

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application received by the Education Directorate (the Directorate) on 17 February 2021 in which you are seeking access to information under the Commonwealth *Freedom of Information Act 1982* (the Cth FOI Act), specifically:

'Copies of documents relating to Brindabella Christian College (BCC), and its proprietor Brindabella Christian Education Limited (BCEL), from the period 8 May 2020 to 17 February 2021, about compliance actions taken by Children's Education and Care Assurance (CECA) against BCC/BCEL, and a fit and proper person assessment, specifically:

- *Correspondence between CECA and BCC/BCEL; and*
- *Briefs to the Minister for Education'*

The Directorate was required to provide you with a decision on access to documents within the terms of your request, within 30 calendar days of receipt, being 19 March 2021. However, consultation with relevant third parties was expected to be required; therefore, the due date was extended by 30 calendar days to 20 April 2021.

On 8 April 2021, after consultation with you regarding the scope of your request, you agreed to limit the scope of your request to briefs to the Minister. This agreement was made on the understanding that, as the Directorate is processing another request that covers the correspondence between CECA and BCC/BCEL you are seeking, you would be given access to the CECA correspondence before it is published on the disclosure log.

Decision on access

I am authorised under section 23 of the Cth FOI Act to make a decision on behalf of the Directorate in relation to your request.

The Directorate has identified three documents relevant to your request.

I have decided that the documents are to be partially released with redactions applied to information that is:

- covered by section 47F 'documents affecting personal privacy' of the Cth FOI Act,
- covered by section 47G 'documents affecting business affairs' of the Cth FOI Act, or
- outside of the scope of your request.

A schedule setting out the relevant information regarding the documents and my decision in relation to their release is at [Attachment A](#), and the released documents are at [Attachment B](#).

Details of the exemption provision, together with my reasons for applying it are set out below.

Section 47F: Public interest conditional exemptions documents affecting personal privacy

This section of the Cth FOI Act states in part:

(1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Section 47F of the Cth FOI Act protects personal privacy by exempting documents the disclosure of which would result in the unreasonable disclosure of personal information about any individual person, including a deceased person. I have decided that all personal information affecting the privacy of individuals, particularly the names of the persons associated with BCC and the legal team appointed by BCC, as well as signatures of individuals, are exempt from disclosure.

I am satisfied that it is not in the public interest to release the personal information of these individuals. Therefore, this information is exempt under section 47F of the Cth FOI Act and has been redacted from all documents.

Section 47G: Public interest conditional exemptions documents affecting business

This section of the Cth FOI Act states in part:

(1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional

affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

- (a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs;*

Section 47G of the Cth FOI Act protects business concerns, specifically the commercial or financial affairs of an organisation, by exempting documents the disclosure of which would result in the unreasonable disclosure of information of this nature. I have decided that there is no public interest served by disclosing the name of the law firm engaged by BCC. Therefore, this information is exempt under section 47G of the Cth FOI Act, and has been redacted.

Your rights for review

My decision not to release all the information relevant to your request is subject to review under section 53A of the Cth FOI Act. It is also appealable if, in your opinion, you do not believe that all documents relevant to your request in the possession of the Directorate have been located.

An information sheet outlining the review and appeal process provided for in the Cth FOI Act is attached to this letter.

Online FOI Publication

Section 11C of the Cth FOI Act requires that information made available to an applicant be published to members of the public generally on a website, subject to exceptions including for personal information and information relating to business affairs. The publication must occur within ten working days after the day the applicant is given access to the documents.

Please contact the Directorate's FOI team on 02 6205 0720 or email EducationFOI@act.gov.au if you require any further information regarding your request.

Yours sincerely



Paula Murray
Director, Information Access

20 April 2021

Cth Freedom of Information Act 1982: Review and Appeal Processes

Internal review

Under s 53A of the Cth FOI Act you may request a review of a decision made under the *Freedom of Information Act 1982* (Cth). Requests for review must be made in writing to the Education Directorate. Requests can be sent by mail to:

The Director-General
C/- FOI Officer,
Governance and Community Liaison Branch
ACT Education Directorate
GPO Box 158
CANBERRA CITY ACT 2601

Or email: EDULegalLiaison@act.gov.au

You have **30 days** from the date you were notified of the decision to request a review. This period may be extended by the Director-General.

National Education and Care Services FOI Commissioner

If you are not satisfied after the Directorate has conducted an internal review, you may seek an independent review of the decision by the Information Commissioner: s 54L Cth FOI Act. In this instance the relevant person is the National Education and Care Services FOI Commissioner (NECS FOI Commissioner). The NECS FOI Commissioner undertakes a review and can then either affirm, vary or substitute the decision, under s 55K of the Cth FOI Act.

Commonwealth Administrative Appeals Tribunal

The Administrative Appeals Tribunal (AAT) is an independent body which undertakes independent merits review of administrative decisions made under Commonwealth laws. The AAT can affirm or vary a decision made by the Directorate, or set aside the decision and substitute its own decision. Alternatively, the AAT can send the matter back to the Directorate for reconsideration in accordance with the Tribunal's recommendations.

You can find out further information on the AAT website:

<http://www.aat.gov.au/applying-for-a-review>

You can contact the AAT via telephone on 1800 228 333.

Or you can make an application online via:

<https://forms.aat.gov.au/landing.htm?formCode=app-for-review>

An appeal must be filed in the Tribunal within **28 days** after the internal review decision is made although you may seek an extension of time in certain circumstances.