



## 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 23 December 2022, in which you sought access to records relating to Orana Steiner School.

Specifically, you are seeking:

- *Any registration renewal panel reports from 1/1/2018 to 23/12/22.*
- *Records relating to complaints from members of the public submitted to EDU from 1/1/18 to 23/12/22.*
- *Records relating to building grants given to the school from 1/1/14 to 23/12/22.*
- *Correspondence between school representatives and EDU regarding financial viability and governance arrangements from 1/1/14 to 23/12/22.*

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 16 February 2023. You kindly agreed to extensions to 17 March 2023, 17 April 2023 and 1 May 2023. On 3 May 2023 the Ombudsman approved a further extension to 19 May 2023. The Directorate apologises for the delay in completing the processing of your request. Thank you for your patience and consideration – it is greatly appreciated.

### Decision on access

Searches were completed for relevant records and 52 records were identified that fall within the scope of your request.

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 two records;
- partial access to 49 records with deletions applied; and
- non-release of one record.

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

The records 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 16, 17 and 50, and schedules 1 and 2;
- the content of the records that fall within the scope of your request;
- the views of third parties consulted;
- the *Information Privacy Act 2014*; and
- the *Human Rights Act 2004*.

### **Reasons for decision**

I have considered the records that are 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 contain 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 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)); or
- ensure effective oversight of expenditure of public funds (Schedule 2, 2.1(a)(iv)).

In addition, I have decided that a factor favouring disclosure which is not specified in the FOI Act relates to release of information that is in the public domain. This relates to a matter that received considerable media coverage at the time. As the factors listed at Schedule 2.1 of the FOI Act are not exhaustive, I have decided that this is a relevant consideration in relation to some of the records.

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)); or
- prejudice trade secrets, business affairs or research of an agency or person (Schedule 2, 2.2(a)(xi)).

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

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, third party personal information has been deleted.

I have decided that external organisations are entitled to have information relating to their business affairs not disclosed if it would be prejudicial to their commercial interests, including their reputation. I have given this factor stronger weight than the public interest that would be served by disclosure of the information and have deleted this from the records released to you.

### **Charges**

Processing charges are not applicable for this request in consideration of the delay in processing your request and because the education of children is matter of interest to a large part of the community.

### **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 the 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  
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](mailto:EducationFOI@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer

19 May 2023