



**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 2018-0157

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	No documents
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	20
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:** [REDACTED] Freedom of Information request  
**Date:** Thursday, 28 June 2018 4:16:47 PM

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To the FOI coordinator,

I write under the Freedom of Information Act 2016 to request the following documents in possession of the Chief Minister, Treasury and Economic Development Directorate:

- The gambling incidents registers for all ACT gaming venues for the last three years including the clubs incidents have taken place at and details of the incident

Access Canberra communications staff have confirmed these documents are in the possession of the ACT Gambling and Racing Commission.

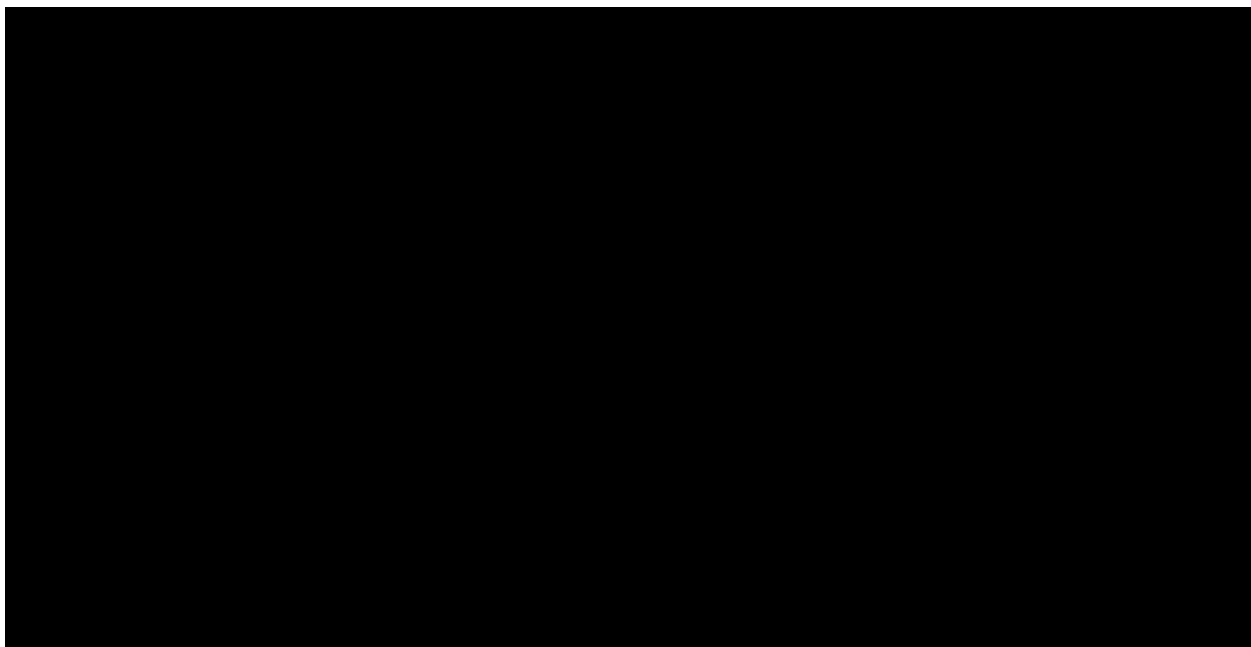
ACT Gambling and Racing Commission chief executive David Snowden said during Estimates the number of incidents recorded in licensed poker machine venues have risen in the wake of Professor Laurie Brown's case. The release of these documents will substantiate that claim.

Furthermore, I believe my request satisfies the following public interest provisions set out in the ACT's freedom of information laws, especially as gambling laws are undergoing reform because of the Professor Brown case:

- promote open discussion of public affairs and enhance the government's accountability
- contribute to positive and informed debate on important issues or matters of public interest
- allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official

Please email the documents to this address. If the release is too large to be emailed, please advise. I am also happy to collect the documents via USB or provide a postal address.

I can be reached on [REDACTED] to discuss my request.






**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2018-0157



via email: 

Dear 

### **FREEDOM OF INFORMATION REQUEST**

I refer to your application received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 28 June 2018, in which you sought access under section 30 of the *Freedom of Information Act 2016* (the Act).

Specifically, you sought access to *"the gambling incidents registers for all ACT gaming venues for the last three years including the clubs incidents have taken place at and details of the incident."*

#### **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 26 July 2018.

#### **Decision on access**

I have decided to refuse to deal with your application in accordance with section 12 of the Freedom of Information Act, which states that the provisions of the Act do not apply to the release of information contained in a health record pursuant to the *Health Records (Privacy and Access) Act 1997* (the Health Records Act).

A Health record is defined by the Health Records Act as *"any record..., or part of a record containing personal health information."* Personal health information is defined as *"...any personal information (whether the information is fact or opinion, true or false)... relating to the health or an illness or a disability of the consumer..."*

Disordered gambling is a diagnosable mental illness recognised by the American Psychiatric Association's Diagnostic and Statistical Manual (DSM-5). I am satisfied that the

information held in the problem gambling incident register meets the definition of 'personal health information' under the Health Records Act.

In making this decision, I note that the Gambling and Racing Control (Code of Practice) Regulation 2002 requires a licensee of a gambling facility to keep a record of the following incidents on a register:

- anyone who shows signs of having a gambling problem;
- any action taken by the licensee in relation to the person.

The information recorded in the register includes incidents such as an individual's attempt to make multiple cash withdrawals or attempts to borrow money from other people at venue. These behaviours, along with others which are also included in the register are recognised indicators of problem gambling according to the *Validation Study of In-Venue Problem Gambling Indicators* research conducted by Gambling Research Australia and other similar studies.

In accordance with the Gambling and Racing Control (Code of Practice) Regulation 2002 if in the opinion of the venue an individual shows signs of having gambling problem then they are required to record the incident in the register. The register was created and is used solely for collecting information/ indicators of individuals with problem gambling.

I am satisfied that the information contained in the incidents register is personal health information, and therefore I am not able to process your application under the FOI Act.

Applications for access to health records are able to be made under the Health Records Act. A copy of this Act is available from [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

### **Charges**

Processing charges are not applicable for this request because no documents are to be released.

### **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 and my decision in response to your access application will be published in the CMTEDD disclosure log after 31 July 2018. 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 the 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](mailto: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](mailto:CMTEDDFOI@act.gov.au)

Yours sincerely,



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

26 July 2018