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Dear 

**Freedom of information request: Gifts, benefits and hospitality**

I refer to your application made under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate (the Directorate) on 3 March 2018, in which you sought access to documents relating to hospitality declarations/declarable gifts/sponsorship received by Directorate executives and staff over the past five years.

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 Directorate was required to provide a decision on your access application by 3 April 2018.

**Decision on access**

Searches were completed for relevant documents from the period 4 March 2013 to 3 March 2018 and nine 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.

Documents identified as relevant to your request contain information that I consider to be information that would, on balance, be contrary to the public interest to disclose under section 17 of the Act.

I have decided to grant access, under section 50 of the Act, to the documents with redactions applied to information that I consider would be contrary to the public interest to disclose. Redactions have also been applied to information that is outside the scope of your request.

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

The reasons for my decision are explained below.

### **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**

My reasons for deciding not to grant access to parts of the documents are because all of the documents contain information that I consider, on balance, to be contrary to the public interest to disclose under section 17 of the Act. This relates to the names of personnel that received and declared a gift or benefit and their personal information, as well as pictures of some gifts that may enable the recipient and the giver to be identified.

I have decided that information regarding the recipient's position, the nature of the gift/benefit and its estimated value, and action taken in relation to the gift or benefit is to be disclosed and that this satisfies your request.

In making my decision I have decided that the factors favouring disclosure, as listed at Schedule 2.1 (a) of the Act, are that the information would:

- (ii) contribute to positive and informed debate on important issues or matters of public interest;
- (iii) 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

I have decided that the applicable factors favouring non-disclosure, as listed at Schedule 2.2 (a) of the Act, are that the information would:

- (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

Schedule 2.2(a)(ii) engages section 12 of the *Human Rights Act 2004*, in relation to privacy.

I have concluded that for these matters the individuals' right to privacy has a higher standing of public interest not to disclose than the public interest in disclosing identities or enabling identities to be determined, particularly as in many cases the named recipient did not personally retain the gift or benefit.

I have formed the view that the public interest is satisfied by information being provided about the gifts and benefits that are received by Directorate personnel and how they are handled.

### **Charges**

Processing charges are not applicable for this request because the number of pages involved does not exceed the threshold of 50 pages.

### **Online publishing – disclosure log**

In accordance with 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 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  
Via email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@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 our FOI Coordinator on 02 6205 0720 or email [EDULegalLiaison@act.gov.au](mailto:EDULegalLiaison@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer

26 March 2018