



ACT
Government

Justice and Community Safety

Our Reference: FOI:2015/00070

Dear

FREEDOM OF INFORMATION REQUEST

I refer to your correspondence received by the Justice and Community Safety (JACS) Directorate on 16 December 2015, in which you sought access, under the *Freedom of Information Act 1989* (the FOI Act), to the following:

- (1) *Documents relating to the content and drafting of the Health (Patient Privacy) Amendment Act 2015; and*
- (2) *Workplace health and safety incident reports, originating from relating to complaints about people holding anti-abortion prayer vigils outside 1 Moore Street, Canberra City.*

As previously advised, this request has been partially transferred to ACT Health and they will be providing you with a separate response. I note that WorkSafe ACT were also consulted with respect to your request for incident reports at point two above, however a search of their information holdings failed to identify any relevant records.

I also refer to your request to the Human Rights Commission dated 17 December 2015, in which you sought the assessment of the *Health (Patient Privacy) Amendment Bill 2015* (the HPPA Bill) against the *Human Rights Act 2004*, including any compatibility statement. This request was partially transferred to JACS and is included in this decision. Please note however, that as it was introduced by a private member, the HPPA Bill was exempt from the human rights compatibility statement process and no such document was prepared.

I am the officer authorised under section 22 of the Act to make a decision in relation to your requests.

Although the Act facilitates the objective of public access to documentation, the release of information is subject to a number of exceptions. In this instance, I am claiming partial exemption for some of the information you have requested, in accordance with the following sections of the FOI Act:

Section 36 Internal Working Documents

Section 36 provides that:

- (1) *A document is an exempt document if its disclosure under this Act –*
 - (a) *Would disclosure matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has*

taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory.

Folios 10 – 17, 45 – 49 and 51 – 57 have been redacted as they relate to a draft brief, and as such, form part of an internal working document. It would not be in the public interest to release information which could cause confusion as it does not reflect what was subsequently cleared for release. I note that a partially redacted version of the final brief can be located at folio 60 – 83.

Section 41 Documents affecting personal privacy

Section 41 provides that:

(1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person.

Some of the documents provided to you contain personal information such as mobile and non-listed phone numbers. I have redacted such personal information from these documents on the grounds of personal privacy. These redactions do not affect the substance of the communications.

Section 42 Documents subject to legal professional privilege

Section 42 provides that:

(1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Documentation held by the Parliamentary Counsel's Office (PCO) regarding the drafting of private members legislation is covered by legal professional privilege. Drafting instructions and related PCO documentation on the HPPA Bill has therefore been exempted in full.

Information at folios 63, 87, 90, and 95 has also been exempted as it refers to advice provided by the ACT Government Solicitor and is therefore subject to legal professional privilege.

I have also assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that the documents relevant to your request, including this decision letter, will be published online. For more information about the ACT Government's Online Freedom of Information Publication Policy, visit the link below.
http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online

You have a right to seek a review of this decision under section 59 of the Act. You have 28 days from the date of this letter, or such other period as the Director-General permits, to seek a review. This right of review extends to a review of the adequacy of the search for documents undertaken by the Directorate. If you wish to seek a review you should write to:

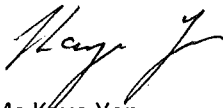
The Director-General
ACT Justice and Community Safety Directorate
C/- Freedom of Information Officer
GPO Box 158
CANBERRA ACT 2601

You also have the right to contact the Ombudsman regarding the processing of your request. If you wish to discuss this matter with the Ombudsman you should write to:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Should you have any queries in relation to your request please feel free to contact the Freedom of Information Coordinator, Ms Lauren Callow on (02) 6207 2167.

Yours sincerely



Ms Kaye Yen
A/g Executive Director
Governance

21 January 2016