



File Ref: [REDACTED]

[REDACTED]

Email: [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 6 December 2018, in which you sought access to documents relating to:

*All records of discussions within the Directorate, and between the Directorate and ANU relating to the ANU's Music for Colleges Program: Classical and Jazz, also known as the ANU Music H Course, since 1 January 2013, including correspondence and documents developed by consultants or other bodies on behalf of the ACT Government.*

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 8 January 2019. An extension of time was sought to provide the decision by 15 January 2019, and a further extension of time was sought to 25 January 2019. Thank you for agreeing to these extensions. Your consideration is appreciated.

#### **Decision on access**

Searches were completed for relevant documents and 107 documents were identified that fall within the scope of your request.

My access decision is summarised as follows:

- full access is provided to 28 documents;
- partial access is provided to 68 documents with deletions applied or duplicated information removed; and
- 11 documents are not released.

This 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;
- information that is publicly available; and
- the views of third parties.

#### **Reasons for decision**

One of the documents is not released because it is a Cabinet Brief and such documents are taken to be contrary to the public interest in accordance with Schedule 1, 1.6 of FOI Act.

My reasons for deciding not to grant access to a number of whole or part documents are because they contain information that 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 they contain information that 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 would be contrary to the public interest to disclose.

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:

- (i) promote open discussion of public affairs and enhance the government's accountability
- (iv) ensure effective oversight of expenditure of public funds; and
- (viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

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:

- (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;
- (xii) prejudice an agency's ability to obtain confidential information; and
- (xvi) prejudice a deliberative process of government.

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

In accordance with Section 50 of the FOI Act, I have decided to delete information from the documents being provided to you because some of the documents:

- Contain personal information of Directorate employees or 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.
- Contain information that was provided on an in-confidence basis and I have decided that this is not to be released in order to maintain confidentiality of the information between the parties.
- Relate to the internal processes of drafting information. I have decided that it is not in the public interest to release these working drafts as the final form of this information is included in the documents being provided to you.

#### **Unavailability of a document at the time of processing**

Document 14 contains an email from an ANU employee to a Directorate employee as part of an email chain. The email refers to an attachment which was not able to be located at the time of processing your request due to the Directorate employee being on annual leave. This will be followed up when the person returns from leave and I will inform you about the outcome of that search.

#### **Charges**

Processing charges are not applicable for 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](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.

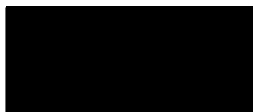
Further information may be obtained from the ACAT at:

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, or would like further information, please contact the Directorate's FOI Coordinator on 02 6205 0720 or email [EDULegalLiaison@act.gov.au](mailto:EDULegalLiaison@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer

25 January 2019

File Ref: [REDACTED]

[REDACTED]

[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 6 December 2018, and to the decision letter and documents that were released to you on 25 January 2019.

In the decision letter I advised that Document 14 contained an email from an ANU employee to a Directorate employee as part of an email chain. The email referred to an attachment which was not able to be located at the time of processing your request due to the Directorate employee being on annual leave. You were advised that the document would be followed up when the person returned from leave and informed about the outcome of the search for the document.

The document has now been located and is included as Attachment A to this letter. It is identified as Document 11A to fit into the chronological order of documents shown on the schedule provided with the released documents. Partial access is provided to Document 11A with deletions applied.

Consistent with my decision in relation to the other documents released to you, my reasons for deciding not to grant access to parts of this document are, in accordance with Schedule 2.2 of the Act, because it contains information that would:

- (ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*; and
- (xi) prejudice trade secrets, business affairs or research of an agency or person.

Some of the information in this document contains personal information of Directorate employees or third parties which is not in the public interest to disclose, therefore this information has been deleted.

Also, some of the deleted information relates to information about non-government schools, which I anticipate would be of concern to them if it were to be released, as it may enable their students to be identified and for comparisons to be made about individual schools. I gave consideration to undertaking third party consultation about this information; however I decided that such a process would be unlikely to result in a different outcome from the manner in which this document is being released to you.

In addition, information that was not relevant to your request has also been deleted.

If you require further information, please contact the Directorate's FOI Coordinator on 02 6205 0720 or email [EDULegalliaison@act.gov.au](mailto:EDULegalliaison@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer

30 January 2019