

[REDACTED]

Dear [REDACTED]

### **REFUSE TO DEAL WITH YOUR ACCESS APPLICATION**

I refer to your application received by Canberra Health Services (CHS) on **Monday 6 March 2023** in which you sought access to information under the *Freedom of Information Act 2016* (FOI Act).

This application requested access to:

*'The insurance policies covering those members of the PACER Program I interacted with; any claims made within; and their disciplinary histories.'*

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 **Tuesday 4 April 2023**.

#### **Decisions**

As this application does not apply for personal information about the applicant, I have decided that this is not a personal application as specified under section 30(3).

ACTHD sent you a letter on **Friday 24 March 2023** providing you an intention to refuse to deal with the scope of your application in accordance with section 43 of the FOI Act;

- Section 43(1)(c) *the application involves an abuse of process, and*
- Section 43(1)(f) *an earlier access application for the same government information—*
  - (i) was made in the 12 months before the application was made; and*
  - (ii) access to the information was refused; and*
  - (iii) the relevant public interest factors are materially the same as those considered in deciding the earlier application.*

A consultation period of 10 working days was given under section 46(4)(a) which ended on **Tuesday 11 April 2023**, noting that we have not received any rescoped application in a form that would remove the ground for refusal under section 46(a)(b)(ii) by the end of the consultation period.

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

- The FOI Act;
- The *Human Rights Act 2004*; and
- The *Information Privacy Act 2014*.

As outlined in our intention to refuse letter, in relation to the scope *'The insurance policies covering those members of the PACER Program I interacted with; any claims made within'*, I refuse to deal with your access application under section 43(1)(f) of the FOI Act. Please see the below link to the

relevant earlier application available on the ACTHD disclosure log;  
[https://www.health.act.gov.au/sites/default/files/2023-03/CHSFOI22-23.42%20CHS%20Response\\_DL.pdf](https://www.health.act.gov.au/sites/default/files/2023-03/CHSFOI22-23.42%20CHS%20Response_DL.pdf).

I refuse to deal with your access application in relation to the scope '*...and their disciplinary histories*'. The information requested involves an abuse of process under section 43(1)(c), where abuse of process includes *an unreasonable request for personal information about a person* under section 43(4).

### **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](mailto:ACTFOI@ombudsman.gov.au)  
Website: [ombudsman.act.gov.au](http://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](mailto:HealthFOI@act.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. McKenzie', with a stylized flourish at the end.

Katie McKenzie

**Executive Director**

Mental Health, Justice Health and Alcohol & Drug Services  
Canberra Health Services

12 April 2023