



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 2018-0242

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)	16
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: FOI Request
Date: Wednesday, 12 September 2018 1:07:40 PM

To whom it may concern,

[REDACTED]

I make the following request under the auspices of the Freedom of Information Act 2016.

I seek any document(s) held or created by WorkSafe ACT from January 2018 to the present that references WorkSafe's inquiry and/or improvement notices into Calvary Hospital.

I request this information in line with the ACT government's Open Government initiative, which acknowledges the need to enhance the openness and transparency of the government.

Please note that I have no wish to access information that would identify non-executive officers of the ACT Public Service. Indeed, it is customary to suppress the names of non-executive officers in documents released under FOI law.

However, it is usual to name executive officers when the information released relates to their work.

CHARGES:

I ask that you waive processing charges for this request because:

- it is limited in scope and can likely be processed quickly; and
- access to the information is in the general public interest.

Size of request

The act empowers you to charge for access to documents but I request that, under section 2(2), you exercise your discretion "as far as possible to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information" and waive all charges.

Although this request is made under the ACT legislation, the Australian Information Commissioner has issued guidelines on interpreting the federal FOI Act, which is, in the relevant parts, almost identical to the ACT Act.

These guidelines urge FOI decision-makers to consider reducing or exempting charges when:

- the "cost of calculating and collecting a charge might exceed the cost to the agency of processing the request"; and
- the "agency was able to identify and retrieve the document easily and at marginal cost"

There is a large public interest for such documents, as WorkSafeACT has publicly announced the findings of its inquiry into the hospital. The inquiry was stemmed through many reports in the public domain about widespread and systemic bullying at the hospital, which impacted upon patient care. Calvary Hospital will also be subjected to an inquiry into its workplace culture as part of the ACT government's independent review into the ACT health system.

THE PUBLIC INTEREST:

Section 1 (9) of the FOI Act 2016 states the government should promote access to government information.

"It is the intention of the Legislative Assembly that this Act be administered with a pro-disclosure bias and discretions given under it be exercised as far as possible in favour of disclosing government information."

In the same legislation, the public interest test defined in Section 16 (17) (1a) states an agency or minister, in deciding whether disclosure of information would, on balance, be contrary to the public interest, must take steps to identify any factor favouring disclosure that applies in relation to the information.

Factors favouring disclosure in the public interest include, as mentioned in Schedule 2 section 2.1, the disclosure of information that could reasonably be expected to promote open discussion of public affairs and enhance the government's accountability and contribute to positive and informed debate on important issues or matters in the public interest.

As mentioned above, the government has deemed this report in the public interest. They have clearly decided

that information about these issues belongs in the public domain.

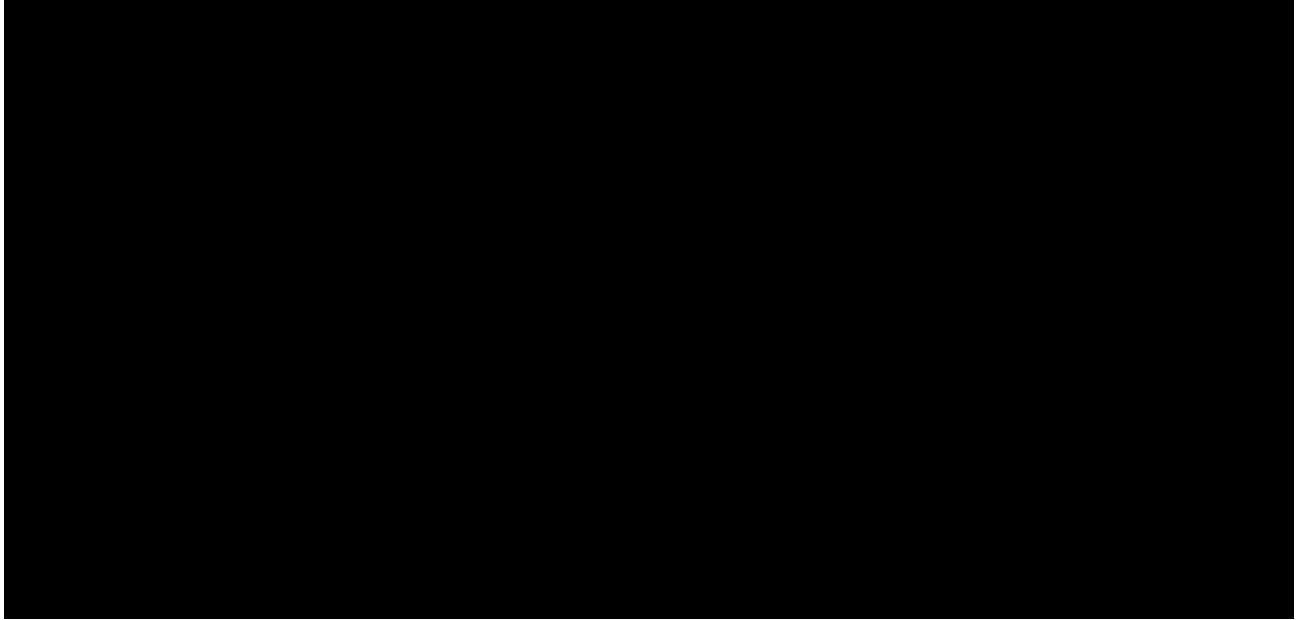
I believe I have provided sufficient reasons for you to provide the information I seek free of charge. However, please contact me on [REDACTED] if you face any barriers to releasing this information.

Looking forward to hearing from you.

Regards,

[REDACTED]

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ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2018-0242

[REDACTED]

via email: [REDACTED]

Dear [REDACTED]

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 12 September 2018, in which you sought access to any document(s) held or created by WorkSafe ACT from January 2018 to the present that references WorkSafe's inquiry and/or improvement notices into Calvary Hospital.

On 25 September 2018 you were advised that Worksafe held a large number of documents within the scope of your request due to the operation of section 155 of *Work Health and Safety Act 2011*, which states that any documents seized by Worksafe are deemed to be Worksafe documents. Subsequently, you reduced the scope of your request to "*the supporting documents to the four Improvement Notices issued to Calvary*". Following the revision of the request, you were advised that the investigation in relation to Calvary Hospital was still ongoing and the documents which support the four Improvement Notices are currently considered to be part of the ongoing investigation. In response to this advice, you amended your access request to "*any correspondence not subject to the ongoing investigation between Calvary and Worksafe that assisted in the decisions by the Worksafe inspector that resulted in the improvement notices issued to Calvary hospital*".

Authority

I am an Information Officer appointed by the Director-General of CMTEDD 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 is required to provide a decision on your access application by 11 October 2018.

Decision on access

A search of CMTEDD records has failed to identify any documentation that is not considered to be part of the ongoing investigation into Calvary Hospital which is being conducted by Worksafe ACT. The search was conducted using the information you

provided, including digital and hard copy records. I am satisfied that appropriate searches were completed and that no documents within the scope of your request are held by CMTEDD.

Charges

Processing charges are not applicable for this request as no documents were found.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. A description of the access application and my decision will be published in the CMTEDD disclosure log after 9 October 2018. Your personal contact details will not be published.

You may view CMTEDD disclosure log at
<http://www.cmd.act.gov.au/functions/foi/disclosure-log>.

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.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: 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.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Daniel Riley', with a stylized flourish at the end.

Daniel Riley
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

4 October 2018