



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

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

FOI Reference: CMTEDDFOI 2020-101

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	19
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

**From:** [REDACTED]  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request  
**Date:** Tuesday, 26 May 2020 1:36:09 PM

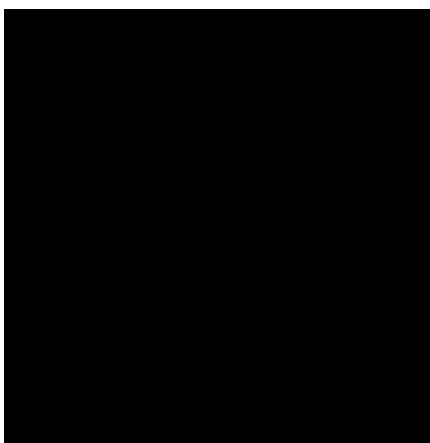
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Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:  
First Name:  
Last Name:  
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory:  
Phone/mobile:  
Email address:



### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

I received an email from Andrew Nicholas | Inspector | Fair Trading - Compliance on 25/05/2020 with the following text. Access Canberra Inspectors visited Body Fit Studios on 19 May 2020. During the visit Inspectors discussed [REDACTED] obligations under the Public Health Direction. Inspectors did not identify any breaches under the current Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7). This matter has now been formally closed. 1. I would like to obtain a copy of the inspectors instructions for the visit plus any associated liaisons within Access Canberra regarding the visit 2. I would like a copy of the subsequent report made by the inspectors who participated in the visit

I do not want to access the following documents in relation to my request::

Thank you.  
Freedom of Information Coordinator



## FREEDOM OF INFORMATION REQUEST

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 26 May 2020, in which you sought access to:

- AC Inspectors visit to Body Fit Studios on 19 May 2020. I would like to obtain a copy of the inspector instructions for the visit plus any associated liaisons within Access Canberra regarding the visit and I would like a copy of the subsequent report made by the inspectors who participated in the visit.

### Authority

I am an Information Officer appointed by the 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 was required to provide a decision on your access application by 25 June 2020.

### Decision on access

Searches were completed for relevant documents and three documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant full access to all relevant documents. The documents released to you are provided as **Attachment B** to this letter.

Access Canberra have advised that there were no specific instructions given to the inspectors prior to their visit as they conducted the visit as per standard operating procedures.

There was no report created as such but the record of findings is contained in the Customer Relationship Management (CRM) log.

## **Charges**

Processing charges are not applicable for this request because the number of pages being released to you is less than 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, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log after 29 June 2020. Your personal contact details will not be published. You may view CMTEDD disclosure log at

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2020>.

## **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 published in CMTEDD disclosure log, 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](mailto: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  
Level 4, 1 Moore St  
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 me by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,

A handwritten signature in grey ink, appearing to read 'P. Dachs', is positioned above the typed name.

Philip Dachs  
Information Officer  
Information Access Team  
Chief Minister, Treasury and Economic Development Directorate  
24 June 2020



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

AC Inspectors visit to Body Fit Studios on 19 May 2020. I would like to obtain a copy of the inspector instructions for the visit plus any associated liaisons within Access Canberra regarding the visit and I would like a copy of the subsequent report made by the inspectors who participated in the visit.

CMTEDDFOI 2020-101

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Customer Relationship Management (CRM) log	29 May 2020	Full release	N/A	Yes
2	3-5	Email chain	09 Jun 2020	Full release	N/A	Yes
3	6	Email chain	09 Jun 2020	Full release	N/A	Yes
<b>Total No of Docs</b>						
3						

## Outcomes by case with incidents

Outcome/action type	Actions taken	Created By	Text	Date time of action
Incident note	200417-002907	Member of public	<p>Customer</p> <p>The personal trainer who runs a personal training studio from home is continuing to run a training facility and or the personal trainer is continuing to train clients inside her studio. This is not in accordance with ACT Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 5)</p> <p>6. A non-essential business or undertaking means any of the following, whether operated on a for-profit or not-for-profit basis or purely as a private social gathering:</p> <ul style="list-style-type: none"> <li>e. a health club or fitness centre;</li> <li>h. a boot camp or personal trainer, but not: <ul style="list-style-type: none"> <li>i. to the extent that outdoor one on one sessions are provided and where social distancing of 1 person per 4 square metres is observed.</li> </ul> </li> </ul> <p>The business web page: <a href="https://www.facebook.com/pg/bodyfitstudios70/posts/?ref=page_internal">https://www.facebook.com/pg/bodyfitstudios70/posts/?ref=page_internal</a></p> <p>A client for the fitness centre/studio was observed arriving at 12:23pm and leaving at 13:18pm The business owner has posted pictures of the fitness session training inside the studio on her facebook page (I have attached them to this report) I am aware that the Police have already spoken to owner of the studio</p>	17/04/2020 05.25 PM
Incident note	200509-000179	Member of public	<p>Customer</p> <p>At 8:50am a client arrived at the residential premises of the business "Bodyfit Studios Group Training" operated by [REDACTED] For a period of an hour training was conducted with the addition of loud exercising music on the residential premises. This activity is in breach of the "Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 6)" in so far as the non-essential business is a gym, an indoor sporting centre, a health club or fitness centre or a boot camp or personal trainer. In the case of a boot camp or personal trainer the activity did not meet the Emergency Direction definition of "an outside space" (An outdoor space means a space that is not an indoor space or part of residential premises) I am personally aware that [REDACTED] has been "educated" at least twice previously by ACT policing of non conformance to the "Closure of Non-Essential Business or Undertaking" Notifiable instrument. The advice I was given by ACT police operations was that they were taking an education approach rather than fines or more serious action and that a call to police operations (131444) would not (based on their normal workload) generate an attendance by them at the time for a breach. Unless there was a sharp increase of COVID-19 cases in the ACT the police would continue with this behaviour. The current "Closure of Non-Essential Business or Undertaking" Notifiable instrument now defines "an outdoor space" that was not in previous instruments and it appears that [REDACTED] interpretation of the legislation requires yet more education. I would like ACT policing to once more contact [REDACTED] to rectify her misunderstanding before her clients are the epicentre of the next community COVID-19 outbreak in the ACT.</p>	09/05/2020 10.24 AM
Incident note	200509-000179	Emily Preston	<p>Staff Account</p> <p>Good afternoon [REDACTED]</p> <p>Thank you for reporting this matter to Access Canberra.</p> <p>We have forwarded this matter to the appropriate area in Access Canberra to investigate your concerns in line with the current Public Health Emergency Direction.</p> <p>Regards</p> <p>Emily   Case Manager Access Canberra   Complaints Management Team <a href="http://www.act.gov.au/accesscbr">www.act.gov.au/accesscbr</a>   13 22 81</p>	10/05/2020 12.27 PM
Incident note	200512-001601	Member of public	<p>Customer</p> <p>Currently the the business owner of "Bodyfit studios group fitness" located at [REDACTED] is in the process of training a client inside her studio. This is a breach of the Non-essential business notifiable instrument. I have contacted ACT COVID-19 and ACT policing previously in regards to the owner breaching the law and am aware that ACT policing have already spoken to her on multiple occasions.</p>	12/05/2020 12.48 PM
Incident note	200512-001601	Member of public	<p>Customer</p> <p>At 1:30pm the training and exercise music ceased and it appears that there were in fact 2 people being trained inside the studio of a residential premises. I have included videos of the clients arriving and leaving.</p>	12/05/2020 02.08 PM
Incident note	200512-001601	Andrew Nicholas	<p>Note</p> <p>Inspectors visited the premise on 19 May 2020, Inspectors were not able to identify any breaches under the current Public Health Direction. This matter will be formally closed</p>	25/05/2020 09.28 AM

Incident note	200512-001601	Andrew Nicholas	<p>Staff Account Dear [REDACTED]</p> <p>Access Canberra Inspectors visited Body Fit Studios on 19 May 2020. During the visit Inspectors discussed [REDACTED] obligations under the Public Health Direction. Inspectors did not identify any breaches under the current Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7). This matter has now been formally closed.</p> <p>Thank you for bringing this matter to Access Canberra's attention.</p> <p>Regards,</p> <p>Andrew Nicholas   Inspector   Fair Trading - Compliance Access Canberra   ACT Government GPO Box 158 Canberra City 2601   <a href="http://www.act.gov.au/accesscbr">www.act.gov.au/accesscbr</a></p>	25/05/2020 12.43 PM
Incident note	200512-001601	Member of public	<p>Customer Dear Mr Nicholas, Thank you for your email. I did see your inspectors visit [REDACTED] on the date mentioned while she was training 2 people inside her studio. I also noticed that it took several minutes for them to gain entry to the premises giving [REDACTED] clients time to maybe appear to be 'friends' visiting and not clients. Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7) does not accommodate for [REDACTED] clients to be on a residential premises let alone inside a studio. I find your response to be insulting and disrespectful For your inspectors to not find issue with the business operation of a personal trainer in a studio under the Public Health (Closure of Non-Essential Business or Undertaking) Emergency Direction 2020 (No 7) beggars belief given they caught her red handed breaching the legislation. I will no longer make issue with COVID-19 breaches for [REDACTED] business as it is obviously pointless to deal with Access Canberra even though she continues to breach the COVID-19 directions post inspector visit.</p> <p>Can you please explain how a personal trainer training two people inside a studio (an indoor space) that is part of a residential premises conforms to (taken from the Closure of Non-Essential Business or Undertaking No 7): a boot camp or personal trainer, but not: i.to the extent that it involves outdoor activities for groups of no more than10 people(excluding the trainer)and where social distancing of 1 person per 4 square metres is observed. AND An outdoor space means a space that is not an indoor space or a part of residential premises.</p> <p>Regards [REDACTED]</p> <p>On 25/05/2020 12:43 pm, Access Canberra Customer Services wrote:</p>	25/05/2020 04.11 PM
Incident note	200512-001601	Andrew Nicholas	<p>Note</p> <p>Inspector Nicholas sent [REDACTED] a response, that response has not changed, [REDACTED] was advised this matter has been closed, with no further action to be taken. this case is now closed</p>	29/05/2020 10.32 AM



**From:** "Nicholas, Andrew" <Andrew.Nicholas@act.gov.au>  
**Sent:** 09/06/2020 10:23 PM  
**To:** "Grattidge, Janelle" <Janelle.Grattidge@act.gov.au>  
**Subject:** FW: [REDACTED]

Janelle

The response below is the last form Mat to my question

**Andrew Nicholas | Inspector | Fair Trading & Compliance**  
02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)  
**Access Canberra | ACT Government**  
GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



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**From:** Bond, Mathew <Mathew.Bond@act.gov.au>  
**Sent:** Tuesday, 19 May 2020 4:10 PM  
**To:** Nicholas, Andrew <Andrew.Nicholas@act.gov.au>  
**Subject:** RE: [REDACTED]

UNCLASSIFIED

Hi,

It's the area of the business being used cant exceed 40sqm that includes storage. The car arrivals averaged out is 5 vehicles a day that arrives at the premises. You'll also need to obtain evidence that those vehicles are only there for the business and nothing else.

If they use the road for instance that not included in the 40sqm as its unleased land.

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**From:** Nicholas, Andrew <[Andrew.Nicholas@act.gov.au](mailto:Andrew.Nicholas@act.gov.au)>  
**Sent:** Tuesday, 19 May 2020 4:05 PM  
**To:** Bond, Mathew <[Mathew.Bond@act.gov.au](mailto:Mathew.Bond@act.gov.au)>  
**Subject:** RE: [REDACTED]

Hi Matt

The 40 sqm is this inside and outside?, as she has a double garage fully decked out as the gym (maybe 36 sqm) and also utilises outside space, to conduct some of her activities.  
She could possibly be on the 5 car a day limit ( this is a day?) and 35 a week?

**Andrew Nicholas | Inspector | Fair Trading & Compliance**  
02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)  
**Access Canberra | ACT Government**  
GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



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**From:** Bond, Mathew <[Mathew.Bond@act.gov.au](mailto:Mathew.Bond@act.gov.au)>  
**Sent:** Tuesday, 19 May 2020 4:01 PM  
**To:** Nicholas, Andrew <[Andrew.Nicholas@act.gov.au](mailto:Andrew.Nicholas@act.gov.au)>  
**Subject:** RE: [REDACTED]

UNCLASSIFIED

Any evidence that hasn't been used before to prove that they are breaching the regulations. Simply saying they are breaching the regulations isn't reasonable and will need to provide additional evidence prove otherwise. For example knowing that they are using more than 40sqm of space for the business, or having more than 35 vehicles arriving at the premises that are solely arriving for the business.

Cheers  
mat

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**From:** Nicholas, Andrew <[Andrew.Nicholas@act.gov.au](mailto:Andrew.Nicholas@act.gov.au)>  
**Sent:** Tuesday, 19 May 2020 3:59 PM  
**To:** Bond, Mathew <[Mathew.Bond@act.gov.au](mailto:Mathew.Bond@act.gov.au)>  
**Subject:** RE: [REDACTED]

Hi Matt

Thanks for your response, I have no problem with what's happening under the current health restrictions. What would constitute her not being exempt (evidence) ??

thanks

**Andrew Nicholas | Inspector | Fair Trading & Compliance**  
02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)  
**Access Canberra | ACT Government**  
GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



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**From:** Bond, Mathew <[Mathew.Bond@act.gov.au](mailto:Mathew.Bond@act.gov.au)>  
**Sent:** Tuesday, 19 May 2020 3:56 PM  
**To:** Nicholas, Andrew <[Andrew.Nicholas@act.gov.au](mailto:Andrew.Nicholas@act.gov.au)>  
**Subject:** RE: [REDACTED]

UNCLASSIFIED

Good afternoon Andrew,

The Building and Planning Compliance team has had multiple complaints in regards to this matter. The legislation we use to determine whether a home business is exempt or not is within the *Planning and Development Regulations 2008*, Schedule 1.108 Home businesses conducted from residential leases.

The Act defines what a home business is which says "a home business, carried on land subject to a residential lease, means a profession, trade or other occupation carried on by a resident of the land."

At this stage the home business is considered exempt as per the section above, unless there is evidence to prove otherwise.

I hope this helps.

Kind regards

Mathew Bond | Senior Building Inspector

Phone 02 6207 6853 | Mob: 0466 471 218

Construction, Environment and Workplace Protection | **Access Canberra** | ACT Government

GPO Box 158 Canberra ACT 2601 | <http://www.act.gov.au/accesscbr>



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**From:** Nicholas, Andrew <[Andrew.Nicholas@act.gov.au](mailto:Andrew.Nicholas@act.gov.au)>

**Sent:** Tuesday, 19 May 2020 2:29 PM

**To:** Bond, Mathew <[Mathew.Bond@act.gov.au](mailto:Mathew.Bond@act.gov.au)>

**Subject:** [REDACTED]

Hi Matt

I believe you have had some involvement with [REDACTED] at [REDACTED] and her operating a business from the property (personal training).

I am after some documentation to show she has permission to do so. We have received many complaints in regard to this and I want to close it off, responding to CMT and advise to not entertain any further complaints from neighbours, as the business is or is not permitted to operate.

Please see the email [REDACTED] sent both of use. Do you have any info that can help me out.

Happy to discuss further

**Andrew Nicholas | Inspector | Fair Trading & Compliance**

02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)

**Access Canberra | ACT Government**

GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



**From:** "Nicholas, Andrew" <Andrew.Nicholas@act.gov.au>  
**Sent:** 09/06/2020 12:34 AM  
**To:** "Grattidge, Janelle" <Janelle.Grattidge@act.gov.au>  
**Subject:** FW: [REDACTED]

See below

**Andrew Nicholas | Inspector | Fair Trading & Compliance**  
02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)  
**Access Canberra | ACT Government**  
GPO Box 158 Canberra City ACT 2601 | [www.act.gov.au/accesscbr](http://www.act.gov.au/accesscbr)



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**From:** Nicholas, Andrew  
**Sent:** Thursday, 21 May 2020 9:59 AM  
**To:** Bond, Mathew <Mathew.Bond@act.gov.au>  
**Subject:** [REDACTED]

Mat

See case 17372 Bodyfit studios

**Andrew Nicholas | Senior Inspector | Fair Trading & Compliance**  
02 6207 0346 | [andrew.nicholas@act.gov.au](mailto:andrew.nicholas@act.gov.au)  
**Access Canberra | ACT Government**  
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