



Dear

I refer to your application under the *Freedom of Information Act 1989* (FOI Act), section 14, received by the Community Services Directorate on 3 October 2013, in which you requested the following documents:

“the document used to make the decision to close Elouera respite facility, including any recommendation papers, usage reports and any other relevant information”

I am an officer authorised to make a decision in respect of a request for information, under the FOI Act, section 22. I apologise for the delay in responding to your request. I understand that Ms Jessica Gotovac contacted you regarding the delay in the decision and indicated she would contact you when the decision maker had finalised the documents in the week beginning 4 November 2013.

In response to your email of 6 November 2013, I wish to apologise for the distress the delay in providing my decision has caused you and the families who have been affected by the decision to close Elouera. I regret that on this occasion the decision was made after 4 November 2013.

Decision

A search of all relevant documents across the Directorate was undertaken in relation to the closure of the Elouera facility. The documents at folios 13-17 are Cabinet documents which are exempt from release under the *Freedom of Information Act 1989*, under section 35, as Executive documents. The documents at folios 18-37 are exempt under section 36, as internal working documents.

I have also provided some information sheets and statistics which have been released to you for your information. These can be found at folios 1-12, noting some of this information is in the public domain.

The decision by the ACT Government to consolidate the adult respite services was based on reduced casual respite utilisation rates across the two adult sites in centre-based facilities (Hughes and Elouera) and on the requirement to position services in the ACT for the launch of the National Disability Insurance Scheme (NDIS) in July 2014.

This reduction in client utilisation of respite services is consistent with current trends for respite services internationally. Families are seeking a broader range of respite options, not only centre based respite services, and as such the usage of respite services has decreased.

Disability ACT recognises that this is a difficult time for some families, however every reasonable effort is being made to support families individually through this transition to minimise the impact of this change. Respite services provided in a respite centre will continue to be available in the ACT and families will have access to adult, teen and children respite services.

Exemptions

The attached schedule list decisions regarding access to these documents. The terms used are either 'Full release', 'Exempt in full' or 'outside the scope of request'.

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 a reference is made in the schedule to the relevant section of legislation that applies to the particular information.

Section 35, Executive documents, *Freedom of Information Act 1989*

Section 35 (1) (a) states:

A document is an exempt document if it is—

“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”

I have decided to exempt in full the folios 13-17 under this section of the Act as they contain information that was either submitted to the Executive or prepared for the purpose of submitting to the Executive for consideration. These documents contain budget-in-confidence material that cannot be released to the public and I believe the disclosure of these documents would involve the disclosure of the deliberations of the Executive.

Section 36, Internal working documents, *Freedom of Information Act 1989*

Section 36 (1) (a) states:

Subject to this section, a document is an exempt document if its disclosure under this Act

“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”

Folios 18-37 is a draft internal report and I have decided to exempt this report under section 36 of the Act. The draft report discusses various respite service models and options for Government consideration. I believe this draft report to be a draft internal working document which would disclose matters relating to opinions and advice prepared for the purposes of deliberative processes involved in the functions of an agency and would be contrary to the public interest.

I have considered the public interest arguments for and against the full disclosure of these folios. I have considered the right of every person to monitor and participate in the processes of government and I have also considered the effect of the release of Internal Working Documents on the proper workings of the government.

I consider the disclosure of this draft report would lead to confusion and unnecessary debate resulting from disclosure of possibilities canvassed in the draft report. For this reason I believe that disclosure is not in the public interest.

Information 'Outside the scope of the request'

In some instances I have addressed information as 'Outside the scope of the request'. This term has been used when the information does not relate to the scope provided in your application.

Review rights

My decision is appealable under the Act. This means that 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 should write to:

Executive Director
Policy and Organisational Services
Community Services Directorate
GPO Box 158
CANBERRA ACT 2601

You have 28 days from the day of receipt 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 that under the ACT Government's Online FOI Publication Policy, information released to FOI applicants may be released on the internet. The publication will be undertaken within 2 weeks from the date of this letter.

Please note that personal 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 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 Ms Jessica Gotovac, Senior Freedom of Information Officer on 6207 6547.

Yours sincerely



Bronwen Overton-Clarke
Executive Director
Housing and Community Services ACT
8 November 2013