



DECISION ON FREEDOM OF INFORMATION ACCESS APPLICATION

I refer to your application received by the Justice and Community Safety Directorate (JACS) on 8 February 2021 in which you sought access to the following information under the *Freedom of Information Act 2016* (the Act):

“Documents that relate to the answering of questions on notice 17 – 54 on notice paper 1 of December 2020. These documents may include, but are not limited to, drafts of answers, internal correspondence, ministerial directions, system logs or TRIM files”.

I note that your Office clarified that the scope of this request is specifically for documents relating to the decision making around why the questions on notice (QONs) were not answered and any drafts that may have been prepared prior to the decision not to answer the QONs being made.

As negotiated with you, JACS is required to provide you with a decision on access by 23 March 2021.

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.

Decision

I have identified 13 documents containing information within the scope of your access application. These are outlined in the *Schedule of documents*.

I have decided to:

- grant full access to seven documents
- grant partial access to six documents

Please see the reasons outlined in the ‘reasons for decision’ at [Attachment A](#).

Online publishing – disclosure log

Under section 28 of the Act, JACS maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the JACS disclosure log no later than 10 days after the decision. Your personal contact details will not be published.

You may view the JACS' disclosure log at: <http://www.justice.act.gov.au/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 on the JACS 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

The review of decision application form is available at:

https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

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

Ph: (02) 6207 1740

<http://www.acat.act.gov.au/>

If you have any queries concerning the Directorate's processing of your request, or would like further information, please contact JACS FOI via jacsfoi@act.gov.au or phone 6207 2167.

Yours sincerely



Karen Doran
Deputy Director-General, Community Safety
Information Officer
23 March 2021

Attachment A – Reasons for decision

1. Material considered

In reaching my decision, I considered:

- your original access application
- the documents containing the information that fall within the scope of your access application
- consultations with JACS officers
- *Freedom of Information Act 2016*
- *Human Rights Act 2004*

2. Reasons for my decision

As a decision maker, I am required to determine whether the information 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

I have included below the factors relevant to my decision on access.

2.1. Information contrary to public interest to disclose

I have determined that the documents within scope of your request do not contain information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act.

2.2. Public interest test

I have assessed the information against the factors favouring disclosure and factors favouring non-disclosure in Schedule 2. On balance, I have decided that the information is in the public interest to disclose. I have included below the relevant factors for your information.

Factors favouring disclosure

- 2.1(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;*
 - (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

Factors favouring non-disclosure

- 2.2(a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

I have decided to grant partial access to six documents under section 50 of the Act. Minor redactions have been applied to the personal information of individuals to protect their right to privacy under the *Human Rights Act 2004*.

3. Summary of my decision

In conclusion, I have decided to:

- grant full access to seven documents
- grant partial access to six documents