



File Ref: [REDACTED]

[REDACTED]

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 5 February 2019, in which you sought access to documents relating to instances of mould in ACT public schools.

Your request is specifically for:

Any documents and/or reports created or held by the ACT Education Directorate relating to instances of mould cases reported to the Directorate by ACT public schools, and instances of non-routine mould removal (i.e. required specialist treatment) at ACT public schools in the period 1 January 2015 to 5 February 2019.

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 5 March 2019.

Decision on access

Searches were completed for relevant documents and eight documents were identified that fall within the scope of your request.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access to the documents relevant to your request as follows:

- full access to two documents; and
- partial access to six documents with deletions applied.

For documents where access is partially provided, I have decided that they contain information that I consider to be contrary to the public interest to disclose, or would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act, or is outside the scope of your request. Access is partially provided to these documents under section 50 of the Act.

My access decisions are 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 documents that fall within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

Six of the identified documents contain information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act.

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

- reveal the reason for a government decision and any background or contextual information that informed the decision (Schedule 2.1(a)(vii)), or
- reveal environmental or health risks or measures relating to public health and safety (Schedule 2.1(a)(xi))

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 of the Act, are 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(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.

The documents that have deletions applied contain information relating to businesses in their dealings with the Directorate or third parties. I have concluded that their right to

privacy in relation to their business affairs and their personal information has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

Additional Information

It will be apparent from the documents that the incidences of mould in ACT public schools that are within the scope of your request occurred at Calwell High School in an IT lab in 2017 and at Miles Franklin Primary School in a Kindergarten classroom in 2018. It may assist you to know that the rectification works at Calwell High are complete. Work at Miles Franklin Primary is ongoing.

Charges

Processing charges do not apply to your request because the number of pages released is less than 50.

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 documents released to you in response to your access application is required to be published in the Directorate's disclosure log between three and 10 working days after a decision on access has been provided to you. Personal information of the applicant is not published in the disclosure log.

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.

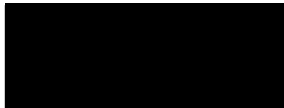
Further information may be obtained from the ACAT at:

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 Coordinator on 02 6205 0720 or email EDULegalLiaison@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

5 March 2019