



ACT
Government
Community Services

Dear I

I refer to your application under the ACT *Freedom of Information Act 1989* (the Act), received by the Community Services Directorate on 7 June 2012, in which you sought access to the following documents:

“relating to my 2010-2012 enquiry of (i) the Department of Housing and Community Services, (ii) the Minister for Disabilities, and (iii) the ACT Disability Advisory Council (the DAC), including documents relating to

I can advise that since early 2010 I have been trying to obtain information through the DAC, the Minister’s Office and the department about:

1. *The current membership of DAC;*
2. *What vacancies exist and when you anticipate that new vacancies will exist;*
3. *When the relevant terms of the current membership of the DAC will expire;*
4. *What resolutions or issues has the DAC considered in recent years; and*
5. *What advice or recommendations has the DAC provided to government?”*

In addition to the above you also sought a response to the following:

6.

The Directorate progressed your correspondence of 7 June 2012 as

a) a complaint for your questions 1-5; and b) as a FOI for your question 6.

This should have been articulated to you in the initial FOI response and I apologise for this oversight.

On 12 July, the Directorate provided a response (plus documents) which addressed number 6 as articulated in your FOI application form. I understand you are satisfied with the response to this part of your request, however, you expected the Directorate’s response to address all six parts of your application

I note that Ms Kate Starick, Director, Disability ACT, wrote to you on 4 July 2012 and provided a response including a document to address questions 1-3 of your application. I am advised that Disability ACT will contact you shortly to invite you to meet with relevant officers to discuss the issues you have raised in your FOI/complaint of 7 June 2012.

I am the officer authorised under Section 22 of the FOI Act to make a decision in relation to this second response to your FOI request.

It appears that your FOI request was misinterpreted and we are now providing a response to your questions 1 to 6. I apologise for the delay in providing the additional documentation for questions 1-5.

I am advised that the Directorate has conducted a search but has not located any additional documents which would provide further information in response to questions 1-3. The documents provided in this response will therefore address numbers 4 and 5 of your request.

The Directorate provides the following information for context to your FOI application.

The Disability Advisory Council (DAC) was established in May 2003 and was formed on the basis of Recommendations of the Board of Inquiry into Disability Services (2001). The Disability Advisory Council is a non statutory body whose Members are approved by Cabinet.

The role of the Disability Advisory Council is to advise the ACT Government through the Minister for Community Services on disability issues and to work in partnership with the Community Services Directorate.

In the Council's Procedure Manual, it is required to meet on 10 occasions annually. The last meeting for the 2009 – 2011 Council was in August 2011.

The Term of the current Council ends in September 2013. The first meeting of the current Council was held in October 2011.

In the period from 2009 to date the Council has met on twenty occasions; twelve occasions for the 2009 – 2011 and eight occasions for the current Council.

Information has been compiled for the two years prior to your request on 7 June 2012.

In reference to number 4 of your request, as noted above, you sought information on what specific resolutions or issues has the DAC considered in recent years.

In terms of issues considered by the DAC, documents which were identified as relevant to your request and considered for release to you are:

- Agenda papers for all DAC Meetings conducted June 2010 – June 2012 demonstrating the suite of issues considered by the DAC. Note no Agenda papers were located for June 2010 and September 2010.

- Minutes of Meetings were located and reviewed for release.

I draw to your attention that the DAC was also briefed and considered matters that were not recorded in the minutes as at the time the information was confidential and therefore a number of issues are not noted in the records.

- Reports to the DAC on meetings attended by the Chair/Deputy Chair of the DAC.
- 2009-2011 Council's Workplan.
- Submissions prepared by the DAC have been located and considered for release.

It is noted that no resolutions were made by Council during this period except in relation to the DAC Procedures Manual in June 2010. A copy of the Procedures Manual is included in the documentation for your reference.

Please refer to the attached Schedule which outlines my decisions in relation to these documents.

In reference to number 5 of your request you sought advice on the advice or recommendations the DAC provided to government?

I advise that as part of their responsibilities the Chair and Deputy Chair are required to report to the Minister annually. However, these meetings are not recorded. Briefs to the Minister in relation to these meetings have been located, reviewed and scheduled.

Documents considered for release which were formally transmitted to the Minister during this timeframe are:

- ACT Health Village Creek Centre Kambah – A Centre of Excellence for Rehabilitation and Aged Care
- The DAC's Report titled Citizen's Jury 2009 was presented to the Minister in December 2009. The Minister wrote to the then Chair providing feedback on the Report in June 2010. On that basis the Report is included in the documents for release.
- A copy of the 2009-2011 Council's Workplan.

Decision and Exemptions

Under the *Freedom of Information Act 1989* documents may be exempt or provided with deletions. In relation to your FOI application I have decided to provide documents with deletions under the provisions of:

Section 36 – Internal Working Documents

Section 45 – Documents containing material obtained in confidence

Section 41 – Documents affecting personal privacy

Section 36 Internal Working Documents

A document is exempt under sub-section 36(1)(a) if its disclosure would:

"disclose opinion, advice, recommendation, consultation or deliberation occurring as part of the deliberative processes involved in the functions of an agency, a Minister or government (s36(1)(a)); and disclosure would be contrary to the public interest (s36(1)(b))."

Section 3 schedules documents relating to the early draft tender for the Wheelchair Accessible Taxis Booking System. These documents are exempt under this section of the Act as they show the deliberative processes undertaken as part of the consultation process in relation to a draft tender.

In addition, Section 4 contains a brief to the Minister dated June 2010 from the Executive Director Disability ACT providing the Minister with information across a number of issues relating to the DACT that she discussed with Council members at a meeting on 25 May 2010. Section 36 is applied to extracts from the brief which contain recommendations in relation to 'People First Language'. The same recommendations are redacted from Letters from Minister Burch to the Chief Minister and the Chair of DAC.

I believe it would be contrary to the public interest to disclose these documents and information from the brief as they contain the deliberative processes and disclosure would lead to confusion and unnecessary debate resulting from disclosure of possibilities considered.

Section 41 documents affecting personal privacy

I have decided to provide some documents with deletions made under Section 41 of the Act.

Section 41 states:

"a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person".

The brief dated June 2010 in Section 4 contains the personal information of a Government employee and the disclosure of this information to you would constitute an unwarranted invasion of the privacy of the person concerned.

Section 45 documents containing material obtained in confidence.

This section states that a document is an exempt document if:

"its disclosure under this Act would constitute a breach of confidence."

The Minutes of DAC Meetings contain information and opinions of people (ie members of the Council and presenters) who provided that information/opinion on the understanding the information was confidential

The DAC current Procedures Manual states under Section 3 1)(6) that unless otherwise indicated, all official documents are to be treated as confidential. The 2009 Operating Guideline state under Section 10 'unless otherwise indicated all Council papers and Minutes are confidential and the Council will make determinations on what papers are marked for release at the end of each meeting or in subsequent meetings.'

The Minutes are prepared as a record of the DAC discussions in considering issues and formulating advice to the Minister as part of their role and I believe the release of this information to you would compromise the understanding of confidentiality of the members of the Council.

Out of Scope of Request

The schedule also notes that some information contained in Section Four, in the Brief to the Minister dated June 2010 and letters from the Minister to the Chief Minister and the Chair DAC, has been redacted as this information relates to the administrative arrangements of DAC and is not within the scope of your request.

Open Government Publication Website

Please be aware that under the ACT Government's Online FOI Publication Policy, information provided in response to this Freedom of Information Application may be released on the internet.

Personal information or business affairs information will not be made available under this policy. If you have concerns with the publication of any of the documents you provide in response to this request, please inform Ms Margaret Puniard, Legal and Accountability Officer on 6205 0274 immediately.

For your information, a copy of the policy, with details about what information may be published on the internet, is available online at http://www.cmd.act.gov.au/open_government.

Review Rights

My decision is appealable under the FOI Act. This means that if you are dissatisfied with this outcome you have a right to seek a review under Section 59 of the FOI Act. If you wish to pursue this course you should write to:

Deputy Director General
Community Services Directorate
GPO Box 158
CANBERRA ACT 2601

You have 28 days from the date of this letter to seek a review of the outcome or such other period as the Deputy Director General permits.

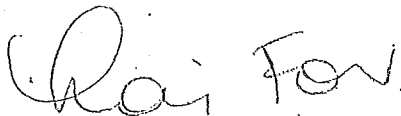
You also have the right to approach the Ombudsman about processing of your request. If you wish to do this you should write to:

ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Please contact Ms Margaret Puniard on 6205 0274 if you have any queries in relation to the processing of your request.

Should you wish to discuss details of the information provided to you, please contact the Office of Ms Meredith Whitten, Executive Director of Disability ACT, on 6207 1475. and Ms Whitten will ensure that an officer will contact you.

Yours sincerely



Lois Ford
Executive Director
Policy and Organisational Services

24 July 2012