



ACT
Government
Health

Ref FOI18-5



Dear 

I refer to your application received by ACT Health on 30 January 2018 in which you sought access to information under the *Freedom of Information Act 2016* (the Act).

In your application you have requested all documents created in the reporting, investigating and/or disciplinary action taken in relation to sexual harassment complaints made against any employee in the ACT Health Directorate between 1 January 2014 and 11 January 2018.

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

ACT Health was required to provide a decision on your access application by 26 February 2018.

Decision on access

I have decided to refuse access to all identified documents. My reason for deciding not to grant access to the identified documents is that they are entirely composed of information that is considered to be contrary to the public interest under schedule 1 of the Act.

Section 1.4 states that information the disclosure of which would involve the unreasonable disclosure of sensitive information about any individual (including a deceased person) is taken to be contrary to the public interest to release.

Territory privacy principle 6 prescribes that where a public sector agency holds personal information about an individual that was collected for a particular purpose, the agency must not use or disclose the information for another purpose unless it meets criteria outlined in the Schedule 1 part 1.3 of the *Information Privacy Act 2014* (Information Privacy Act).

ACT Health has given consideration to the possibility of redacting the documents to de-identify the content in accordance with the meaning outlined in section 18 of the Information Privacy Act. Due to the nature of the documents and the small sample that the documents pertain to it is deemed that this is not possible.

The documents identified as in scope of your application comprised allegations of misconduct, witness statements, preliminary assessments and an investigation report. All documents contain identifiable personal information including but not limited to names, work locations, identifiable statements, correspondence and an investigation report.

During the period 1 January 2014 to 11 January 2018 there were three cases of alleged misconduct relating to sexual harassment. These three cases were dealt with in accordance with the relevant enterprise agreements. The allegations for one of them did not have sufficient evidence which could prove the alleged behaviour had occurred on balance of probabilities and the other two went to formal investigation and the outcomes were in accordance with the relevant enterprise agreement and the *Public Sector Management Act 1994*.

Charges

Processing charges are not applicable for this request because as less than 50 pages of documentation is being provided.

Online publishing – disclosure log

Under section 28 of the Act, ACT Health maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published in the disclosure log not less than three days but not more than 10 days after date of decision. Your personal contact details will not be published.

You may view the ACT Health disclosure log at <http://www.health.act.gov.au/public-information/consumers/freedom-information/disclosure-log>.

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 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: ombudsman@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

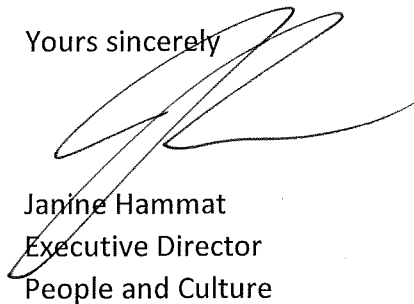
Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

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/>

Should you have any queries in relation to your request, please do not hesitate to contact the FOI Coordinator on 6205 1340 or email HealthFOI@act.gov.au.

Yours sincerely



Janine Hammat
Executive Director
People and Culture

21 February 2018