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Dear [REDACTED]

I refer to your application under the ACT *Freedom of Information Act 1989* (the Act), received by the Community Services Directorate on 24 January 2014, in which you requested access to documents relating to the appointment of the Director of the Fringe Festival 2014. Specifically, you stated:

'This request covers but is not limited to, records of correspondence, meetings, telephone conversations, documents on file (including, but not limited to, letters, file notes, emails, media releases, minutes, briefings, submissions, invitations, contacts etc) in connection with the:

- *Appointment of the Director;*
- *Appointment criteria;*
- *Contract and terms of engagement;*
- *Funding and payment arrangements*
- *Instructions from the Minister and ministerial staff, and subsequent interactions regarding the appointment'.*

I am an officer authorised to make a decision in respect of a request for information, under the FOI Act, section 22.

As discussed in my letter to you of 1 April 2014 the Directorate undertook consultation under section 27A of the FOI Act. This has now been completed.

Decision

The Directorate has identified documents which meet the scope of your request, as identified in the schedules attached to this letter.

Released Information

The attached schedules list decisions regarding access to the documents. The terms used are either 'Full release', 'Partial release', or 'Not released'.

Exemptions

All documents referred to in the schedules have been reviewed with a view to releasing them to you. Where information is considered to be exempt and a deletion or exemption has been made, a reference is made in the schedule to the relevant section, or combinations of sections of the legislation which apply to the particular information. [Attachment A](#) has been provided as a summary of relevant sections referred to in the attached schedules. Excerpts of legislation which have been referenced are provided at [Attachment B](#).

The Act allows the Directorate to apply exemptions in circumstances where the protection of certain information is required by law, for example other people's personal information or documents subject to legal professional privilege.

Personal information

Certain documents within the scope of your request have been released with deletions in reference to the Act, section 41. Exemptions under this section have been made where the documents within the scope of your request contained personal information relating to other individuals, the disclosure of which I consider to be unreasonable.

Legal Professional Privilege

You will note that some documents have been exempted under section 42 of the FOI Act (Documents subject to Legal Professional Privilege). A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings. Such a document may contain evidence of advice or instruction between the Directorate and its internal or external legal representatives.

Information outside the scope of request

Some information in the attached schedules is outside the scope of your request, either in that it relates to subjects other than those which you refer to in your request or because the information was recorded following the receipt of your request for information.

Review rights

My decision is appealable under the Act. This means if you are dissatisfied with this outcome you have a right to seek a review under section 59 of the Act. 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 can write to:

Executive Director
Policy and Organisational Services
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 Executive Director permits.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this and the contact details are as follows:

The Ombudsman
GPO Box 442
CANBERRA ACT 2601

Online FOI Policy

Please be aware under the ACT Government's Online FOI Publication Policy, information released to FOI Applicants may be released on the internet.

A copy of the online policy is available online at:

http://www.cmd.act.gov.au/open_government/report/freedom_of_information_online

If you have any queries in relation to this matter, please contact me on 620 74433.

Yours sincerely



David Matthews
Senior Director
Governance, Advocacy and Community Policy
Community Services Directorate

2 May 2014

Exemptions

As discussed above, all scheduled documents have been reviewed with a view to potential release. Where the review of records has uncovered information that is 'exempt information' the record will be released with exempt information withheld (released with deletions) if possible. Alternatively, if no information can be released from the records, the record is 'exempt in full'. In either circumstance the schedule will reflect the type of information identified being withheld by reference to the legislative provision enabling the exemptions.

The following explanations apply to information withheld from records reviewed in response to your application. If you have any concerns or questions about these exemptions please call the contact officer identified in the Decision Letter.

Freedom of Information Act 1989

Section 41

A document is an exempt document if its disclosure under the FOI Act would involve the "unreasonable" disclosure of personal information relating to another person. Certain documents within the scope of your request contained personal information that has been exempted in accordance with section 41 of the FOI Act. Decisions to exempt in full or make deletions under section 41 have been made in consideration of your right to information about yourself and also the right of other parties to have their privacy protected.

Section 42

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.

Freedom of Information Act 1989

41 Documents affecting personal privacy

- (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.
- (3) Where—
 - (a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information of a medical or psychiatric nature concerning the person making the request; and
 - (b) it appears to the principal officer of the agency, or to the Minister, as the case may be, that the disclosure of the information to that person might be prejudicial to the physical or mental health or wellbeing of that person;

the principal officer or Minister may direct that access to the document, so far as it contains that information, that would otherwise be given to that person is not to be given to that person but is to be given instead to a doctor to be nominated by that person.

42 Documents subject to legal professional privilege

- (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.
- (2) A document of the kind referred to in section 8 (1) is not an exempt document under subsection (1) of this section only because of the inclusion in the document of matter that is used or to be used for the purpose of the making of decisions or recommendations referred to in section 8 (1).