

[REDACTED]

Via email: [REDACTED]

Dear [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 10 March 2022, in which you are seeking information access to:

'a copy of the most recently completed Performance Audit for Cleaning Services in ACT Public Schools.'

On 18 March your office revised the scope to:

'1. A copy of the "Performance Audit for Cleaning services in ACT Public Schools", completed by June 30th, 2018 via FM Contract Solutions (ABN 56 609 597 140).

2. A copy of the internal audit that is currently being finalised.'

This request has been processed in two stages, with the first stage released 19 April 2022, and the second stage dependent on the finalisation of the internal audit. This letter addresses the second stage of your request.

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.

Decision on access

Searches were completed for relevant records and one record was identified that falls within the scope of your request.

I have decided to grant partial access to this record with deletions applied. It is provided at [Attachment A](#).

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 16, 17 and 50, and schedules 1 and 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 considered the record that is relevant to your request in accordance with the requirements of the Act.

The record that is partially released under the Act has had deletions applied in accordance with Section 50 of the Act. Deletions have been applied to information that is taken to contrary to the public interest to disclose in accordance with Section 16 of the Act, or would, on balance, be contrary to the public interest to disclose in accordance with the public interest test set out in Section 17 of the Act. Section 50 provides for information that is contrary to the public interest to be deleted from the record, enabling the remainder of the record to be released.

Information taken to be contrary to the public interest to disclose

The record contains information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act and it has been deleted. This relates to Cabinet information in accordance with Schedule 1, 1.6; specifically, information that the Minister proposes to submit to Cabinet for its consideration and was brought into existence for that purpose. As the information is not purely factual and the outcome of Cabinet's deliberation has not been published, the exclusions at Schedule 1, 1.6(2) do not apply.

Information, the disclosure of which would, on balance, be contrary to the public interest

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 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, 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2, 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, 2.1(a)(iii));
- *ensure effective oversight of expenditure of public funds* (Schedule 2, 2.1(a)(iv)); and
- *reveal the reason for a government decision and any background or contextual information that informed the decision* (Schedule 2, 2.1(a)(viii)).

I have decided that the applicable factor favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, is that 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, 2.2(a)(ii)).

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

I place 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, particularly as they relate to expenditure of public monies and government operations. As such, most of the information is released.

Information relating to a small number of employees and that could lead to them being identified 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. The disclosure of this information could be prejudicial to those employees.

Charges

There is no charge associated with this request, in line with section [REDACTED] of the Act.

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 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
25 May 2022