



ACT
Government
Community Services

(Ref: CYPS 17/21, previously CSD 17/10)

[REDACTED]

By email:

[REDACTED]

Dear [REDACTED]

I refer to your request under the ACT *Freedom of Information Act 1989* (the FOI Act), received by the Community Services Directorate (the Directorate) on 28 December 2016 in which you sought access to the following information:

- All complaints or concerns raised by detainees at the Bimberi Youth Justice Centre to the Official Visitor(s) in the past two years [January 1 2015 to December 28 2016]
- All reports produced by the Official Visitor(s) in relation to the Bimberi Youth Justice Centre in the past two years [January 1 2015 to December 28 2016]

Under the FOI Act, section 22, I am an officer authorised to make a decision in respect of a request for information.

Consultation

The Directorate undertook consultation with a third party under section 26 of the *Freedom of Information Act 1989*. The consultation process extended the timeframe for the Directorate to respond to you by 30 days, making the due date for your request 27 February 2017. This consultation has been completed.

Identification of documents

Officers of the Directorate have conducted searches of hardcopy and electronic files and emails for documents that may relate to your request. 77 folios have been located.

Decision

The attached schedules list decisions regarding access to the documents. The terms used are either 'Full release' or 'Partial release' where I have decided that information is exempt.

Exemptions

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 legislation that provides the basis for exempting the information.

Below is a summary of the sections of legislation referred to in the attached schedules. **Attachment A** provides excerpts of the relevant legislation for your reference.

Section 6, FOI Act 1989 - Health Records

Some information has been classified as exempt with reference to section 6(2) of the FOI Act, which states:

*“An agency is exempt from the operation of this Act in respect of documents that are health records within the meaning of the Health Records (Privacy and Access) Act 1997 (the **Health Records Act**).”*

Health records include reports from health professionals as well as documents that contain personal health information.

Section 34, FOI Act 1989 – Documents affecting relations with Commonwealth and States

There are sections within some documents originating from a Commonwealth agency which have been exempt under this section (Schedule 1, folios 9a-9b). This is information that was communicated in confidence and its release could compromise future information sharing between the Directorate and the agency concerned.

Section 38, FOI Act 1989 – Documents to which secrecy provisions of enactments apply

The FOI Act allows the decision maker to apply exemptions in circumstances where the protection of certain information is required under other legislation. In this circumstance the information must be protected because of the provisions of the *Children and Young People Act 2008* (CYP Act) and the *Criminal Code 2002*.

Sensitive Information (CYP Act)

Under section 846, the secrecy provision of the CYP Act, *sensitive information*, which is defined to include information contained in a child protection report or appraisal, is prohibited from release. The restriction on the release of this information is given a high priority because it protects and promotes the community's confidence in reporting concerns about children and young people.

Publishing identifying information about childrens proceedings (Criminal Code 2002)

Under section 712A of the *Criminal Code 2002*, it is an offence to publish information that identifies someone else as a person who is or was a child or young person the subject of a children's proceeding. A child or young person is the subject of a children's proceeding if, *inter alia*, they are or were the subject of a criminal proceeding, as residents of Bimberi Youth Justice Centre are. Therefore I have exempted any information that may identify a young person as a resident of Bimberi.

Section 41, FOI Act 1989 – Documents affecting personal privacy

Certain documents within the scope of your request have been released with deletions in reference to section 41 of the FOI Act. Exemptions under this section have been made where the documents contain personal information relating to other individuals which cannot reasonably be disclosed. In this case, the information relates to the identities of residents and a staff member of Bimberi Youth Justice Centre. I consider that the release of information that could identify young people who are or were residents of Bimberi would be a breach of their privacy and would be unreasonable. The name of a staff member has also been redacted as references are made relating to the staff member's job performance which I consider to be of a personal nature.

Online FOI Publication Policy

I have assessed your request for information under the ACT Government's Online Freedom of Information Publication Policy and have determined that my decision on your request will be published online. Please note that personal information is not 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

Review rights

My decision is reviewable 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
Strategy, Participation and Early Intervention
Community Services Directorate
GPO Box 158
CANBERRA ACT 2601

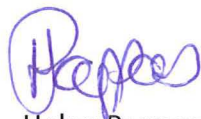
You have 28 days from the day you receive this notification to seek a review of the outcome or such other period as the Executive Director permits.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may make a complaint 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

If you have any queries in relation to this matter, please contact Mr Julian Dennis, Senior Freedom of Information Officer on 6207 6547.

Yours sincerely



Helen Pappas
Senior Director
Child and Youth Protection Services
13 February 2017