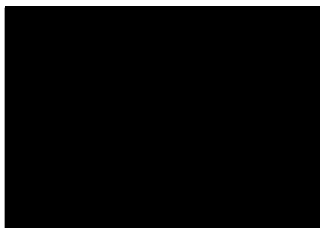


File Ref: 2017/11514



Dear 

I refer to your request received by the Directorate on 16 October 2017 in which you are seeking access under the ACT *Freedom of Information Act 1989* (the FOI Act) documents held by the the Education Directorate (the Directorate) relating to:

1. *Any report or document incidental to such a report prepared by Russell Noud dealing with Phillips Cleaning Service*
2. *Any document pertaining to:*
 - a. *the practice of Phillips Cleaning Service of standing down workers during school holidays;*
 - b. *the terms under which the workers employed by Phillips were engaged;*
 - c. *the letters of appointment given to workers by PCS.*

In order to process your request as efficiently as possible, it has been processed in two stages corresponding to the different parts of your request.

This letter relates to first aspect of your request, i.e. pertaining to the Noud report.

My decision

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

Searches have been undertaken by the Directorate for documents relevant to your request and eight documents have been identified that are relevant to this part of your request.

A schedule setting out the relevant documents and my decision in relation to their release is at Attachment A. The documents that I have decided to release are at Attachment B.

You will note from the schedule that I have decided:

- Four of the documents are to be partially released with redactions applied to information due to provisions within section 41 'documents affecting personal privacy', section 42 'documents subject to legal professional privilege', or that is outside of the scope of your FOI request.
- Four of the documents are exempt in accordance with section 42 'documents subject to legal professional privilege'.

Section 41 – Documents affecting personal privacy

Section 41 states:

- (1) A document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) Subject to subsection (3), subsection (1) does not apply to a request by a person for access to a document only because of the inclusion in the document of matter relating to that person.*

I have decided to partially release two documents under section 41 of the FOI Act. I have redacted information of a personal nature or that could enable the identity of an individual to be readily ascertained. I have formed the view that to release this information would be an unreasonable disclosure of personal information.

Section 42 – Documents subject to legal professional privilege

Section 42 states:

- (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.*

Seven of the documents were fully or partially created for the purpose of obtaining or giving legal advice. I consider these documents are subject to legal professional privilege and, as such, are exempt or partially exempt from disclosure under section 42 of the FOI Act.

Documents containing information that is outside the scope of the request

Some documents contain information that is outside of the scope of the FOI request. This information has been redacted and the documents are recorded in the schedule.

Your rights for review

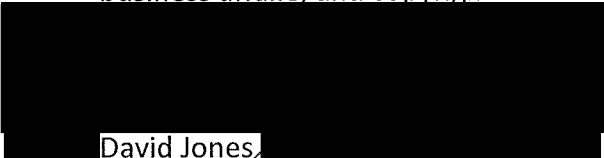
My decision about the release of information in response to your request is subject to review under section 59 of the FOI Act. It is also appealable if, in your opinion, you do not believe

that all the documents relevant to your request in the possession of the Directorate have been located.

An information sheet outlining the review and appeal process provided for in the FOI Act is attached to this letter.

ACT Government Online FOI Publication

As part of the ACT Government's commitment to open government, all written documents made available to an applicant in response to an FOI request are made available for online access by the public, subject to exceptions for personal information, information relating to business affairs, and copyright material. In this case the documents will be released publicly.



David Jones
Senior Manager
NAPLAN

9 January 2018

Freedom of Information Act 1989

Review and Appeal Processes

Internal review

You may request a review of a decision made under the *Freedom of Information Act 1989* (ACT). Requests for review must be made in writing to the Education and Training Directorate. Requests can be sent by fax (02 6205 9453) or by mail to:

The Director-General
C/- Governance Branch
ACT Education Directorate
PO Box 158
CANBERRA CITY ACT 2601

You have **28 days** from the date you were notified of the decision to request a review. This period may be extended by the Director-General.

ACT Civil and Administrative Tribunal

If you are not satisfied after the Directorate has conducted an internal review, you may seek an independent review of the decision by the ACT Civil and Administrative Tribunal. The Tribunal is an independent body which can affirm, change or reject the decision made by the Directorate and either substitute its own decision or send the matter back to the Directorate for reconsideration in accordance with the Tribunal's recommendations.

The Tribunal can be contacted by fax (02 6205 4855), email (tribunal@act.gov.au) or by mail to:

ACT Civil and Administrative Tribunal
DX5691
GPO Box 370
CANBERRA CITY ACT 2601

An appeal must be filed in the Tribunal within 28 days after the internal review decision is made although you may seek an extension of time in certain circumstances.

An application for a review may be made by writing to the Tribunal, or by completing the *Application for Review of a Decision* form (available on the Tribunal's website at www.acat.act.gov.au). There is a fee for lodging an appeal with the Tribunal. This fee may be remitted under certain circumstances.

ACT Ombudsman

You also have the right to complain to the ACT Ombudsman about the processing of your request. If you wish to lodge a complaint you should write to:

ACT Ombudsman
GPO Box 442
CANBERRA CITY ACT 2601

The ACT Ombudsman cannot override a decision made by the Directorate.