

File Ref: [REDACTED]

[REDACTED]

Via email: [REDACTED]

[REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST:

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate (the Directorate) on 9 March 2021, in which you sought access to records relating to:

Copies of final briefs prepared for Minister(s) and other witnesses, whether or not they appeared or were used, for the ACT Legislative Assembly Standing Committee Inquiries into Annual and Financial Reports 2019–2020 and Estimates 2020–2021.

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

The Education Directorate was required to provide a decision on your access application by 8 April 2021.

Decision on access

Searches were completed for relevant records and one record was identified that falls within the scope of your request. This record is the briefing pack that was prepared and includes an index for reference purposes.

I have decided to partial access to the record with deletions applied because it contains information that I consider, would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act. Access is partially provided under section 50 of the Act.

My access decision is detailed further in the following statement of reasons.

Material considered

In reaching my access decision, I have taken the following into account:

- the FOI Act, particularly sections 17 and 50, and schedule 2;
- the content of the records that fall within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that disclosure of the information could reasonably be expected to:

- *promote open discussion of public affairs and enhance government's accountability* (Schedule 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2.1(a)(ii));
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2.1(a)(iii)); and
- *reveal the reason for a government decision and any background or contextual information that informed the decision* (Schedule 2.1(a)(viii)).

I have decided that the applicable factors favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, are that the information could reasonably:

- *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004* (Schedule 2.2(a)(ii)); or
- *prejudice trade secrets, business affairs or research of an agency or person* (Schedule 2.2(a)(xi)).

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

I have placed significant weight on the positive contribution of open discussion of public affairs, contributing to informed debate on important issues and the factors that underpin transparency of government processes. As such, most of the information is fully released.

Information relating to third parties, or that could lead to the identification of individuals has been deleted as I have concluded that the individual's right to privacy has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

Some of the information relating to Catholic and independent school funding arrangements is bound by mutually agreed confidentiality clauses between the Directorate and the parties involved. I have decided that it would be prejudicial to their business affairs if this information were to be released and I have given a higher weighting to this factor than the factors favouring disclosure with respect to this information.

Online publishing – disclosure log

Under section 28 of the Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and the records released to you in response to your access application will be published in the Directorate's disclosure log between three and 10 working days after a decision on access has been provided to you. Your personal information will not be published.

You may view the Directorate's disclosure log at
https://www.education.act.gov.au/about-us/freedom_of_information/disclosure-log.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the Directorate's disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact the Directorate's FOI team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

8 April 2021