letter dated 10 July 1981. As Mr Siebuhr explained when interviewed by a member of my staff, the letter does not state that the attitude of the BAE is recorded in a document. It is possible that such information was communicated informally by an officer of the BAE, or that general discussions had been held on whether it was necessary to submit every course administered by the DDIAE to the BAE for re-accreditation due to semesterisation. It is even possible that Mr Siebuhr was wrong when he claimed that the changes had been considered by the BAE. Any of these explanations would accord with the proposition that no written record exists.
32. Mr Campbell has put forward substantial arguments as to why changes like those made to the ADMC course should have been regarded as "major" changes and therefore referable to the BAE. My reading of the documents created by the BAE in relation to its procedures suggests that it would have been relatively easy for reasonable minds to differ as to what constituted a "major" change. At the relevant time, the BAE Procedures for Submitting a Proposal for the Review of a Course provided:

*Major changes include adding any new strand to a course or offering it in a different mode such as by external study. Any large-scale restructuring of a course or any significant shift in or addition to its emphasis would also be considered as a major change. Should there be doubt whether any change may be considered as major, college authorities should seek advice from the Board before detailed plans for proposed modifications are prepared.*

33. Mr Campbell clearly believes that the changes proposed were major. However, an examination of the School of Applied Science's submission to the Academic Board suggests that this was not the view of the Associate Dean who prepared the submission. It is worth setting out parts of the first page of that submission to give an indication of the School's approach to the changes:

*Following the decision in 1979 by the Queensland Education Department that state schools would operate on a semester system in 1981, the Darling Downs Institute decided to adopt a similar academic structure, also to take effect in 1981.*

*The School of Applied Science has accordingly restructured its programmes, and has taken advantage of this opportunity to incorporate minor changes to the programmes in order to improve their effectiveness.*

*Attached is the proposed new course structure for the*

*Associate Diploma in Mathematics and Computing*

*The course objectives have not changed, neither has the content of the core units. Apart from a restructuring of these core units into a semester format, the major change is the elimination of electives. In fact, many of the proposed electives were not being selected by students, so that the new course contains the units which most students would have chosen anyway. The elimination of electives enables the School to concentrate its resources in the areas of greatest student demand.*

...

*Notwithstanding the above we submit that the Associate Diploma in Mathematics and Computing is substantially the same course, with minor improvements, and ask that its*

*accreditation be continued.*

34. Mr Campbell highlighted the use of the word "major" in the second last paragraph quoted above. However, my reading of that word in the context of the document suggests that it was not used in the sense that it necessitated reference to the BAE. It rather suggests that the most significant change is the elimination of electives. In that sense, the elimination of electives is drawn to the attention of Academic Board members as the most important of a number of minor changes.
35. Mr Campbell also drew attention to a proposal for change to the course put forward in 1986, involving introduction of electives, which the Academic Board considered should be presented to the BAE. The proposal, which was for the introduction of a new strand to the course, did not proceed to the stage of submission to the BAE. This proposal is in my view distinguishable from the 1981 changes as it involved a new strand, a change specifically noted in the BAE procedures as a "major" change.
36. However, even if this proposal could be equated to the changes proposed for semesterisation, the fact that it was considered "major" in 1986 does not mean that the University must have held the same view in 1981. The clear indication is that, at the time of semesterisation, the School of Applied Science did not consider the changes to be so major as to warrant reference to the BAE.
37. It serves little purpose to speculate further on whether or not the changes should have been regarded as major by the DDIAE. The submission to the Academic Board suggests clearly that the changes were regarded as minor, and the endorsement of the changes recorded in the Academic Board minute of 23 July 1980 does not suggest that the Academic Board considered the changes to be anything other than minor. A finding that the DDIAE was correct or incorrect in this view would do nothing to further my investigation of the questions I referred to in paragraph 10 above.
38. I should note that both the University and the Department have conducted extensive searches for any documents which might fall within the scope of Mr Campbell's respective FOI access applications.
39. In Mr Finch's internal review decision dated 23 September 1993, he indicated the following areas of the University had been searched in relation to Mr Campbell's FOI access application:
  - records held in what is now the Faculty of Sciences;
  - student administration data base;
  - student files;
  - central records holdings;

Council and Academic Board minutes and meeting papers, 1979-1983 inclusive;

Council correspondence for the period 1976 to 1987.

40. I am informed that, while the searches undertaken were not without difficulties because of past record keeping practices within the DDIAE, they were extensive. For example, the search of the Council correspondence for the period 1976 to 1987 took approximately 12 hours to complete.
41. The Department has indicated that it undertook searches both within the Office of Higher Education and the Minister's office. From my perusal of the Department's Freedom of Information file, it appears that searches undertaken in the Office of Higher Education were of approximately 12 hours duration, while searches in the Minister's office were undertaken for approximately 75 minutes.
42. Emphasis in the foregoing discussion has been placed on considering issues in relation to part (E)(2) of Mr Campbell's FOI access application to the University, its equivalent, part (C)(2), in the FOI access application to the Department, and part (D) of the FOI access application to the Department. This approach has been adopted because Mr Campbell's submissions have focussed on those parts of his FOI access applications.
43. Parts (E)(1) and (C)(1) of his respective FOI access applications, however, requested access to documents of a different, although related, nature. They sought access to reports from various committees showing that the committees agreed that it was not wise to have UG3 (associate diploma) students enrolled in UG1 (bachelor degree) units. Mr Campbell has already been granted access to a number of documents which deal generally with the differences between UG1 and UG3 courses.
44. Apart from relying on the terms of Mr Siebuhr's letter, Mr Campbell has put forward no further submission which would suggest that it is reasonable to believe that either agency holds undisclosed documents which fall within these parts of his respective FOI access applications.
45. I do not consider that Mr Siebuhr's letter affords reasonable grounds for belief that there exist further documents responsive to parts (E)(1) and (C)(1) of Mr Campbell's respective FOI access applications. I note that the searches referred to above included searches for any such documents.
46. In all the circumstances, I find that, in relation to each application, there are no reasonable grounds to believe that the requested documents ever existed. In addition, in relation to Mr Campbell's application for review of the Department's decision, I find that even if an accreditation submission had been provided to it in relation to semesterisation of the ADMC course, there are no reasonable grounds to believe that it would still hold a copy of such a document. I further find that the searches conducted by each agency have been reasonable in all the circumstances of the case.

**General observations on agency responses to applicants in potential "sufficiency of search" cases**

47. I wish to address a general issue as to the way in which agencies report to applicants on the extent and outcome of their searches to locate documents requested in an FOI access application. The inclusion of these comments in this decision should not be taken as a reflection on the methods of the University or the Department. It is a reflection of the fact that "sufficiency of search" cases, involving several agencies, have been consuming a disproportionate amount of time for myself and my staff.
48. I have now considered numerous applications for external review in relation to "sufficiency of search" issues. In a number of cases, I have noted that reports of the searches undertaken by agencies, given in reasons statements accompanying initial and internal review decisions, are very

brief, even where many hours of searching have been expended in an effort to find all documents falling within the terms of an FOI access application. In some cases, on being given a more detailed explanation of the amount of searching that has been undertaken and the effort to which the agency has gone to locate relevant documents, the applicant has been willing to reduce the number of issues involved in an external review application, or to withdraw the application completely.

49. Some applicants, understandably, become frustrated or disbelieving, when a response to an FOI access application merely states that documents which they believe to exist have not been found, or that an "extensive search" has been undertaken but that no documents have been found. I recommend that where agencies are aware that there is, or may be, a sufficiency of search issue in a particular case, they should give more detailed explanations of the method of search which has been adopted, and the amount of time which has been put into searching for the requested documents. If an agency has grounds for believing that a requested document does not exist, or is not in its possession or control, it should explain those grounds to the applicant.
50. Consistently with the obligations imposed on agencies by s.34(2) of the FOI Act, I consider such information to be essential for the purpose of giving an applicant a reasonable basis on which to decide whether to challenge the adequacy of the search conducted for a requested document which has not been located and dealt with by the agency. A written statement of searches conducted, time spent and methodology adopted, would prove a useful record, not only for applicants, but also agencies, and, if an external review does eventuate, the Information Commissioner. In many cases, it may well prove useful to supplement such an approach by a telephone call or meeting with the applicant during the initial processing of an FOI access application, or upon receipt of an application for internal review which raises a "sufficiency of search" issue.
51. The adoption of these recommendations may lead to a greater level of acceptance by applicants that an agency has acted reasonably despite the failure to locate requested documents. Moreover, if an applicant has evidence which objectively tends to show that an agency does, or should, have possession or control of a requested document, the applicant may be encouraged to offer that evidence during consultation in the course of processing an FOI access application, or in support of an application for internal review, rather than produce it for the first time when requested to do so by the Information Commissioner on external review.

### **Conclusion**

52. For the reasons given above, I am satisfied, in respect of each application for review, that each respondent has located and dealt with all documents in its possession or control which fall within the terms of the applicant's respective FOI access applications, and I affirm the decisions under review.

F N ALBIETZ  
**INFORMATION COMMISSIONER**