

Freedom of Information Publication Coversheet

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

FOI Reference: CMTEDDFOI 2019-072

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

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):

All documents relevant to ACT Long Service Leave Authorities requirement for national peak not-for-profit organisations operating in ACT to be registered and make payments by way of of a levy to the ACT Portable Long Service Community Sector Scheme (the Scheme). In particular we are seeking any documentation identifying organisations the Authority has identified that are not currently part of the scheme but could be brought into the scheme in the future.

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

Thank you. Freedom of Information Coordinator



Our ref: CMTEDDFOI 2019-072

via email:		

Dear

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 28 March 2019.

Specifically, you are seeking: "All documents relevant to ACT Long Service Leave Authorities requirement for national peak not-for-profit organisations operating in ACT to be registered and make payments by way of a levy to the ACT Portable Long Service Community Sector Scheme (the Scheme). In particular we are seeking any documentation identifying organisations the Authority has identified that are not currently part of the scheme but could be brought into the scheme in the future."

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. I have been appointed under section 22 of the Act to deal with your access application on behalf of the ACT Long Service Leave Authority (the Authority).

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 30 April 2019.

Decision on access

Searches were completed for relevant documents and 27 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 access in full to five documents (out of scope information removed) relevant to your request, partial access to one document (publicly available form attached to an email) and exempt the remaining 21 documents as I consider them to be contrary to the public interest information under schedule 1.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

Material considered

In reaching my access decision, I have taken the following into account:

- the Act;
- the content of the documents that fall within the scope of your request.

My reasons for deciding not to grant access to the identified documents and components of these documents are as follows:

Information contrary to the public interest under schedule 1 of the Act

Folios 1-6,27,11-15 and 18-26 of the identified documents are entirely composed of, or contain information that is considered to be contrary to the public interest under schedule 1 of the Act.

Section 1.1A Information in Possession of a Court or Tribunal

Folios 1-6, 9, 11-12, 14-15 and 18-26 contain information in relation to a matter being heard by the Supreme Court on 16 May 2019. Contained within these folios are letters between the parties and correspondence between solicitors. I am advised this information is currently in possession of the Supreme Court as part of the 16 May 2019 hearing. Accordingly, I am satisfied this information is contrary to the public interest pursuant to schedule 1 section 1.1A of the Act and will not be released at this time.

Section 1.2 Information subject to Legal Professional Privilege

Folio 13 contains advice provided by the ACT Government Solicitor Office. I consider the advice is subject to legal professional privilege as it was brought into existence for the dominant purpose of providing a legal opinion. I am satisfied that the communications were made in circumstances of confidentiality and were provided by an independent legal adviser satisfying the requirements to attract legal professional privilege. Accordingly, I am satisfied this information is contrary to the public interest pursuant to schedule 1 section 1.2 of the Act.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of pages to be released to you is below the charging threshold of 50 pages.

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 three days after the date of my decision. 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.

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: <u>actfoi@ombudsman.gov.au</u>

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 <u>http://www.acat.act.gov.au/</u>

Should you have any queries in relation to your request please contact me by telephone on 6207 7754 or email <u>CMTEDDFOI@act.gov.au</u>.

Yours sincerely,

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

79 April 2019



FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	All documents relevant to ACT Long Service Leave Authorities requirement for national peak not-	CMTEDDF0I2019-072
	for-profit organisations operating in ACT to be registered and make payments by way of a levy to	
	the ACT Portable Long Service Community Sector Scheme (the Scheme). In particular we are	
	seeking any documentation identifying organisations the Authority has identified that are not	
	currently part of the scheme but could be brought into the scheme in the future.	

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	Letter from Mental Health Australia	22 Mar 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
2	3	Letter to Mental Health Australia from ACT Long Service Leave Authority	27 June 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
3	4-5	Letter from Mental Health Australia	21 July 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
4	6	Letter to Mental Health Australia from ACT Long Service Leave Authority	15 Aug 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
5	7	Letter to Mental Health Australia from Government Solicitor	8 Oct 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
6	8-17	Email and attachment from ACT Government Solicitor to Mental Health Australia	8 Oct 2018	Partially exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
7	18-24	ACT Long Service Leave Authority Minutes of Meeting No 60	17 May 2017	Full release	Out of Scope information removed	Yes
8	25-26	ACT Long Service Leave Authority COO Update	8 May 2017	Full release	Out of Scope information removed	Yes
9	27-28	ACT Leave Document – Mental Health Australia Submission	8 Jun 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
10	29-35	ACT Long Service Leave Authority Minutes of Meeting No 63	14 Sep 2017	Full release	Out of Scope information removed	Yes
11	36-37	Letter from BAL Lawyers	7 Dec 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
12	38-40	Email and attachments	6 Dec 2017	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal Out of Scope information removed	No

13	41-49	Letter from Government Solicitor	9 Apr 2018	Exempt	Schedule 1 1.2 – Information Subject to Legal Professional Privilege	No
14	50-51	Draft Letter	Apr 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
15	52-54	Email and attachment	11 Apr 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
16	55	Letter from MLA	23 Aug 2018	Full release		Yes
17	56	Draft Letter from MLA	undated	Full release		Yes
18	57-73	Letter to MLA	3 Sep 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	Νο
19	74-90	Letter to ACT Government Solicitor	3 Sep 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
20	91	Letter from ACT Government Solicitor	14 Sep 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
21	92-98	Email from ACT Government Solicitor and attachment	14 Sep 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
22	99	Letter to ACT Long Service Authority	12 Nov 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
23	100	Letter to ACT Long Service Authority	27 Nov 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
24	101	Letter from Long Service Leave Authority	20 Dec 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
25	102	Letter to ACT Long Service Authority	20 Dec 2018	Exempt	Schedule 1 1.1A – Information in Possession of a Court or Tribunal	No
26	103	List of identified businesses	28 Mar 2019	Full release		Yes
Total No of Docs						
26						



ACT LONG SERVICE LEAVE AUTHORITY



EMPLOYER REGISTRATION FORM

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PLEASE TURN OVER PAGE



ACT LONG SERVICE LEAVE AUTHORITY



EMPLOYEE REGISTRATION FORM

Please complete all the relevant sections of the claim form using BLACK INK and write within the boxes with CAPITAL LETTERS.

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CTION 2 – EMPLOYEE DETAILS egistration No. (If known) Type of work performed	
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YOUR PRIVACY

The Long Service Leave Authority (the '**Authority**', 'we', 'our' and 'us') is collecting personal and other information in this form to register your business in the applicable portable long service leave scheme in accordance with Part 4 of the Long Service Leave (Portable Schemes) Act 2009 (ACT) (the '**Act**'). We collect, use, disclose and manage personal information in accordance with the Territory Privacy Principles under the Information Privacy Act 2014 (ACT). **The Authority may also collect your personal information**: if you provide quarterly returns and payments to us; if (after registration) you enter your personal information via your online employer portal; via public sources of information to verify your business' identity; via enforcement activities; or if you communicate with us including by phone, fax, email, letter, in person or via your authorised representative.

The Authority will use your personal and other information to: enter your business on the employers register; provide to your business a certificate of registration, unique identifier, information pack, online portal access and periodic statements; collect and process your business' quarterly returns and levies; maintain and update the employers and workers registers; otherwise administer the portable long service leave scheme(s) applicable to your business; communicate with you; administer the Authority's general business requirements; meet our legal and regulatory obligations, including as a Territory Authority; undertake surveys, monitoring, analysis and evaluation of the portable long service leave schemes and activities; and provide your business with information about our activities, events, news and publications.

Without your personal information, we may be unable to: enter your business on the employers register, communicate with you, answer your query, or otherwise administer the applicable portable long service leave scheme(s) as it applies to your business and your workers.

The Authority may disclose your personal information to: our contracted service providers, (e.g. information communications and technology providers who help us to manage our databases and other information technology needs; auditors; actuaries; and for surveys, monitoring, analysis and evaluation purposes); reciprocal authorities (interstate agencies and bodies that are responsible for administering similar portable long service leave schemes); your authorised representative; our external advisers; and as otherwise authorised or required by law (e.g. when we remit tax on leave payments to the Australian Tax Office). The Authority does not disclose personal information to third parties outside Australia, unless required or permitted by law.

Our privacy policy (available at http://www.actleave.act.gov.au/privacy-policy.html) contains further information about how you can access and correct your personal information, how you can complain about a breach of your privacy, as well as further information about how we will manage your personal information.

Trevor Pearcey House Unit 1, 28 Thynne Street, Bruce ACT 2617 | PO Box 234, Civic Square ACT 2608



ACT Long Service Leave Authority Minutes of Meeting No 60

17 May 2017 William Cape Boardroom 2 Badham Street, Dickson ACT

Present:	Glenys Roper Howard Pender Chris Redmond Shayne Hall	Chair Deputy Chair Employer Member Employee Member
	Tracy Savage Goran Josipovic Catherine Shih	CEO COO CFO
Apologies:	Peter Middleton, Erryn Cr	esshull

Minutes: Jennifer Corelli

Minutes

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8. CEO Report – Items for Noting

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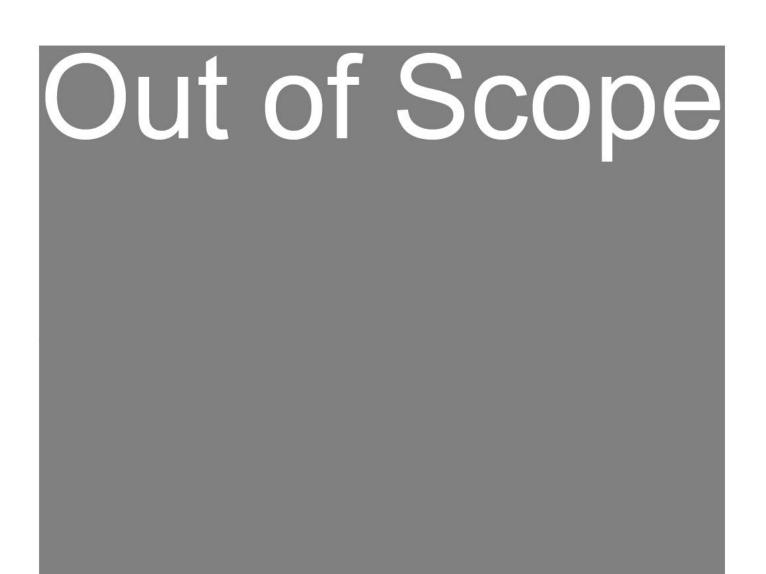
Mr Redmond informed the Board that he and the COO had met with HR representatives from the Community Sector, who raised some concerns on the application of the *Long Service Leave (Portable Scheme) 2009 Act* and the impact on staff taking leave without pay in relation to salary sacrifice arrangements. The Board agreed that the CEO may need to seek legal advice depending on any proposal put forward by the Community Sector in relation to this matter.

ACTION: CEO to seek legal advice if required in relation to any proposal by the Community Sector to address access to salary sacrifice arrangements for workers on leave without pay as a result of taking long service leave under the 2009 Act.

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ACTION

 CEO to seek legal advice if required in relation to any proposal by the Community Sector to address access to salary sacrifice arrangements for workers on leave without pay as a result of taking long service leave under the 2009 Act.



Meeting Closed at 2.30pm

Glenys Roper Chair

July 2017

New Actions	s Arisin	<u>g incorporating Meeting 60 – 17</u>	7 May 2017	
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7/5/2017	8.4	CEO to seek legal advice if		5/7/17
		required in relation to any proposal by the Community Sector to address access to salary sacrifice arrangements for workers on leave without pay as a result of taking long service leave under the 2009 Act.		
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UPDATED BOARD MEETINGS 2017





COO Update

Recommendation:

That the Board **note** the following COO update on the Authority's Operational and Compliance matters for the January – March 2017 Quarterly Return Period with data provided to 8 May 2017.

Community Sector

- Sch 2 2.2(a)(xi)
- Mental Health Australia has requested a review of their registration in the Community Sector Scheme as they claim that they do not provide community services in the form of advocacy services in the ACT, instead they are a peak body that represents employers at a national level. A submission will be provided to Registrar for review once additional information has been provided by Mental Health Australia.





ACT Long Service Leave Authority Minutes of Meeting No 63

14 September 2017 William Cape Boardroom 2 Badham Street, Dickson ACT

Deputy Chair

Employer Member

Employee Member Employer Member

Present: Howard Pender Peter Middleton Shayne Hall Chris Redmond

> Tracy Savage Catherine Shih

CEO CFO

Apologies: Glenys Roper, Erryn Cresshull, Goran Josipovic

Minutes: Jennifer Corelli

Minutes

8.4 Stakeholder Management

Noted by the Board.

The CEO informed the Board that:

- COO and she met with representatives from the Queensland Department of Industrial Relations who are considering implementing a Community Sector Scheme in Queensland.
- ·Out of Scope
- She met with Mr Michael Young to seek the policy view on a proposal received by Community Sector representatives regarding issues around managing salarysacrificing arrangements within the Community Sector when workers were on portable long service leave. The Directorate advised that they would not consider a legislative remedy to the issue at this stage and suggested pursuing administrative solutions in the first instance.





Andrew Wall MLA

Member for Brindabella

Shadow Minister for Higher Education and Training Shadow Minister for Business and Employment Shadow Minister for Tourism

Ms Rachel Stephen-Smith Minister for Workplace Safety and Industrial Relations ACT Legislative Assembly

RE: Mental Health Australia – ACT Long Service Leave review

Dear Minister,

I have been contacted by Mental Health Australia regarding a long running issue relating to contributions paid by them to the ACT Long Service Leave (portable scheme) Authority.

I understand Mental Health Australia has formally requested the ACT LSL (portable scheme) Authority to refund the contributions it has paid into the Scheme following the Authority's decision to de-register the organisation in December 2016.

Minister, would you advise what action has been taken by the ACT LSL (portable scheme) Authority and why, since this request was made?

Yours sincerely

Andrew Wall MLA 23 August 2018

RECEIVED AUG 2018



Rachel Stephen-Smith MLA

Minister for Aboriginal and Torres Strait Islander Affairs Minister for Disability Minister for Children, Youth and Families Minister for Employment and Workplace Safety Minister for Government Services and Procurement Minister for Urban Renewal

Member for Kurrajong

Mr Andrew Wall MLA Shadow Minister for Business and Employment ACT Legislative Assembly <u>WALL@parliament.act.gov.au</u>

Dear Mr Wall

Thank you for your letter of 23 August 2018 about Mental Health Australia's request for a refund for contributions paid to the ACT Long Service Leave Authority (the Authority).

At the request of Mental Health Australia (MHA), the ACT Long Service Leave Authority (Authority) undertook a review of the registration of MHA in 2017 and determined to cease its registration from 1 January 2017.

I have been informed that the Authority declined the refund of contributions requested by MHA on the basis that the Registrar's decision in 2010 to register Mental Health Council of Australia (MHCA) into the scheme was properly made. Following this, the Authority was advised on 10 July 2014 that the MHCA was changing its entity name. At this time the Authority properly transferred all employees of the former MHCA to the new registration of MHA.

MHCA, and subsequently MHA, were properly registered and the payments made on behalf of the employees of MHCA and MHA to the scheme were also made correctly. Accordingly, there is no basis on which to refund the monies paid to the scheme between 2010 and 2016.

I hope that the information above answers your question.

Yours sincerely

Rachel Stephen-Smith MLA

ACT Legislative Assembly

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia **Phone** +61 2 6205 2661 **Email** stephen-smith@act.gov.au







rachelssMLA



Potential Peak Body Registrations

Speaking out for Autism Spectrum Disorders (SOFASD) Australian Association of Social Workers (ACT Branch) Australian Federation of Disability Organisations Brotherhood of St Lawrence (ACT) Catholic Social Services Australia Federation of Ethnic Communities Councils of Australia National Aboriginal Community Controlled Health Organisation Palliative Care Australia Diabetes Australia Deafness Forum of Australia