



**ACT**  
Government

**Canberra Health  
Services**

Ref FOI18-96



Dear 

### **Freedom of Information (FOI) Request FOI18-96**

I refer to your application received by Canberra Health Services on 2 October 2018 in which you sought access to information under the *Freedom of Information Act 2016* (the Act).

In your application you have requested:

*“All emails, reports and ministerial briefs related to the four allegations of fraud made against ACT Health staff in 2017-18”*

I am an Information Officer appointed by the Chief Executive Officer under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Canberra Health Services is required to provide a decision on your access application by 30 October 2018.

#### Decision on access

I have decided to refuse access to all identified documents as I consider them to be information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act. My access decision is detailed further in the following statement of reasons.

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

- The FOI Act.
- The contents of the documents that fall within the scope of your request.

My reasons for deciding not to grant access to the identified documents are as follows:

#### Public Interest Factors Favouring Disclosure

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

- Schedule 2.1(a)(i) the release of the document could be expected to promote open discussion of public affairs and enhance the government's accountability;
- Schedule 2.1(a) (viii) the release of the document could be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.

#### Public Interest Factors Favouring Non-Disclosure

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

- Schedule 2.2(a)(ii) release 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(a)(iii) release could reasonably be expected to prejudice security, law enforcement or public safety;
- Schedule 2.2(a)(iv) release could reasonably be expected to impede the administration of justice generally, including procedural fairness;
- Schedule 2.2(a)(xii) prejudice an agency's ability to obtain confidential information;
- Schedule 2.2(a)(xv) prejudice the management function of an agency or the conduct of industrial relations by an agency;
- Schedule 2.2(b)(v) about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and disclosure of the information could prejudice the fair treatment of an individual.

#### Balancing of Public Interest factors

I have made a decision to refuse to release the documents identified documents. On balance, the release of these documents is contrary to the public interest to disclose under the test set out in section 17 of the Act as the public interest would not be advanced by their public disclosure.

I do not consider that access to the requested information would allow or assist inquiry into possible deficiencies in the conduct or administration of Canberra Health Services, ACT Health or a public official as these matters have been identified and have been or are in the process of being thoroughly investigated. Appropriate action has been taken in each instance.

#### Harm to the public interest that can be reasonably expected to occur from disclosure

The information, if released, could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law. Documents in scope of this request are the subject of an ongoing investigation.

The release of these documents would prejudice the agency's ability to obtain confidential information and would also prejudice the management functions of an agency. The documents contain unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct. All documents contain identifiable personal information of individuals and disclosure of the information could prejudice the fair treatment of individuals involved.

#### Charges

Processing charges are not applicable to this request.

#### Online publishing – disclosure log

Under section 28 of the Act, ACT Health maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the ACT Health and Canberra Health Services 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.

#### 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 ACT Health and Canberra Health Services 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](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 Canberra Health Services processing of your request, or would like further information, please contact the FOI Coordinator on 6205 1340 or email [HealthFOI@act.gov.au](mailto:HealthFOI@act.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to be 'JH', written over the words 'Yours sincerely'.

Janine Hammat  
**A/g Executive Director**  
People & Culture

26 October 2018