

Dear [REDACTED]

DECISION ON YOUR ACCESS APPLICATION

I refer to your application under section 30 of the *Freedom of Information Act 2016* (FOI Act), received by ACT Health Directorate (ACTHD) on **Tuesday 7 September 2021**.

This application requested access to:

'I request documents held by the Directorate, in any form, created after July 1 2020 and before today (September 6 2021) which constitute any of the following:

- *correspondence with the Australian Federal Police relating to contact tracing information collected by means of the Check In CBR app;*
- *requests by the Australian Federal Police for information collected via the Check In CBR app and any correspondence in response to such requests (excluding the requested data);*
- *policy documents (such as directions, instructions, guidelines, or any similarly described document) instructing Directorate employees how to handle external requests for information collected by the Check In CBR app.'*

I am an Information Officer appointed by the Director-General of ACT Health Directorate (ACTHD) under section 18 of the FOI Act to deal with access applications made under Part 5 of the Act. ACTHD was required to provide a decision on your access application by **Wednesday 6 October 2021**.

Decision on access

Searches were completed for the relevant documents and I have identified one document holding the information within scope of your access application. I have decided to grant partial access to the one document.

My access decisions are detailed further in the following statement of reasons and the document released to you are provided as Attachment A to this letter.

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 views of relevant third parties; and
- The *Human Rights Act 2004*.

I have identified that there are no relevant factors favouring disclosure of this information under Schedule 2.1.

Partial redactions have been made to the document as it contains 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 folios is partially comprised of personal information being email addresses of non-ACT Government employees. This information has not been disclosed as this could reasonably be expected to prejudice the protection of the individual's right to privacy under *Schedule 2.2 (a) (ii) prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004*. The disclosure of this detail would not provide any government information pertinent to your request therefore, I have decided this factor outweighs the public interest factors in the disclosure of this information.

Charges

Processing charges are not applicable to this request.

Disclosure Log

Under section 28 of the FOI Act, ACTHD 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 9831 or email HealthFOI@act.gov.au.

Yours sincerely



Peter O'Halloran

Executive Group Manager - Chief Information Officer

Digital Solution Division

ACT Health

6 October 2021

From: [Martin, Victor \(Health\)](#)
To: [Hughes, Callum](#)
Cc: [REDACTED]; [Bicket, Robyn](#); [Krsteski, Radomir \(Health\)](#); [Keep, Katrina \(Health\)](#); [Dal Molin, Vanessa \(Health\)](#); [O'Halloran, Peter \(Health\)](#)
Subject: RE: Disclosure of Check In CBR App personal information [SEC=OFFICIAL]
Date: Wednesday, 16 June 2021 2:43:00 PM

Perfect, thank you Callum.

Victor

From: Hughes, Callum [REDACTED]@afp.gov.au>
Sent: Wednesday, 16 June 2021 2:43 PM
To: Martin, Victor (Health) <Victor.Martin@act.gov.au>
Cc: [REDACTED]@afp.gov.au>; Bicket, Robyn <Robyn.Bicket@act.gov.au>; Krsteski, Radomir (Health) <Radomir.Krsteski@act.gov.au>; Keep, Katrina (Health) <Katrina.Keep@act.gov.au>; Dal Molin, Vanessa (Health) <Vanessa.DalMolin@act.gov.au>; O'Halloran, Peter (Health) <Peter.O'Halloran@act.gov.au>
Subject: RE: Disclosure of Check In CBR App personal information [SEC=OFFICIAL]

CAUTION: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Thanks Victor – just one addition in red below.

Kind regards,

DETECTIVE A/SUPERINTENDENT CALLUM HUGHES
 MINISTERIAL, POLICY & PERFORMANCE | COVID-19 TASKFORCE
 ACT POLICING

[REDACTED]
www.afp.gov.au



POLICING FOR
 A SAFER AUSTRALIA

The Australian Federal Police acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



From: Martin, Victor (Health) <Victor.Martin@act.gov.au>
Sent: Wednesday, 16 June 2021 2:38 PM
To: Hughes, Callum [REDACTED]@afp.gov.au>
Cc: [REDACTED]@afp.gov.au>; Bicket, Robyn <Robyn.Bicket@act.gov.au>; Krsteski,

Radomir (Health) <Radomir.Krsteski@act.gov.au>; Keep, Katrina (Health) <Katrina.Keep@act.gov.au>; Dal Molin, Vanessa (Health) <Vanessa.DalMolin@act.gov.au>; O'Halloran, Peter (Health) <Peter.O'Halloran@act.gov.au>
Subject: Disclosure of Check In CBR App personal information

Dear Callum,

As discussed this morning, I propose the following in response to any questions about the release of CBR Check In App personal information. Could you please confirm if you are satisfied that this aligns with our discussion this morning.

Disclosure of Check In CBR App personal information

- ACT Health is working closely with ACT Policing to support community and business compliance with COVID-19 public health directions. ACT Policing acknowledges the public health purposes of collecting and storing personal information through the App will outweigh the potential evidentiary value of the information in all but the most serious alleged criminal offences.
- ACT Policing does not have procedures in place to request access to personal information collected through the Check In CBR App.
- Territory privacy legislation includes references to mechanisms that allow courts to make orders requiring or authorising the disclosure of personal information. A court considering issuing such orders would need to consider the benefits of releasing the information and the public interest of disclosing the information.
- ACT Health would only disclose Check In CBR App personal information if a court were to issue a subpoena or warrant requiring its disclosure.

Happy to discuss.

Victor

Victor Hugo Martin | Executive Branch Manager, Health Protection Service

Ph: 5124 9262 | Email: Victor.Martin@act.gov.au

Health Protection Service, Public Health, Protection & Regulation | ACT Health Directorate

25 Mulley St, Holder, ACT

health.act.gov.au

