



File Ref [REDACTED]

[REDACTED]

Dear [REDACTED]

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Education Directorate on 13 February 2019, in which you sought access to documents relating to Theodore Primary School.

Your request was specifically for:

Documents related to violence at Theodore Primary School from 31 October 2016 to 12 February 2019, including but not limited to correspondence, Ministerial briefs, internal documents, notes, assessments or analysis of the issue, advice received, directions to or from ACT Government officials or Theodore Primary School's administration, media enquiries or planning for enquiries, and contingency plans.

I am an Information Officer appointed by the Director-General of the Education Directorate 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 on 14 March 2019. On 7 March 2019 your office agreed to an extension to 29 March 2019 and on that date a further extension to 12 April 2019 was agreed. Thank you for your consideration. It is greatly appreciated.

Decision on access

Searches were completed for relevant documents and 46 documents were identified that fall within the scope of your request.

My decision is to provide access to the documents as follows:

- Full access to eight documents;

- Partial access to 30 documents with deletions applied; and
- Not release eight documents.

My decision is detailed further in the following statement of reasons.

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.

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

Material considered

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

- the FOI Act, particularly sections 17 and 50, and schedules 1 and 2;
- the *Human Rights Act 2004*;
- the content of the documents that fall within the scope of your request; and
- information that is publicly available.

Reasons for decision

My reasons for deciding not to grant access to whole or part documents are because they contain information that:

- is taken to be contrary to the public interest to disclose in accordance with Schedule 1 of the Act, or
- I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act, or
- is publicly available; or
- is outside of the scope of your request.

I have decided to grant access, where possible, under section 50 of the Act, to copies of documents with information deleted that I consider is contrary to the public interest to disclose.

Information that is considered, on balance, to be contrary to the public interest

In applying the public interest test I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the Act, are that the information would:

- promote open discussion of public affairs and enhance the government's accountability (Schedule 2.1(a)(i)); or
- contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1(a)(ii))

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

- 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)); or
- prejudice an agency's ability to obtain confidential information (Schedule 2.2(a)(xii)).

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

Some documents that are relevant to your request relate to a small number of incidents and a small number of children. I have concluded that the release of any information about these incidents could enable the individuals to be identified, and that the right to privacy of these individuals has a higher standing of public interest not to disclose than the public interest in disclosing this information. Therefore, these documents are not released and it would also be inappropriate for any information about them to be provided in the Schedule.

In accordance with Section 50 of the FOI Act, I have decided to delete information from a number of the documents being provided to you because they contain personal information of third parties. I have decided that the individual's right to privacy of this information has a higher standing of public interest not to disclose, than the public interest in disclosing this information.

In addition, some of the documents are work health and safety reports submitted on a confidential basis by staff members. I have decided that disclosure of these documents could be prejudicial to future provision of such information to the Directorate, as employees may be less likely to make reports of this nature if they were not treated as confidential.

Information that is publicly available

Three documents are not released because they are publicly available. They were considered and released in response to a recent FOI request processed by the Directorate. They can be found on the Directorate's disclosure log at https://www.education.act.gov.au/about-us/freedom_of_information/disclosure-log - see Reference number EDU_2019_007 – Stage 2 decision and documents.

Charges

Processing charges are not applicable for this request.

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 Education 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.

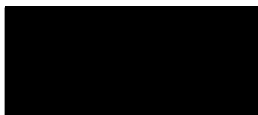
Further information may be obtained from the ACAT at:

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 our FOI Coordinator on (02) 6205 0720 or email EDULegalLiaison@act.gov.au

Yours sincerely



Paula Murray
Information Officer
Education Directorate

12 April 2019