



Dear 

**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 **Friday 10 February 2023**.

This application requested access to:

*Rules or codes of conduct in re. The PACER Program;  
Insurance policies for said staff;  
And any claims made on said insurance.*

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 **Friday 10 March 2023**.

I have identified one document holding the information within scope of your access application.

**Decisions**

I have decided to partially refuse access to the information requested. In reaching my access decision, I have taken the following into account:

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

In relation to the scope, *Rules or codes of conduct in re. The PACER Program*, CHS has adopted the ACT Public Service Code of Conduct, information which is publicly available.

The Code of Conduct provides guidance and a clear statement of how people employed under the PSM Act are expected to behave towards each other and members of the public who they serve. The Code of Conduct should be read in conjunction with section 9 of the Public Sector Management Act 1994 (PSM Act), which remains the formal test for alleged misconduct.

The ACT Public Service Code of Conduct can be accessed via the Chief Minister, Treasury and Economic Directorate Website:

[https://www.cmtedd.act.gov.au/\\_data/assets/pdf\\_file/0018/2004921/ACTPS-Code-of-Conduct-2022.pdf](https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0018/2004921/ACTPS-Code-of-Conduct-2022.pdf).

### **Refuse Access**

In relation to the scope:

*Insurance policies for said staff;*

*And any claims made on said insurance,*

The disclosure of the information at issue could prejudice the business affairs of the CHS' insurers by revealing the specific values of premiums, total coverage, excess costs, and deductibles which could enable other insurance companies to ascertain elements of their business model and operations.

The document could also prejudice CHS' ability to obtain confidential information, as the disclosure may affect the willingness of Australian Capital Territory Insurance Authority (ACTIA) to be frank in their communications during negotiation processes for future insurance contracts. This potential impact is lessened as the non-disclosure does not reveal any negotiations or communications going into the scope of future policies, as well as compromising the management function of CHS to maintain appropriate insurance.

The information detailing the insurance policies have a commercial value, in that it is valuable for the purposes of carrying on the commercial activity in which both CHS and ACTIA are engaged, and the disclosure could prejudice the competitive commercial activities of the insurer as well as ACTIA's bargaining position for future insurance contracts.

### **Public Interest Factors Favouring Disclosure**

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

- Schedule 2, 2.1(a)(i) promote open discussion of public affairs and enhance the government's accountability; and
- Schedule 2, 2.1(a)(iv) ensure effective oversight of expenditure of public funds.

### **Public Interest Factors Favouring Non-Disclosure**

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

- Schedule 2, Schedule 2.2 (a)(xi) prejudice trade secrets, business affairs or research of an agency or person;
- Schedule 2, Schedule 2.2 (a)(xii) prejudice an agency's ability to obtain confidential information;
- Schedule 2, Schedule 2.2 (a)(xiii) prejudice the competitive commercial activities of an agency; and
- Schedule 2, Schedule 2.2 (a)(xv) prejudice the management function of an agency or the conduct of industrial relations by an agency.

Following the considerations of the above factors, I have decided the factor favouring non-disclosure outweighed the factors favouring disclosure. Therefore, I have determined the information identified is contrary to the public interest and I have decided not to disclose this information.

### **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](mailto:ACTFOI@ombudsman.gov.au)  
Website: [ombudsman.act.gov.au](http://ombudsman.act.gov.au)

**ACT Civil and Administrative Tribunal (ACAT) review**

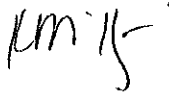
Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal  
Level 4, 1 Moore St  
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](mailto:HealthFOI@act.gov.au).

Yours sincerely



Katie McKenzie  
**Executive Director**  
Mental Health Justice Alcohol and Drug Services  
Canberra Health Services

17th March 2023