



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Disclosure Log Publication Coversheet

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

| Application Details                            |  |
|--|--|
| Ref. No.                                       | CMTEDDFOI 2024-329   |
| Date of Application                            | 10 October 2024  |
| Date of Decision                               | 13 December 2024   |
| Processing time (in working days)              | 45   |
| Fees   | N/A  |
| Decision on Access                             | Partial Release  |
| <b>Information Requested (summary)</b>         | A copy of complaints against the Canberra Sikh Association (CSA) between 17 May and 17 September 2024. |
| Publication Details                            |  |
| Original application                           | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A                             |
| Decision notice                                | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A                             |
| Documents and schedule                         | <input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A                             |
| Decision made by Ombudsman                     | N/A  |
| Additional information identified by Ombudsman | N/A  |
| Decision made by ACAT                          | N/A  |
| 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:** Thursday, 10 October 2024 4:15:36 PM

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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.

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):

Copy of any complaint or concern received by the ACT Registrar General or Access Canberra relating to the Canberra Sikh Association between 17 May 2024 and 17 September 2024.

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

Thank you.  
Freedom of Information Coordinator



## FREEDOM OF INFORMATION REQUEST – NOTICE OF DECISION

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 10 October 2024.

Specifically, you have sought access to the following information:

- *Copy of any complaint or concern received by the ACT Registrar General or Access Canberra relating to the Canberra Sikh Association between 17 May 2024 and 17 September 2024.*

### Authority

I am an Information Officer appointed by the CMTEDD 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 within 30 days.

As this matter required third party consultation, the decision due date was extended by 15 working days, in accordance with section 40(2) of the Act.

Therefore, a decision is due by **12 December 2024**.

### Decision on access

Searches of CMTEDD records have identified two documents to contain information within the scope of your request.

I have decided to grant **partial access** to one document and refuse access to the other.

The records identified as relevant to your application are listed in the schedule enclosed at **Attachment A**. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

### Release of documents

The information being released to you is provided at **Attachment B**.

### Statement of Reasons

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below. In reaching my access decisions, I have taken the following into account:

- the Act
- the information that falls within the scope of your request

- third party views
- correspondence with you
- [Associations Incorporation Act 1991](#)
- publicly available information, including:  
[https://www.cmtedd.act.gov.au/\\_data/assets/pdf\\_file/0004/2463403/2024-108.pdf](https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0004/2463403/2024-108.pdf)

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** of the Act.

## **Exemptions claimed**

### **Schedule 1: Information taken to be contrary to the public interest.**

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

- *Section 1.3 - Information disclosure of which is prohibited under law.*

Document 2 is an attachment to the email chain from document 1. It is noted that some of the information contained within this document is outside of the scope of the request and the complaint. However, the document relates to the Canberra Sikh Association (CSA), which is an incorporated association under the [Associations Incorporation Act 1991](#). Accordingly, document 2 contains information that is exempt from release under schedule 1, section 1.3(6) of the Act.

This material is exempt due to secrecy provisions noting the document was not provided to Access Canberra as per section 70A of the [Associations Incorporation Act 1991](#), as the CSA is a charity registered with the Australian Charities and Not-for-profits Commission (ACNC). As such this document is available to members of the CSA only and note that you have confirmed you are not a member of the Association.

### **Public Interest Test**

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

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

### **Schedule 2: Factors to be considered when deciding the public interest.**

Taking into consideration the information contained in the complaint document found to be within the scope of your request, I have identified that the following public interest

factor as relevant to determine if release of the information contained within these documents is within the 'public interest'.

**Factors favouring disclosure (Sch 2, Section 2.1 of the Act)**

- *Section 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.*

I have placed some weight on the above factor. I appreciate that release of the complaint information will provide the Canberra community with some insight into this matter and the type of compliance operations undertaken by ACT government agencies when dealing with Incorporated Associations and their members, as well as charities.

I am satisfied that this factor favouring disclosure carries some weight. However, this factor needs to be balanced against the factors favouring nondisclosure.

**Factors favouring nondisclosure (under Sch 2, Section 2.2 of the Act)**

- *Section 2.2(a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*
- *Section 2.2(a)(ix) - prejudice the flow of information to the police or another law enforcement or regulatory agency.*
- *Section 2.2(a)(xii) - prejudice an agency's ability to obtain confidential information.*

Having reviewed the information, I consider that the protection of an individual's right to privacy, is a significant factor. I have decided to redact personal information of third parties, such as contact information like names and email addresses. This information is redacted as it could or would reasonably be expected to prejudice an individual's right to privacy under the *Human Rights Act 2004*. I have given this factor significant weight.

The scope of your request relates to complaints made by and against third parties. I have taken into consideration third party responses to consultation. I am satisfied that the source of the complaint would have wished their identity to be known only to those who need to know it for the purpose of administering the law, and the information was supplied on the express or implied understanding that the source's identity would remain confidential. Disclosure of this information would enable a person to ascertain the identity of a confidential source in relation to the enforcement or administration of the law. There were some objections to the release of material and I have decided to uphold those objections and redact the information provided in confidence for the purposes of investigating the complaint.

I note during consultation when processing the request, you confirmed you are not connected with the Canberra Sikh Association, and I have taken this into consideration when deciding on what information may be released to you and whether the request, and released documents is to be published on the CMTEDD disclosure log under section 28(6) of the Act.

I have given moderate weight to the other factors identified above.

Having applied the test outlined in section 17 of the Act and deciding that release of personal information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2). Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that

I believe is not in the public interest to release will ensure that the intent of the Act is met.

## **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.

## **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 provided to you, 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 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  
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

12 December 2024



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## FREEDOM OF INFORMATION REQUEST SCHEDULE

### WHAT ARE THE PARAMETERS OF THE REQUEST

Reference No.

*"Copy of any complaint or concern received by the ACT Registrar General or Access Canberra relating to the Canberra Sikh Association between 17 May 2024 and 17 September 2024."*

CMTEDD FOI 2024-329

| Ref No                  | Page number | Description   | Date                      | Status  | Reason for Exemption  | Online Release Status |
|-------------------------|-------------|---|---------------------------|---------|---|-----------------------|
| 1                       | 1-3         | Email chain   | 05/06/2024-<br>06/05/2024 | Partial | Sch 2, s 2.2 (a)(ii)<br>Sch 2, s2.2(a)(ix)<br>Sch 2, s 2.2 (a)(xii) | Yes                   |
| 2                       | 4-18        | Attachment to email chain (document 1) - Notice of Annual General Meeting | 21/04/2024                | Refused | Outside Scope<br>Schedule 1, Section 1.3(6)                         | No                    |
| <b>Total No of Docs</b> |             |   |                           |         |   |                       |
| 2                       |             |   |                           |         |   |                       |

**From:** [Compliance and Investigations](#)  
**To:** [Access Canberra Resolution and Support Team](#)  
**Subject:** FW:Sch 2.2(a)(xii), Sch 2.2(a)(ii)  
**Date:** Thursday, 6 June 2024 4:42:26 PM  
**Attachments:**

Sch 2.2(a)(xii)

OFFICIAL

Good afternoon team,  
Could you please have this complaint made up into an investigation and assigned to the Access Canberra Fair Trading and Compliance team?

Kind regards,

**Jason Gadsby | Inspector | Fair Trading and Compliance**

Email: [jason.gadsby@act.gov.au](mailto:jason.gadsby@act.gov.au) | Phone: (02) 6205 9083

**Access Canberra | Chief Minister, Treasury and Economic Development Directorate | ACT Government**

GPO Box 158, Canberra City ACT 2601 | [www.act.gov.au/accessCBR](http://www.act.gov.au/accessCBR)



**From:** Sch 2.2(a)(ii), Sch 2.2(a)(xii)

**Sent:** Wednesday, June 5, 2024 11:29 AM

**To:** CITL <[citl@act.gov.au](mailto:citl@act.gov.au)>; Gadsby, Jason <[Jason.Gadsby@act.gov.au](mailto:Jason.Gadsby@act.gov.au)>

**Subject:** Sch 2.2(a)(xii), Sch 2.2(a)(ii)

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[Learn why this is important](#)

Sch 2.2(a)(xii), Sch 2.2(a)(ii), Sch 2.2(a)(ix)

Sch 2.2(a)(xii), Sch 2.2(a)(ii), Sch 2.2(a)(ix)



Sch 2.2(a)(xii), Sch 2.2(a)(ii), Sch 2.2(a)(ix)



The following documents have been redacted in full under the following provisions:

**Document number. (page ref.)**

Folio 2 (Document 2), pages 4-18

**Exemption Provision**

Outside scope  
Schedule 1 section 1.6(6)