



Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by Canberra Health Services (CHS) on **15 July 2023**.

This application requested access to:

'Any documents and correspondence held by any relevant ACT government health agencies or ministers, including ACT Health and the office of the Minister for Mental Health Emma Davidson, regarding a patient at the Dhulwa Secure Mental Health Unit who was accused of being violent and trying to strangle an ACT government worker while that person was driving down Athllon Drive.'

I am an Information Officer appointed by the Chief Executive Officer of Canberra Health Services (CHS) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. CHS was required to provide a decision on your access application by **11 August 2023**.

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. Section 12 of the FOI Act specifies that the Act does not apply to information in a health record as defined by the *Health Records (Privacy and Access) Act 1997* (the HR Act). There is information in each report that has been redacted as it constitutes a health record.

The HR Act defines a health record as any record containing personal health information. The HR Act defines personal health information as 'any personal information (a) relating to the health, an illness or a disability of the consumer; or (b) collected by a health service provider in relation to the health, an illness, or a disability of the consumer.' A 'consumer' is defined broadly and includes any individual who uses, or has used, a health service.

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

- The FOI Act;
- The types of the documents that may fall within the scope of your request; and
- The *Health Records (Privacy and Access) Act 1997*.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, CHS maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI 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 ACT Health'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
Via email: ACTFOI@ombudsman.gov.au
Website: ombudsman.act.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
Allara House
15 Constitution Avenue
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Katie McKenzie
Executive Director of Nursing
Mental Health, Justice Health & Alcohol and Drug Services

21 July 2023