

[REDACTED]

Dear [REDACTED]

REFUSE TO DEAL WITH YOUR ACCESS APPLICATION

I refer to your application received by Canberra Health Services (CHS) on **Wednesday 22 March 2023** in which you sought access to information under the *Freedom of Information Act 2016* (FOI Act).

This application requested access to:

'Documents generated or received by the ACT Government in relation to the Coroner's Inquest into the death of Bronte Haskins. Specifically, I am requesting the following documents:

- *Documents that detail the criticisms the Territory made of the coroner's report referenced on paragraphs 43, 59 and 69.*
- *Any ministerial briefings on the report*
- *Any submissions or other comments made to the report made by the ACT Government or representatives of the ACT Government.'*

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.

Decisions

CHS sent you a letter on **Friday 21 April 2023** to express an intention to refuse to deal with your application in accordance with section 43 of the FOI Act;

- Section 43 (1)(e) the access application is expressed to relate to government information of a stated kind and government information of that kind is taken to be contrary to the public interest to disclose under schedule 1.

Under section 46(4)(a), the Directorate provided you with a consultation period of 10 working days to amend the scope of your application. No response was received by the end of the consultation period which ended on **Monday 8 May 2023**.

I have decided to refuse to deal with this application in accordance with section 43(1)(e). As outlined above, following consultation in regard to our intention to refuse letter, in reaching my access decision, I have taken the following into account:

- The FOI Act
- The scope of your application; and
- Coronial Practice Direction No.2 of 2019.

[Coronial Practice Direction](#) No.2 of 2019 prescribes the practices and procedures in relation to the release of Coronial Information.

Paragraph 17 provides "For the avoidance of doubt, no documents in relation to a coronial matter in the possession of third party are to be produced by that third party under freedom of information, victims of crime, privacy or any other legislation without the express authorisation of a Coroner. Production of such material by any person or organisation in possession of coronial information without express authorisation will be dealt with as a contempt of the Court."

The FOI Act provides a right of access to government information unless access to the information would be contrary to the public interest.

Schedule 1 of the Act states information mentioned in this schedule is taken to be contrary to the public interest to disclose unless the information identifies corruption or the commission of an offence by a public official or that the scope of a law enforcement investigation has exceeded the limits imposed by law.

- 1.1 Information disclosure of which would be contempt of court or Legislative Assembly etc Information the disclosure of which would, apart from this Act and any immunity of the Crown—
 - (a) be in contempt of court; or
 - (b) be contrary to an order made or direction given by a tribunal or other entity having power to take evidence on oath.

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 9831 or email HealthFOI@act.gov.au.

Yours sincerely,



Josephine Smith
Executive Branch Manager
Strategy and Governance
Canberra Health Services

9 May 2023