



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-108
Date of Application	22 March 2024
Date of Decision	22 May 2024
Processing time (in working days)	40
Fees	N/A
Decision on Access	Full Release
Information Requested (summary)	Warning letter issued to Canberra Sikh Association by Access Canberra.
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Documents and schedule	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: [CMTEDD FOI](#)
To: [CMTEDD FOI](#)
Subject: FW: CSA - Warning Letter (Request for freedom of information
Date: Tuesday, 4 June 2024 8:40:36 AM

OFFICIAL

From: [REDACTED]
Sent: Friday, March 22, 2024 7:51 AM
To: Gadsby, Jason <Jason.Gadsby@act.gov.au>; CITL <citl@act.gov.au>; Flint, Nicole <Nicole.Flint@act.gov.au>; McClelland, Seamus <Seamus.McClelland@act.gov.au>
Subject: Re: CSA - Warning Letter (Request for freedom of information

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

[Learn why this is important](#)

Good morning Jason, Nicole and Seamus,
I have attached the form requesting the letter, presumably dated 15 March 2024, that was issued to the Canberra Sikh Association (CSA), warning the CSA to hold its AGM.

I have been advised to submit this request and now insist that this letter be issued to me, through the freedom of information request immediately as I need to advise the CSA membership of the recent developments. As advised below, the CSA committee's tenure has now ended and the CSA members need to be aware of the action the Registrar-General's office is now undertaking.

[REDACTED]

Please provide the warning letter immediately as the time taken to ascertain this information has taken a long time and I understand the reasons why you may not have been able to provide the information directly to me.

[REDACTED]



ACT
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Our ref: CMTEDDFOI 2024-108



FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 22 March 2024.

Specifically, you have sought access to the following information:

- The letter, presumably dated 15 March 2024, that was issued to the Canberra Sikh Association (CSA), warning the CSA to hold its AGM.

Authority

I am an Information Officer appointed by the CMTEDD Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act.

Therefore, a decision is due by **30 May 2024**.

Decision on access

Searches of CMTEDD records have identified one document within the scope of your request.

I have decided to grant **full access** to the document.

Release of documents

The information being released to you is provided at **Attachment A**.

Statement of Reasons

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per **Schedule 1** of the Act.
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in **Schedule 2** of the Act.

Public Interest Test

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Schedule 2: Factors to be considered when deciding the public interest.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

Factors favouring disclosure (Section 2.1)

- *Section 2.1(a)(iii) - inform the community of the government’s operations, including the policies, guidelines and codes of conduct followed followed by the government in its dealings with members of the community.*

I have placed substantial weight on the above factor. I appreciate that release of the information in scope will provide the Canberra community with some insight into the fair trading and compliance operations of the ACT government when dealing with Incorporated Associations and their members.

I did not identify any factors in favour of nondisclosure.

Charges

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a [disclosure log](#).

Your original access application and my decision will be published on the CMTEDD disclosure log. 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 provided to you, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: 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
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the Information Access Team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely



Katharine Stuart
Information Officer
Chief Minister, Treasury and Economic Development Directorate

21 May 2024



[REDACTED]
The Secretary
The Canberra Sikh Association
15 Hickey Circuit
WESTON ACT 2611

Email: secretary@csa.asn.au

Dear Sir

The Canberra Sikh Association – Alleged Breaches of the *Associations Incorporation Act 1991* (the Act)

Background

Access Canberra, on behalf of the Registrar-General, is responsible for administering the Act, including having responsibility to investigate complaints about incorporated associations pursuant to the Act.

The Canberra Sikh Association (the **CSA**) is an association incorporated under the Act (Association Number A01669).

The CSA was due to hold an Annual General Meeting (the **AGM**) on or before 30 November 2023 pursuant to section 69 of the Act.

On 23 October 2023 Access Canberra received a request for an extension to the deadline of this AGM from the Secretary of the CSA. Access Canberra agreed to an extension of **2 months**, requiring the AGM be held **no later than 31 January 2024**.

It is our understanding that as of **14 March 2024** the AGM has not been held.

Relevant Legislation

Section 69 of the Act specifies that AGMs must be held by incorporated associations once each calendar year, within 5 months of the end of the association's most recently ended financial year. In this case, an extension of time was granted under section 120 of the Act. The period allowed by the extension has expired, and it is now considered that the CSA may be in breach of the Act.

It is an offence under section 108(1) of the Act for committee members to knowingly fail to take all reasonable steps to ensure an association is complying with the Act. Failure by an association to comply with the Act may give cause for the Registrar-General to consider initiating enforcement action against the association.

Next Steps

On this occasion, Access Canberra is not proposing enforcement action be taken. We are, however, asking that you commit to a date on which the AGM will be held, and that details of this meeting be provided to Access Canberra via email complianceandinvestigations@act.gov.au no later than close of business **28 March 2024**.

You are reminded that the provisions of the Act are in place to ensure fair and transparent dealings by Incorporated Associations, and to protect the rights of their members. The CSA has a statutory obligation to ensure that its operations are consistent with all provisions set out under the Act.

If you have any questions regarding this matter, please contact Jason Gadsby on 6205 9083 or by email at Jason.Gadsby@act.gov.au.

Yours sincerely



Janelle Grattidge
Assistant Director
Fair Trading and Compliance
Access Canberra

14 March 2024