

[REDACTED]

Via email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under the *Freedom of Information Act 2016* (the Act) received by the Education Directorate (the Directorate) on 7 April 2022, in which you sought access to:

Copies of all records held by the ACT Government in relation to the incidents leading up to, and subsequent management of, the prohibition notice issued by Worksafe ACT in relation Calwell High School (notice number N-0000003584) issued on 31 March 2022 and associated Worksafe notices relating specifically to the provision and maintenance of safe systems of work at the school.

This includes all records of incidents of assault, abuse or violence and reports relating to fire and safety systems at Calwell school leading up the Worksafe ACT inspection, correspondence between the Minister and the Directorate in relation to incidents leading up to the inspection, between the Minister, Directorate and the school relating to violence against staff and students, and correspondence between the school or directorate and parents.'

The period of interest for your request was for records from the start of Term 1 2022 to the date of receipt of your application.

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.

Your request was processed in two stages, with the decision for the first stage provided to you on 15 July 2022. As noted in the Stage 1 decision letter, an attachment to one record had been withheld because the processing had not been completed at that time, and rather than seeking a further extension of processing time, I had decided to release all other records to you. This letter provides the decision for the withheld information.

Thank you for your patience as the Directorate has worked through the completion of your request.

Decision on access

My decision is to provide partial access to the information with deletions applied, and the reasons for my decision are detailed further below.

The released information is provided at Attachment A.

For your information, the original record contained numerous duplicates, as incidents involving multiple students had separate entries for each student. The duplicates have been removed from the information provided to you, and a column added to indicate the number of students that were involved in the incident. I trust that this approach assists your consideration of the information provided.

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 information that falls within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

I have considered the information in accordance with the requirements of the FOI Act, particularly section 6(a) which provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be deleted, enabling the remainder of the record to be released. This provision has been applied where appropriate.

Information taken to be contrary to the public interest to disclose

None of the information is taken to be contrary to the public interest to disclose.

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

The public interest test has been applied to determine if the information would, on balance, be 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 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); and
- *reveal the reason for a government decision and any background or contextual information that informed the decision* (Schedule 2, 2.2(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 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 factor favouring non-disclosure.

I acknowledge 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 being central tenets to the effectiveness of representative democracy. As such, most of the information is released.

Information that is personal information of individuals or could enable individuals to be identified has been deleted as I have concluded that disclosure would be prejudicial to their right to privacy, and that this has a higher standing of public interest not to disclose, than the public interest in disclosing the information. It would be unreasonably intrusive, and in some cases distressing, for individuals to be identifiable through the release of information in relation to the challenging circumstances that are evident. Further, it would be unreasonable to enable minors to be identified.

Whilst it is usual practice for the names, position titles and work contact details of ACT public servants to be released in FOI records, where the information concerned relates to their performance of their normal work functions, in this particular case I have decided that disclosure of this information could negatively affect the wellbeing, and possibly the personal safety, of some personnel. The names of the staff members involved in the incidents are not relevant to the public interest that would be served by the release of this information, and if their names or other identifying information were disclosed, it could lead to harassment, abuse or intimidation of them, which is not acceptable.

Charges

There is no charge associated with this request, in line with section 107(2)(e) 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 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



Information Officer

27 February 2023