

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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 ACT Health Directorate (ACTHD) on **Monday 5 June 2023**.

This application requested access to:

'Any documents, ministerial briefing notes 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 [REDACTED] and [REDACTED] [REDACTED] during the time period of May 21 to June 3, 2023.

This request includes but is not limited to:

- *Communications or information following complaints to ACT Health by [REDACTED] [REDACTED] on May 21.*
- *Any information or communications following media requests sent by [REDACTED] on June 2.*

Any communications between [REDACTED] and ACT Health, the office of Minister Emma Davidson and Canberra Health Services.'

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Tuesday 18 July 2023**.

I have identified 13 documents holding the information within scope of your access application.

Decisions

I have decided to refuse access to all 13 documents.

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; and
- The *Human Rights Act 2004*.

Refuse Access

I have decided that the disclosure of the documents is to be taken contrary to public interest under Schedule 1.14(1)(d), as it could be reasonably expected to result in the individual being subject to a serious act of harassment or intimidation.

In addition, I have decided to refuse access to the documents as 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 FOI Act.

Public Interest Factors Favouring Disclosure

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

- Schedule 2, Schedule 2.1(a)(i) promote open discussion of public affairs and enhance the government's accountability; and
- Schedule 2, Schedule 2.1(a)(ii) contribute to positive and informed debate on important issues or matters of public interest.

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)(ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004; and
- Schedule 2, Schedule 2.2(b) the information (v) is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and disclosure of the information could prejudice the fair treatment of an individual.

I have given significant consideration to the factors favouring disclosure and I believe the factors favouring non-disclosure outweighed these as the disclosure information would or could reasonably be expected to contravene the human rights of an individual, noting that this person is not a public sector employee. There is no reason to believe that this individual has not complied with regulations pertinent to their employment. Given the unsubstantiated allegations of misconduct, the disclosure of the information could prejudice the fair treatment of an individual.

I have decided that the public interest would not be advanced by providing the information sought where further investigation was found not to be warranted.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD 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

Canberra City ACT 2601

GPO Box 370

Canberra City ACT 2601

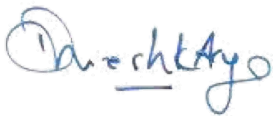
Telephone: (02) 6207 1740

<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,



Dr Dinesh Arya

Chief Medical Officer and Chief Psychiatrist

ACT Health Directorate

30 June 2023