

File Ref: [REDACTED]

[REDACTED]

E: [REDACTED]

Dear [REDACTED]

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 2 July 2019, in which you sought access to documents specifically relating to the death of a child:

[REDACTED]

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 30 July 2019.

Decision on access

I have decided to refuse to confirm or deny the existence of the requested government information under section 35(1)(e) of the Act. I have decided that the information, if it did exist, would be personal health information under the *Health Records (Privacy and Access) Act 1997* and would not be able to be provided in accordance with section 12 of the Act. Any additional information, if it did exist, would

be, on balance, contrary to the public interest information in accordance with Schedule 2.2 of the FOI Act. The release of this information could, if it did exist, also reasonably be expected to be an unreasonable limitation on a person's rights under the *Human Rights Act 2004*.

Material considered

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

- the FOI Act
- the scope of your request;
- the views of relevant third parties; and
- the *Human Rights Act 2004*.

Reasons for decision

The following factor was considered relevant in favour of the disclosure of the documents:

- Schedule 2.1(a)(xi) - reveal environmental or health risks or measures relating to public health and safety.

The following factors were considered relevant in favour of the non-disclosure of the documents:

- Schedule 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the *Human Rights ACT 2004*; and
- Schedule 2.2 (b)(i) - is personal information of a child and the disclosure of the information is reasonably considered not to be in the best interests of the child.

On balance, the factors regarding the privacy and human rights of a child would outweigh the public safety consideration regarding the release of this information as the ACT Government has processes in place to manage this. The release of this type of information would be contrary to the public interest and I would decide not to disclose this information if it existed.

Charges

Processing charges are not applicable to this request.

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 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.

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

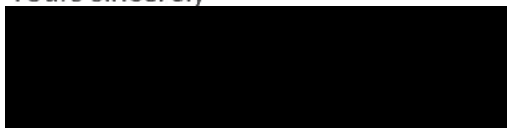
Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

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 Coordinator on 02 6205 0720 or email EDULegalLiaison@act.gov.au.

Yours sincerely



Danielle Krajina
Information Officer
Education

18 July 2019