



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 28 April 2023, in which you sought access to records relating to:

- 1. All information including the applicable laws, policies, procedures, protocols, minutes of the meetings, data recorded in any form, relevant research, records of the phone calls & all communications, obligations of the decision makers and relevant compliance info, involvement and awareness of the Ministers, complaints regarding the installations (if happened more than once in 2023) and the removal of around 80 plus flags depicting the Sikh Khanda symbol from the flagpoles located at Kings Avenue, Commonwealth Avenue and all other venues on or around 3 April 2023 (any time in 2023).*
- 2. All information regarding the introduction of a language for teaching in the ACT schools, including but not limited to the relevant criteria and how those criteria are/were met in case of the introduction of the language/s after 2005 (please provide examples):*
 - 2.1 All information, including but not limited to the minutes of the meetings, ministerial documents, ABS data, relevant multicultural policies & considerations about the ACT Government's awareness of the community demand, available information demonstrating the meeting of any policy parameters indicating the need to introduce the Punjabi language such as relevant community growth and all other considerations required for introducing the Punjabi language in the ACT schools, and since when?;*
 - 2.2. All information about the Government's awareness of the benefits and drawbacks of introducing Punjabi and all languages introduced after 2005; and*

2.3. All information about the Government's awareness of all objections, opposition (actual and/or perceived) and factors/information considered against introducing the Punjabi language in the ACT schools.

Your request was partially transferred to the Directorate from the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 April 2023 for response to part 2 of your request in relation to records held by the Directorate.

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.

In accordance with section 40 of the Act, the Directorate was required to provide a decision on your access application within 20 working days of receipt, being 26 May 2023. As advised by email on 25 May 2023, consultation with a third party was required and, in accordance with the Act, the due date was extended by 15 working days to 20 June 2023.

Decision on access

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

In summary, I have decided to grant:

- full access to one record;
- partial access to two records with deletions applied; and
- non-release of one record.

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

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.

The records released to you are provided at Attachment B.

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;
- the *Information Privacy Act 2014*;
- the *Human Rights Act 2004*; and
- the views of third parties consulted.

Reasons for decision

I have considered the records that are relevant to your request in accordance with the requirements of the 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 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 deleted, enabling the remainder of the record to be released. This provision has been applied where appropriate.

Information that is publicly available

Sections 43(1)(d) and 45(a) of the Act, provide for an access application to be refused wholly or in part if the information is publicly available. This provision applies to Record 2 and information provided in the Schedule about where it can be sourced on the Directorate's website.

Information taken to be contrary to the public interest to disclose

None of the records contained information that 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 set out at section 17 of the Act is used to decide whether disclosure of information would, on balance, be contrary to the public interest. The 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 disclosure of the information could reasonably be expected to:

- *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)), 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 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 factor favouring non-disclosure.

Information that is personal information of individuals, such as their signatures, has been deleted as I have concluded that disclosure would be prejudicial to their right to privacy. I have decided that their right to privacy has a higher standing of public interest not to disclose, than the public interest that would be served by disclosing the information.

Charges

Processing charges are not applicable for this request because the number of pages involved that are relevant to your request does not materially exceed the threshold of 50 pages set down in 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, please contact the Directorate's FOI team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

20 June 2023