



## **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 15 August 2023, in which you sought access to:

*Records relating to special purpose reviews of Margaret Hendry School and Kingsford Smith School, specifically the full final reports and final implementation plans (or latest versions if not yet final) for the recommendations arising from the reviews.*

On 13 September 2023, you partially withdrew your request and amended the scope to be for:

*Records relating to special purpose reviews of Margaret Hendry School and Kingsford Smith School, specifically the final implementation plans (or latest versions if not yet final) for the recommendations arising from the reviews.*

Thank you for providing this clarification.

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 26 September 2023.

### **Decision on access**

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

Record 2, which is the implementation plan for Margaret Hendry School, is technically outside of the scope of your request because it is dated after your application was received. However, the difference is only a short period and I have decided it would be more relevant to provide you with the most current information.

I have included as Attachment A to this decision 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.

In summary, my decision is:

- Full access to one record; and
- Partial access to one record with some information deleted.

The records released to you are provided as Attachment B to this letter.

My access decisions are detailed further in the following statement of reasons.

**Material considered (if records are redacted or access refused)**

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

- the FOI Act, particularly sections 16, 17, 35 and 50, and schedules 1 and 2;
- the content of the records that fall within the scope of your request;
- the *Information Privacy Act 2014*;
- the *Human Rights Act 2004*; and
- the FOI Guidelines issued under section 66 of the Act by the Ombudsman.

**Reasons for decision**

I have considered the records relevant to your request in accordance with the requirements of the Act.

Section 6(a) of the Act 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 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 Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be removed, which enables 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 records within the scope of your request contain information that is taken to be contrary to the public interest to disclose in accordance with Schedule 1 of the Act.

*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 FOI Act, are that disclosure of the information could reasonably be expected to:

- *promote open discussion of public affairs and enhance the 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 code of conduct followed by the government in its dealings with members of the community* (Schedule 2, 2.1(a)(iii)); or
- *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 factors favouring non-disclosure, as listed at Schedule 2.2 of the FOI 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, 2.2(a)(ii)).

I have considered the factors favouring disclosure and the factor favouring non-disclosure. In doing so, I acknowledge the positive contribution that informed debate on matters of public interest and transparency of government processes and decisions makes to representative democracy.

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. Accordingly, information that could enable the identification of individual students who have been suspended, or the identification of students or teachers through the number of reports of occupational violence, has been redacted. The numbers involved are less than 10.

**Additional information**

The information contained in the Data Analysis section of Record 1 is cumulative in relation to Major Negative Incidents, Minor Negative Incidents and Suspension, i.e. between Week 6 of Term 1 and Week 6 of Term 3 there were 1145 Major Negative Incidents recorded at the school, with the other numbers provided for this category indicating the number that occurred within the reporting period (195, +253, +247, etc). Thus, the number of suspensions in the period from Week 6 of Term 1 to Week 6 of Term

3 was a total of 27. As the numbers of occurrences within each reporting period were less than 10, these are not released in accordance with the explanation provided above.

However, the number of occupational violence incidents is not cumulative and applies to each reporting period, i.e. in the period from Week 1 of Term 3 to Week 6 of Term 3, there were 13 reports of occupational violence. It should be noted that there is not one-to-one correspondence between the number of reports and the number of incidents, as a single incident may have involved a number of staff members who each made a report. Therefore, the number of incidents during this reporting period may have been less than 13. In other reporting periods, the numbers of reports of occupational violence were less than 10.

### **Charges**

Processing charges are not applicable for this request because the education of children is a matter of interest to a large part of the community, particularly as it attracts significant expenditure in the ACT Government's budget.

### **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](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  
Allara House, 15 Constitution Ave  
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, 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

26 September 2023