

FOI – Proposed home education legislation changes

I refer to your request received by the Education Directorate on 20 September 2017 in which you are seeking access under the ACT *Freedom of Information Act 1989* (the FOI Act) to documents relating to proposed home education legislation changes. Your request specifically sought:

- 1. Any documents containing evidence that the existing provisional registration process as per section 130 of the Education Act 2004 is complicated for parents. This may include correspondence (including deleted emails where a backup copy is still held), written notes from notebooks, instant messenger or electronic "chat" logs in the period 21 September 2016 to 20 September 2017.*
- 2. Any documents that contain information about the departmental resources the provisional registration process consumes, from the period 21 September 2016 to 20 September 2017.*
- 3. Any documents created since 1 May 2017 containing supporting argument, evidence or reasons for changing the provisional registration process; not limited to the two reasons above. These documents may include internal memoranda and cover sheets for other documents.*

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 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:

- 17 of the documents are to be partially released with redactions applied to information that is outside of the scope of your FOI request. For 11 of these documents, the partial release is also due to provisions within section 41 'documents affecting personal privacy'.
- One of the documents is exempt in accordance with section 35 'Executive documents'.

Section 35 Executive documents

Section 35 states:

- (1) *A document is an exempt document if it is—*
- (a) *a document that has been submitted to the Executive for its consideration or is proposed by a Minister to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Executive; or*
 - (b) *an official record of the Executive; or*
 - (c) *a document that is a copy of, or of a part of, or contains an extract from, a document referred to in paragraph (a) or (b); or*
 - (d) *a document the disclosure of which would involve the disclosure of any deliberation or decision of the Executive, other than a document by which a decision of the Executive was officially published.*

I have exempted one documents under this provision of the FOI Act as it is a document brought into existence for the purpose of consideration by the Executive (i.e. Cabinet).

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 11 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.

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.

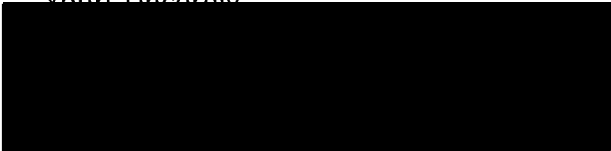
Your rights for review

An information sheet is attached to this letter which sets out your rights for review of this decision.

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.

Yours sincerely,



Deb Eithymiades
Deputy Director-General
System Policy and Reform

10 November 2017

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 Directorate. Requests can be sent by mail to:

The Director-General
C/- FOI Officer,
Governance and Community Liaison Branch
ACT Education Directorate
PO Box 158
CANBERRA CITY ACT 2601

Or email: EDULegalliaison@act.gov.au

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.