

Dear [REDACTED]

REFUSE TO DEAL WITH YOUR ACCESS APPLICATION

I refer to your application received by Canberra Health Services (CHS) on 27 July 2020 which we then confirmed the split of your request into two applications and rescoped on Friday 7 August 2020, in which you sought access to information under the *Freedom of Information Act 2016* (FOI Act).

This application requested access to:

'For all specialist staff doctor employees of Canberra Health Services (either fulltime or part time), with a rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan signed by the relevant parties between 1/7/18 to 1/7/20.

I request to be provided please:

The various verbatim written clauses regarding applications / submissions / requests for leave (annual, TESL long service) including any time period in advance applications are required or suggested to be made that are written in the stated rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan.

Please specify the number of fulltime or part time specialist doctors employed by Canberra Health Services that each different clause identified applies to regarding submission / requesting these types of leave in advance.

Please also specify the number of fulltime or part time staff specialist doctors employed by Canberra Health Services that have no clause detailing the time in advance to submit / request a leave submission/request/ application.

The total number of rehabilitation programs/plans, or graduated return to work programs/plans signed by the relevant parties to examine is expected to be less than 20, with all programs readily identifiable by the ACT Health Injury Management Unit, and ACT Health People and Culture.

Secondly the programs/plans, and statistics are required to be gathered as part of compliance previously with Comcare, and under the self-insured requirements using the SRC.

With this FOI request personal information is not requested or required to be provided such as names or specialty of the fulltime or part time staff specialist doctors employed by Canberra Health Services with the rehabilitation program, rehabilitation program alteration, or graduated return to work programs.

The additional component to the FOI request is for the equivalent (if present) various verbatim written clauses regarding "upgrade" of work that are written in the stated rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan for all specialist staff doctor employees of Canberra Health Services (either fulltime or part time).'

I am an Information Officer appointed by the Chief Executive Officer of Canberra Health Services (CHS) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. CHS was required to provide a decision on your access application by **Friday 4 September 2020**.

Decisions

I sent you a letter on Monday 17 August 2020 to express an intention to refuse to deal with your application in accordance with *section 43* of the FOI Act;

- *Section 43 (1) (c) the application involves an abuse of process*
- *Section 43 (4) states that abuse of process includes (b) an unreasonable request for personal information about a person.*

A consultation period of 10 working days was given, which ended on **31 August 2020**.

I have decided to refuse to deal with your access application under sections 43 (1)(c) and 43 (4)(b) of the FOI Act as outlined in the intention to refuse letter ([Attachment A](#)). This notice complies with section 55 of the FOI Act - *content of notice - refusal to deal with application*. It is my decision that the public interest would not be served by unreasonably requesting the personal information of other CHS employees.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, CHS maintains an online record of access applications called a disclosure log. The scope of your access application, my decision and documents released to you will be published in the disclosure log not less than three days but not more than 10 days after the date of this decision. Your personal contact details will not be published.

<https://www.health.act.gov.au/about-our-health-system/freedom-information/disclosure-log>.

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the FOI 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

Website: ombudsman.act.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/>

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9829 or email HealthFOI@act.gov.au.

Yours sincerely



Dave Peffer
Deputy Chief Executive Officer
Canberra Health Services

3 September 2020



ACT
Government

**Canberra Health
Services**

Our reference: FOI20-42



Dear 

NOTICE OF INTENTION TO REFUSE TO DEAL WITH YOUR ACCESS APPLICATION

I am writing to advise you that I intend to refuse to deal with your access application made under the *Freedom of Information Act 2016* (FOI Act), received by the Canberra Health Services (CHS) on **Monday 27 July 2020** which we then confirmed the split of your request into two applications and rescoped on **Friday 7 August 2020**.

This application requested access to:

'For all specialist staff doctor employees of Canberra Health Services (either fulltime or part time), with a rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan signed by the relevant parties between 1/7/18 to 1/7/20.

I request to be provided please:

The various verbatim written clauses regarding applications / submissions / requests for leave (annual, TESL long service) including any time period in advance applications are required or suggested to be made that are written in the stated rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan.

Please specify the number of fulltime or part time specialist doctors employed by Canberra Health Services that each different clause identified applies to regarding submission / requesting these types of leave in advance.

Please also specify the number of fulltime or part time staff specialist doctors employed by Canberra Health Services that have no clause detailing the time in advance to submit / request a leave submission/request/ application.

The total number of rehabilitation programs/plans, or graduated return to work programs/plans signed by the relevant parties to examine is expected to be less than 20, with all programs readily identifiable by the ACT Health Injury Management Unit, and ACT Health People and Culture.

Secondly the programs/plans, and statistics are required to be gathered as part of compliance previously with Comcare, and under the self-insured requirements using the SRC.

With this FOI request personal information is not requested or required to be provided such as names or specialty of the fulltime or part time staff specialist doctors employed by Canberra Health Services with the rehabilitation program, rehabilitation program alteration, or graduated return to work programs.

The additional component to the FOI request is for the equivalent (if present) various verbatim written clauses regarding "upgrade" of work that are written in the stated rehabilitation program/plan or subsequent alteration, or graduated return to work program/plan for all specialist staff doctor employees of Canberra Health Services (either fulltime or part time).'

I am an Information Officer appointed by the Chief Executive Officer of Canberra Health Services (CHS) under section 18 of the FOI Act to deal with access applications made under Part 5 of the FOI Act. CHS was required to provide a decision on your access application by **Friday 4 September 2020**.

Decisions

I am notifying you of my intention to refuse to deal with your access application, in accordance with *Section 43* of the FOI Act;

- *Section 43 (1) (c) the application involves an abuse of process.*

Section 43 (4) states that abuse of process includes (b) an unreasonable request for personal information about a person.

The information you are seeking would require staff members to determine which staff specialist doctors have a Rehabilitation Program/Plan or Return to Work Program/Plan. Then staff would have to go through the individualised plans to determine if they held the information you specify, and finally collate this into a deidentified document where the staff members identity may still be evident. Personal information of individuals is protected under the *Human Rights Act 2004* and the *Information Privacy Act 2014*. The Programs/Plans would also contain information that is classified as Health Records that cannot be considered under the *Freedom of Information Act 2016* (FOI Act) as they fall under the *Health Records (Privacy and Access) Act 1997*. It is my decision that this is an unreasonable request for the personal information of other employees.

Under section 46 of the Act, Canberra Health Services must take reasonable steps to assist you and give you a consultation period of 10 working days from the date of this letter which would be by **COB 31 August 2020** to make an application in a form that would remove the grounds for refusal under the FOI Act.

You may wish to refine/reduce the scope of your request, and if you do, the day the amended application is received becomes the commencement date of the decision process. Additionally, you may consider other avenues the information you are seeking can be obtained.

Further assistance

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on (02) 5124 9829 or email HealthFOI@act.gov.au.

Yours sincerely



Dave Peffer
Deputy Chief Executive Officer
Canberra Health Services

13 August 2020