



**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 2023-154

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

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request  
**Date:** Tuesday, 2 May 2023 8:04:18 AM

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

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:

A large grey rectangular area redacting the user's personal details in the form fields.

### Request for informati

**(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.)**

In a recent issue (  ) with the ACT Government, it was brought to our attention that a separate internal demerit point register exists, which is distinct from the public-facing Disciplinary Register. This revelation raises questions about the transparency and accessibility of information related to the disciplinary actions taken against licensed practitioners. To better understand the nature and content of this demerit point/internal disciplinary register, we would like to request the following information:

- On the internal demerit point register, please provide the total number of active, licensed practitioners by occupation. We are specifically interested in getting this information in the same format as it is presented in the public-facing Disciplinary Register.
- Please provide data on the average number of demerit points assigned to practitioners on the internal demerit point register. This information will help us better understand the severity of disciplinary actions against these individuals.
- Also, we would like to ask for the median number of demerit points assigned to practitioners listed on the internal demerit point register. This statistic will provide us with a clearer picture of the overall distribution of demerit points and potential

Under the Freedom of Information Act 2016 I want to access the following document/s (\*required field):

patterns or trends in the data. Lastly, we would like to understand better the difference between the separate internal demerit point/disciplinary register and the public-facing Disciplinary Register. Please explain the criteria used to determine which disciplinary actions are included on the internal register versus those made public and any other pertinent differences between the two registers.

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

Thank you.  
Freedom of Information Coordinator



## 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 2 May 2023. Specifically, you have sought access to information relating to an *internal Disciplinary Register*. Your request specified for parts (below):

1. *On the internal demerit point register, please provide the total number of active, licensed practitioners by occupation. Specifically presented in the same format as it is presented in the public-facing Disciplinary Register.*
2. *Data on the average number of demerit points assigned to practitioners on the internal demerit point register.*
3. *The median number of demerit points assigned to practitioners listed on the internal demerit point register.*
4. *The difference between the separate internal demerit point/disciplinary register and the public-facing Disciplinary Register. Please explain the criteria used to determine which disciplinary actions are included on the internal register versus those made public and any other pertinent differences between the two registers.*

### 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.

### Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 31 May 2023.

### Decision on access

Searches were completed for relevant information maintained by CMTEDD and I have decided to grant **full access** to the available information. I have provided a schedule of the relevant information as **Attachment A**, and the corresponding material is released to you as **Attachment B**.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

## **Statement of Reasons**

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring non-disclosure in Schedule 2

### **The public interest information under schedule 2 of the Act**

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

Taking into consideration the information found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the 'public interest'.

### **Factors favouring disclosure in the public interest:**

*(a) disclosure of the information could reasonably be expected to do any of the following:*

- (i) promote open discussion of public affairs and enhance the government's accountability;*
- (ii) contribute to positive and informed debate on important issues or matters of public interest.*

I have placed substantial weight on the above factors favouring disclosure. It is reasonable to expect that information about this topic may be of interest to other residents within the Canberra community. The release of this information can reasonably be expected to provide information that will inform the community and enhance debate.

I did not identify any factor favouring nondisclosure and have decided to release this information to you in full.

## **Charges**

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50.

## **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 will be published on the CMTEDD disclosure log. 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-2023>

## **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.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

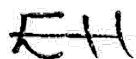
## **ACT Civil and Administrative Tribunal (ACAT) Review**

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  
15 Constitution Avenue  
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 the CMTEDD FOI team by telephone on 6207 7754 or email [CMTEDDFOI@act.gov.au](mailto:CMTEDDFOI@act.gov.au).

Yours sincerely,



Emma Hotham  
Information Officer  
Chief Minister, Treasury and Economic Development Directorate

30 May 2023



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

CMTEDDFOI 2022-154

1. *On the internal demerit point register, please provide the total number of active, licensed practitioners by occupation. Specifically presented in the same format as it is presented in the public-facing Disciplinary Register.*
2. *Data on the average number of demerit points assigned to practitioners on the internal demerit point register.*
3. *The median number of demerit points assigned to practitioners listed on the internal demerit point register.*
4. *The difference between the separate internal demerit point/disciplinary register and the public-facing Disciplinary Register. Please explain the criteria used to determine which disciplinary actions are included on the internal register versus those made public and any other pertinent differences between the two registers.*

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-2	CMTEDD's response		Full		Yes
<b>Total No of Docs</b>						
1						

# ATTACHMENT B - CMTEDDFOI 2023-154

## Document Release

1. ***On the internal demerit point register, please provide the total number of active, licensed practitioners by occupation.***

Licence Occupation	Number of Licensees on register
Electrician	63
Builder	40
Building Surveyor	16
Drainer	2
Gasfitter	1

2. ***Data on the average number of demerit points assigned to practitioners on the internal demerit point register.***

Average demerit points accumulated by licensee	Average points by each entry against a licensee
4.61	2.23

3. ***The median number of demerit points assigned to practitioners listed on the internal demerit point register.***

Average demerit points accumulated by licensee	Average points by each entry against a licensee
3.00	2.00

4. ***The difference between the separate internal demerit point/disciplinary register and the public-facing Disciplinary Register. Please explain the criteria used to determine which disciplinary actions are included on the internal register versus those made public and any other pertinent differences between the two registers.***

There are two registers kept by the Construction Occupations Registrar (the Registrar), the first being the demerit point register for which the contents of are not accessible to the public, and the second being the disciplinary register which is accessible to the public.

The demerit point register, required under *section 91* of the *Construction Occupations (Licensing) Act 2004* (the *COL Act*), keeps record of the number of demerit points a licensee has incurred for the relevant construction occupation.

Demerit points remain against a licensee's licence for 3 years. If a licensee incurs 15 or more demerit points for a construction occupation within a 3-year period, the Registrar is required to consider the relevant disciplinary incidents and may suspend or disqualify a licence in accordance with *section 95* of the *COL Act*. The Registrar may also consider other disciplinary action depending on the number of demerit points accrued which may include a warning, reprimands, directed training, and imposing conditions on a licence under *section 56* of the *COL Act*.

The demerit points considered in a licence disqualification, suspension, or other disciplinary action under *section 95* of the *COL Act* are deleted from the demerit point register when the period of the action begins.



*Section 102* of the *COL Act* is specific that the demerit point register is kept securely and may be disclosed only in accordance with the *COL Act* or another law in force in the ACT.

The decision to issue demerit points, as with any other action available to the Registrar, is done in line with Access Canberra's risk-based approach to compliance as outlined in the [Building and construction services compliance framework](#).

*Section 107A* of the *COL Act* requires the Registrar to publish a register of public information. This register of public information includes a list of construction licensees who have incurred suspensions, cancellations, occupational discipline, and other disciplinary action in the last 10 years (the disciplinary register).

The disciplinary register is publicly accessible to allow consumers to make informed decisions when choosing construction professionals to undertake construction work for them.

If a licensee is suspended, disqualified or other disciplinary action is taken against them as a result of incurring demerit points, the action is published on the disciplinary register as per *section 107A*.

**While a demerit point represents a *ground*, or a basis, for applying occupational discipline, the points recorded are not occupational discipline as defined under *Division 5.2* of *COL Act*.**