

File Ref: [REDACTED]

[REDACTED]

Via email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION (FOI) REQUEST: XXXXXXXXXX

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 30 March 2022, in which you sought access to:

'Records of Education Support Office employees who have worked interstate or overseas for a period of 6 months or longer since 30 March 2019, including identifying the location that the employee was working from and the duration of the arrangement

Note: excludes employees who reside in NSW but would normally commute to work in Canberra'.

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 2 May 2022.

Decision on access

Searches were completed for relevant records and one record was identified that falls within the scope of your request.

As discussed with you by telephone on 29 April 2022, through the process of searching for relevant records, I have been made aware of cases of ESO employees that would be within the scope of your request; however, no records could be located. This is addressed in the Additional Information section of this letter.

In relation to the record that was located, I have decided to grant partial access to it and it is provided as Attachment A to this letter.

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

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 record that falls within the scope of your request; and
- the *Human Rights Act 2004*.

Reasons for decision

I have considered the record that is relevant to your request in accordance with the requirements of the Act.

The record has had deletions applied in accordance with Section 50 of the Act, to information that would, on balance, be contrary to the public interest to disclose in accordance with the public interest test set out in Section 17 of the Act. Section 50 provides for information that is contrary to the public interest to be deleted from the record, enabling the remainder of the record to be released.

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 Act, are that disclosure of the information could reasonably be expected to:

- *promote open discussion of public affairs and enhance government's accountability* (Schedule 2, 2.1(a)(i)); and
- *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* (Schedule 2, 2.1(a)(iii)).

I have decided that the applicable factor favouring non-disclosure in the public interest, as listed at Schedule 2.2 of the Act, is that 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)).

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

I place significant weight on the positive contribution of open discussion of public affairs and transparency of government processes and decisions, particularly as they relate to government operations.

Personal information of individuals has been deleted as I have concluded that the individual's right to privacy has a higher standing of public interest not to disclose, than the public interest in disclosing this information. This relates to the personal information of staff members, including information that could lead to them being identified.

Additional information

As noted above, through the process of searching for records, some other cases that would be within the scope of your request were identified; however, no records have been located in relation to these matters, most likely due to change in managers and personnel. For your information, an outline of these cases follows:

| Case no. | Location | Duration |
|----------|----------|-------------------------|
| 1 | NSW | April 2020 - current |
| 2 | QLD | November 2019 - current |

Charges

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

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 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 team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely



Paula Murray
Information Officer

2 May 2022