



**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 sought access to records relating to:

*‘Any final briefs prepared for any ACT Minister(s) or ACT Government witnesses during the 2020 – 2021 Annual Reports Hearings’*

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 2022. With the agreement of your office obtained 7 April 2022, this deadline was extended to 14 April 2022. Thank you for accommodating the Directorate’s request.

**Decision on access**

Searches were completed for relevant records and 29 records were identified that fall within the scope of your request.

In summary, I have decided to grant:

- full access to 27 records,
- partial access to two records with deletions applied.

Included as Attachment A to this decision is the schedule of relevant records. This provides a description of each record that falls within the scope of your request and the access decision for each of those records. The records released to you are provided at Attachment B.

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 Act, particularly sections 16, 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 considered the records that are relevant to your request in accordance with the requirements of the Act.

Records that are partially released under the Act have had deletions applied in accordance with Section 50 of the Act. Deletions have been applied to information that 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 records, enabling the remainder of the record to be released.

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 applicable factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that the released 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 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(a)(ii)).

I have considered the factors favouring disclosure and the factor 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 enable individuals to be 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. This has been applied to information involving small numbers of students and staff.

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

Yours sincerely



Paula Murray  
Information Officer

13 April 2022