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### FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application received by the Education Directorate (the Directorate) on 1 December 2020, in which you are seeking access to information under *the Freedom of Information Act 2016* (the Act). Your request is for:

*A copy of document(s) identifying the number of times Yarralumla Primary School (YPS) used substitute teachers for each class (kindergarten - year six) during the 2019 and 2020 school years. For example, 2019 YPS kindergarten class one used substitute teachers 5 times, YPS kindergarten class two used substitute teachers 30 times; in 2020 YPS kindergarten class one used substitute teachers 1 time, year 4 class one used substitute teachers 20 times, YPS year 5 class two used substitute teachers 30 times.'*

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.

A decision on your access application is due by 31 December 2020, in line with section 40(2) of the Act.

#### Decision on access

The Directorate has conducted a thorough search for documents based on your request and nine documents were identified that fall within the scope of your request.

Included as Attachment A to this decision is the schedule of relevant documents. This provides a description of each document and its access decision.

As indicated in the schedule, I have decided to grant partial access to all documents.

The documents being released to you are provided as Attachment B.

#### Material considered

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

- the FOI Act, particularly sections 16, 17 and 50, and schedules 1 and 2;
- the content of the document that fall within the scope of your request; and
- the *Human Rights Act 2004*.

### **Reasons for decision**

In accordance with Section 17 of the FOI Act, a public interest test has been applied to the documents within the scope of your request to determine if they contain information that is contrary to the public interest to disclose. The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

I have decided that the factor favouring disclosure as listed at Schedule 2.1 of the Act is that the released information could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1(a)(ii)) as the schooling of children is a matter of general public interest.

I have decided that the factors favouring non-disclosure as listed at Schedule 2.2 of the Act are that disclosure of the information could reasonably be expected to

- 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));
- prejudice the management function of an agency or the conduct of industrial relations by an agency (Schedule 2.2(a)(xv)).

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

Most of the documents contain the names of individual teaching staff and relief teachers used to cover their classes on specific days, and in some cases the reason for the staff member's absence. This information is personal in nature and does not relate to teaching staff performing their normal range of duties which is usually released under FOI. For example, staff member names in a playground duty roster would be released unless there are extenuating circumstances.

Document 8 contains information about use of relief teachers by year level. As there is a small number of teachers for each year at Yarralumla Primary School, release of this information would enable individuals to be identified and therefore this is considered to be personal information.

I place significant weight on the right to privacy of individuals and their right to have their personal information protected. I have decided that their right to privacy in relation to their personal information has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

I also consider that release of the information would create industrial relations issues with Directorate staff, not limited to those at Yarralumla Primary School. As this would likely have a broad reaching impact, I place significant weight on this factor favouring non-disclosure in the public interest and consider this to have a higher standing of public interest not to disclose, than the public interest in disclosing this information.

In accordance with section 50 of the Act, I have decided to release the documents with the information deleted that has been deemed contrary to the public interest to disclose. On the term calendar documents (i.e. documents 1-7, and 9), information that is outside of the scope of your request has been deleted by grey bars. Information that is within the scope of your request but has been deleted for the reasons outlined above is covered by yellow bars. This has been done to give you an indication of the number of relief teachers that were covering classroom teaching positions on each day, as each yellow bar relates to an individual instance, and the sizes of the yellow bars have been tailored to make this clear where there are multiple instances on the one day. For example, in document 1, on 18 February 2019 there were four classroom teachers replaced by relief teachers.

### **Charges**

Processing charges are waived for this request because the Act requires that the first 50 pages must be provided free of charge.

### **Online publishing – disclosure log**

Under section 28 of the Act, the Directorate maintains an online record of access applications called a disclosure log. The Directorate is required to publish the information released in response to an access application on the disclosure log between three and ten days after the decision is released to the applicant, however, your personal information will not be published.

For your information, the Directorate's disclosure log is available at [https://www.education.act.gov.au/about-us/freedom\\_of\\_information/disclosure-log](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 released to you, 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](mailto:actfoi@ombudsman.gov.au)  
Telephone: (02) 6276 3773

**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  
Website: <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](mailto:EducationFOI@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer

24 December 2020