



ACT
Government

Education and Training

File Ref: 2015/07343



Dear 

I refer to your request under the ACT *Freedom of Information Act 1989* (the FOI Act) received by the Directorate on 22 July 2015.

Your request

You are seeking access to all documents and any information held by the Directorate in relation to a request made in February 2015 by United Voice to undertake an industrial relations compliance audit of ACT Schools.

My decision

I am authorised under section 22 of the FOI Act to make a decision in respect of your request.

A schedule setting out the relevant documents located and my decisions in relation to their release is at [Attachment A](#), and the released documents are at [Attachment B](#).

You will note from the schedule that I have decided to provide access in full to three documents. I have also decided to provide access to five documents with redactions and to exempt four others in their entirety under sections 36, 41 and 42 of the FOI Act. Information in some documents that is outside the scope of your request has also been redacted.

Details of the exemption provisions, together with my reasons for applying them, are set out below.

Section 36 – Internal working Documents

Section 36 states:

- (1) *Subject to this section, a document is an exempt document if its disclosure under this Act—*
 - (a) *would disclose matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency or Minister or of the Territory; and*
 - (b) *would be contrary to the public interest.*

Two documents have been exempted in full under this section of the FOI Act as they relate to the deliberations of officers in notifying work place audits in ACT public schools and I consider it is not in the public interest to release these documents.

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.*

The material deleted from a number of documents under this section of the FOI Act contains personal information such as names, addresses and mobile telephone numbers. I believe it would be unreasonable to release this information.

Section 42 – Documents relating to legal professional privilege

Two documents were 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 from disclosure under section 42 of the FOI Act.

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.*

Information outside the scope of your request

I have also decided to redact information in several documents because it is outside the scope of your request. The information withheld from release includes:

- information on a matter unrelated to your request, and
- one document (Document 12) that has previously had redactions applied, such as email addresses and personal details.

Your rights for review

My decision not to release all the information relevant to your request is subject to review under section 59 of the 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 Act is attached to this letter.

Online publication

Please be aware that under the ACT Government's Online FOI Publication policy, information released to you under this Freedom of Information request may be released on the internet.

Personal information or business affairs information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the internet, is available at:

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

Yours sincerely



John Wynants
Director
Infrastructure and Capital Works
8 October 2015

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 and Assurance Branch
ACT Education and Training 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.