



ACT
Government

**Canberra Health
Services**

Ref FOI18-132



Dear 

Freedom of Information Request – FOI18-132

I refer to your application received by Canberra Health Services on 17 December 2018 in which you sought access to information under the *Freedom of Information Act 2016* (the FOI Act).

In your application you have requested:

“How many people in the ACT registered or agreed somehow to donate their organs, tissue or both, with this decision having been overturned by next of kin - for the time periods 2010-2014, 2015-2016, the 2017 year and the 2018 year? Please split data into organs, tissue or both if possible.”

I am an Information Officer appointed by the Chief Executive Officer under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Canberra Health Services was required to provide a decision on your access application by 22 January 2019. This date takes into account the three day extension you agreed to on 16 January 2019.

Decision on access

Searches were completed for relevant documents and three documents were identified that fall within the scope of your request.

I have decided to refuse access to all three documents as I consider the document to be contrary to the public interest information under schedule 2 2.2 of the Act.

I have included as Attachment A to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

In reaching my access decision, I have taken the following into account:

- The FOI Act
- The contents of the documents that fall within the scope of your request

- *The Human Rights Act 2004*

The identified documents are composed of, or contain information that I consider, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the Act as the information contained in these documents is personal information about individuals.

I have identified that there are no factors favouring disclosure of this information under Schedule 2, section 2.1 and I have identified that the following factor favours non-disclosure:

- Schedule 2 2.2 (a)(ii) - prejudice the protection of an individual's right to privacy or any other right under the *Human Rights ACT 2004*.

On balance, the information identified is contrary to the public interest and I have decided not to disclose this information.

I can advise that for the period 2013 to 2018 there have been seven instances of next of kin overriding the registered decision of a family member in relation to the donation of their tissues or organs.

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 ACT Health's 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.

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

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

If you have any queries concerning ACT Health's processing of your request, or would like further information, please contact the FOI Coordinator on 6205 1340 or email HealthFOI@act.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Chris Bone', written over a horizontal line.

Chris Bone
Deputy Director-General
Canberra Hospital & Health Services

22 January 2019

FREEDOM OF INFORMATION REQUEST SCHEDULE

Please be aware that under the *Freedom of Information Act 2016*, some of the information provided to you will be released to the public through the ACT Government's Open Access Scheme. The Open Access release status column of the table below indicates what documents are intended for release online through open access.

Personal information or business affairs information will not be made available under this policy. If you think the content of your request would contain such information, please inform the contact officer immediately.

Information about what is published on open access is available online at: <http://www.health.act.gov.au/public-information/consumers/freedom-information>

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	File No
[REDACTED]	How many people in the ACT registered or agreed somehow to donate their organs, tissue or both, with this decision having been overturned by next of kin - for the time periods 2010-2014, 2015-2016, the 2017 year and the 2018 year? Please split data into organs, tissue or both if possible.	FOI18-132

Ref No	No of Folios	Description	Date	Status	Reason for non-release or deferral	Open Access release status
1	1	Canberra Health Services – Donate Life – State Dashboards for ACT	2018	Refusal	Schedule 2 2.2 (a)(ii)	No
2	2-3	Canberra Health Services – Donate Life – State Dashboards for ACT	2017	Refusal	Schedule 2 2.2 (a)(ii)	No
3	4-5	Canberra Health Services – Donate Life – State Dashboards for ACT	2016	Refusal	Schedule 2 2.2 (a)(ii)	No
Total No of Docs						
3						