

From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#)
Subject: RE: 125U(1)(b) - FOR REVIEW
Date: Thursday, 19 September 2024 9:34:45 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

OFFICIAL

[G:\Regulation and Compliance\NGE\NGS Concerns and ARR\Non-Government Schools\Independent Schools\Brindabella Christian College\ING - 2024-1\](#)

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au







[Education and Care Regulation and Support](#) | Education | ACT Government

Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611

GPO Box 158 Canberra ACT 2601

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Hybrid work locations this week for me are:

Mon	Tues	Wed	Thur	Fri
				
				

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From: Withers, Nicole
Sent: Thursday, September 19, 2024 9:33 AM
To: Moysey, Sean
Cc: Cropper, Brian
Subject: 125U(1)(b) - FOR REVIEW

Dear Sean,

Please see the attached link for your attention.

Can we please discuss the context when you are available? Specifically re: who we direct the 125U to and the timing of this notice.

Kind Regards,







Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au

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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Subject: Ombudsman Information
Date: Tuesday, 1 October 2024 9:12:13 AM
Attachments: [Corr SP.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)

OFFICIAL: Sensitive - Legal Privilege

Morning Sean

As discussed.

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au







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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#); [Brookes, Clare](#)
Subject: FW: [External] [REDACTED] and reportable conduct obligations [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 2 October 2024 7:52:02 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

OFFICIAL: Sensitive - Legislative Secrecy

Morning Team

Sean, would you like me to draft a response to this, or are you happy to reply?

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au






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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#); [Masterman, Tanya](#)
Subject: ADVICE PLEASE - Power of Entry - Statutory Interpretation of s125Q
Date: Wednesday, 9 October 2024 3:25:08 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
Importance: High

OFFICIAL: Sensitive - Legal Privilege

Dear Sean

An intellectual discussion has taken place between a few of us in relation to our Powers of Entry into an NGS (BCC) and obtain information under the [Education Act 2004](#).

We would be interested to hear how you interpret Division 4.6.3 – Powers, ss125Q through 125U. Do we have powers to enter BCC **without** consent?

We are also curious about the scope of *necessary assistance* (as opposed to *reasonable assistance* under the ECS National Law).

We look forward to hearing your thoughts as we need this issue resolved prior to attempting any ‘no knock warrants’.

Kind Regards,

Nicole Withers | Senior Investigator

nicole.withers@act.gov.au

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?				

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From: [Withers, Nicole](#)
To: [Cropper, Brian](#); [Moysey, Sean](#)
Subject: FW: Confidential 125U BCC update
Date: Tuesday, 15 October 2024 1:16:57 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

OFFICIAL

FYI – correspondence from [redacted] and my response.

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au

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From: Withers, Nicole

Sent: Tuesday, 15 October 2024 1:16 PM

To: [redacted]

Cc: Suzanne Power ; [redacted]

Subject: RE: Confidential 125U BCC update

Dear [redacted]

With all due respect, I do not have to correspond with you. As you may know, the section 125U Notice was addressed to Ms Power. You may have your chance to provide information at a later time.

I was advised at 11.22am on 27 September 2024 by staff of BCC of the alternative email address for Ms Power.

The relevance of each piece of information I have requested is outlined in the section 125U Notice. I trust your legal team will be commensurate with the terms of the Notice and their legal effect. I await Ms Power’s response.

Kind Regards,

Nicole Withers | Senior Investigator | A Assistant Director

| nicole.withers@act.gov.au

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From: [Redacted]

Sent: Tuesday, 15 October 2024 10:47 AM

To: Withers, Nicole <Nicole.Withers@act.gov.au>

Cc: Suzanne Power <suzannepower@bcc.act.edu.au>; [Redacted] <[\[Redacted\]@bcc.act.edu.au](mailto:[Redacted]@bcc.act.edu.au)>

Subject: Fwd: Confidential 125U BCC update

You don't often get email from [Redacted]. [Learn why this is important](#)

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Dear Ms Withers,

Whilst you have ignored my correspondence completely, I advise that the matter is in the hands of the Deputy Registrar of the ACT Magistrates Court given the serious error in providing your information on the matter to the public/staff as opposed to the secure direct Principal e-mail address or Ms Powers directly.

As you are aware our Legal Team are reviewing the matter.

For the sake of being ignored for a third time, please provide by immediate return advice, given you seek a 16 October response from Ms Powers, as to what is the significance of each of the additional items requested given [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

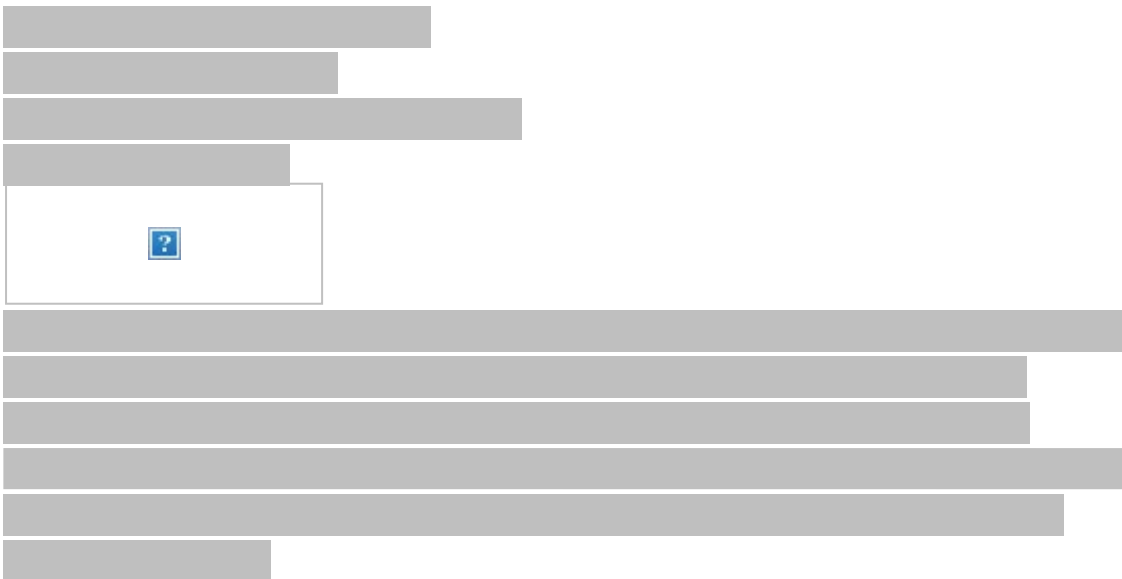
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



Begin forwarded message:

From: Suzanne Power <SuzannePower@bcc.act.edu.au>

Subject: FW: Confidential 125U BCC update

Date: 15 October 2024 at 9:29:28 AM AEDT

To: [Redacted] <[\[Redacted\]@bcc.act.edu.au](mailto:[Redacted]@bcc.act.edu.au)>

FYI

From: Withers, Nicole <Nicole.Withers@act.gov.au>

Sent: Tuesday, October 15, 2024 8:36 AM

To: Suzanne Power <SuzannePower@bcc.act.edu.au>

Cc: [Redacted] <[\[Redacted\]@bcc.act.edu.au](mailto:[Redacted]@bcc.act.edu.au)>; BCC Board <board@bcc.act.edu.au>

Subject: RE: Confidential 125U BCC update

OFFICIAL: Sensitive

Dear Ms Power

Thank you for supplying some additional information. I note the omission of certain information which you have indicated is subject to you obtaining legal advice.

We require the provision of the outstanding information by close of business Wednesday 16 October 2024. No further extensions will be given.

Kind Regards,

Nicole Withers | Senior Investigator | A Assistant Director

nicole.withers@act.gov.au

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From: Suzanne Power <SuzannePower@bcc.act.edu.au>

Sent: Monday, 14 October 2024 8:41 PM

To: Withers, Nicole <Nicole.Withers@act.gov.au>

Cc: [redacted] <[\[redacted\]@bcc.act.edu.au](mailto:[redacted]@bcc.act.edu.au)>; BCC Board <board@bcc.act.edu.au>

Subject: Confidential 125U BCC update

You don't often get email from suzannepower@bcc.act.edu.au. [Learn why this is important](#)

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CONFIDENTIAL

Good Evening Nicole,

Since my earlier email today I have been able to collect some further information regarding the 125U notice. The attached scanned documents are all the correspondence available from [redacted]. For other matters I am still awaiting advice as advised in the prior email.

Kind Regards,

Suzanne Power

Executive Principal

Connected Education

Brindabella Christian College

Canberra

p: 02 6190 7300

p: 02 6190 5301

[website](#) | [Facebook](#)

To promote a healthy work-life balance for our employees, Brindabella Christian College staff may not respond to emails during evenings and weekends. We thank you for your understanding.



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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#)
Subject: RE: [External] [REDACTED] and reportable conduct obligations [SEC=OFFICIAL:Sensitive]
Date: Wednesday, 16 October 2024 9:07:09 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

OFFICIAL: Sensitive - Legislative Secrecy

Thanks Sean

I'll collate some evidence in this regard and then we can discuss. I trust the method in your madness and will follow.

I spoke with BC this morning about it, too.

Have a great day.

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au



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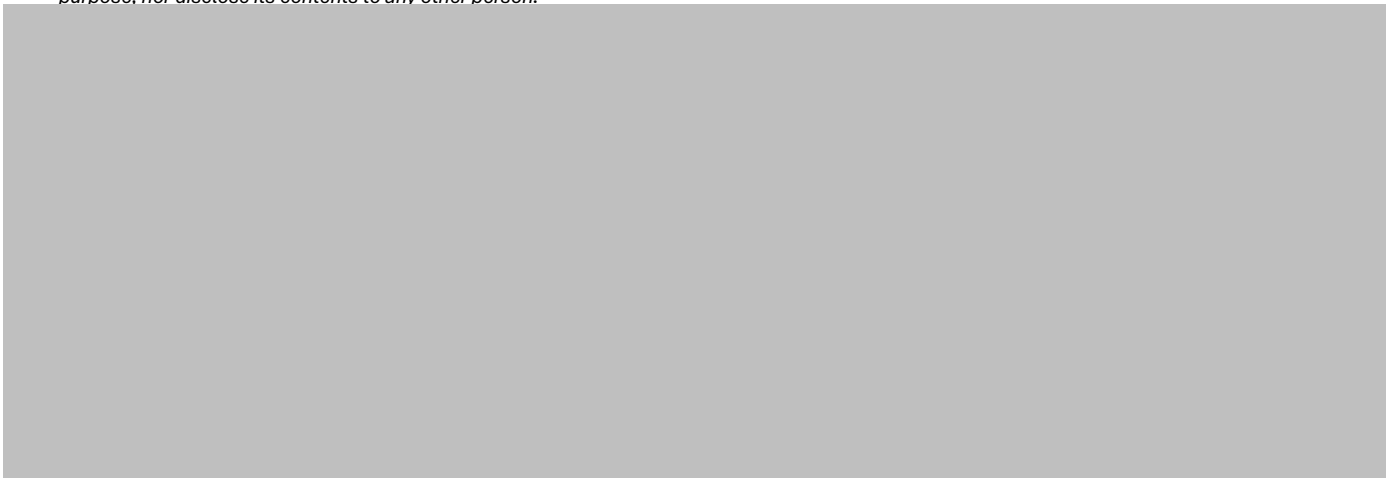
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Hybrid work locations this week for me are:

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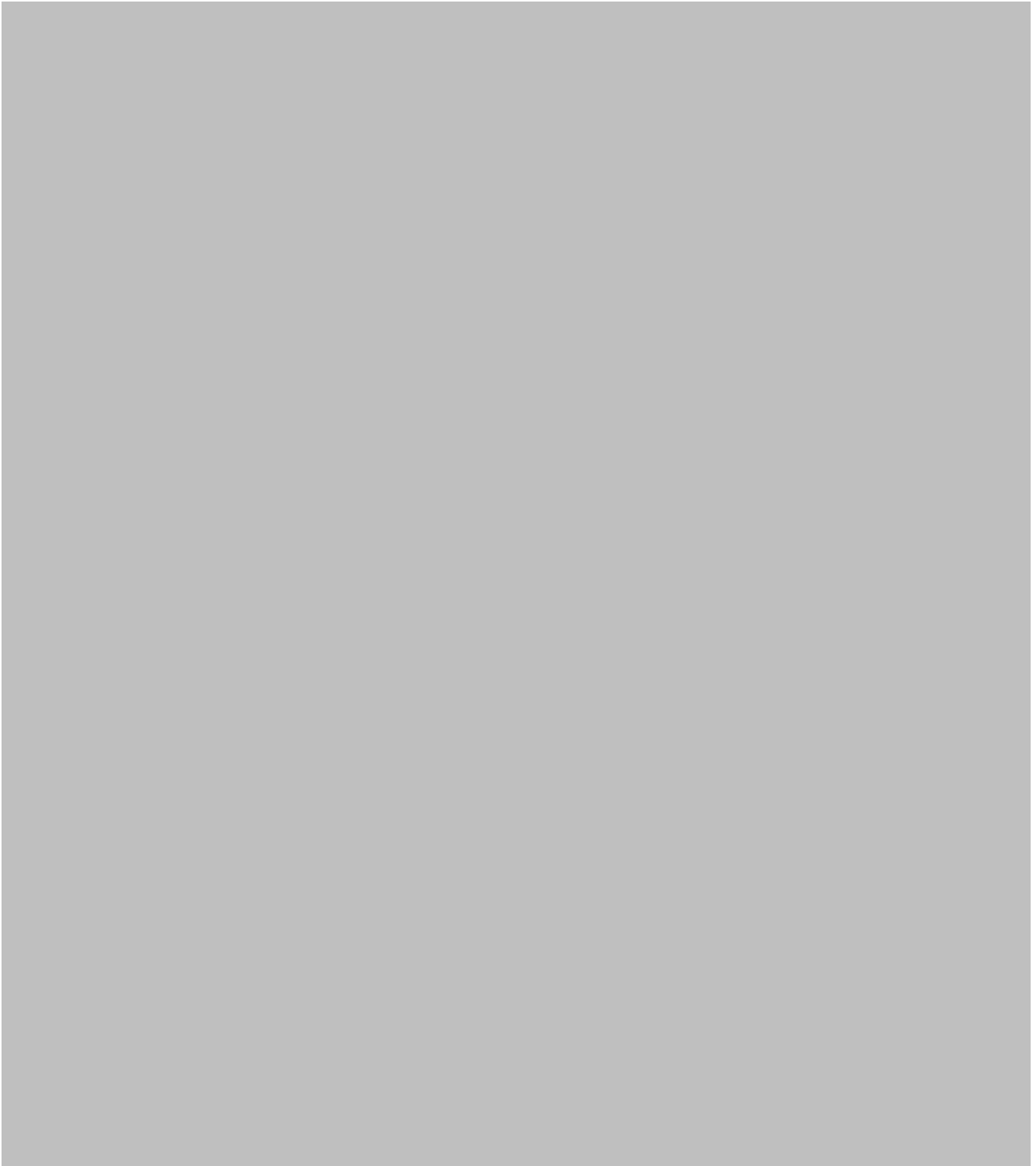
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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#)
Subject: Ombudsman - Is [REDACTED]
Date: Wednesday, 16 October 2024 3:22:41 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

OFFICIAL

Available Evidence:



[REDACTED]

Forthcoming Evidence:

Information from Commonwealth Department of Education which lists [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au







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From: [NonGovSchools](#)
To: [Moysey, Sean](#); [Cropper, Brian](#)
Subject: FW: CONFIDENTIAL - Response to Section 135U Notice
Date: Wednesday, 16 October 2024 5:56:37 PM
Attachments: [125U Request _101024.pdf](#)
[125U Response _161024.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)

OFFICIAL: Sensitive

FYI – [redacted] response to the 125U Notice.

Kind Regards,

Nicole Withers | Senior Investigator

Phone +61 (02) 6207 2635 | nicole.withers@act.gov.au

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From: [redacted]
Sent: Wednesday, 16 October 2024 5:46 PM
To: NonGovSchools
Subject: CONFIDENTIAL - Response to Section 135U Notice

You don't often get email from [redacted]. [Learn why this is important](#)

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Dear Nicole,

Please see my attached response to the Section 135U Notice dated 10 October 2024, which is also attached.

Kind regards,

[redacted]



[Redacted]

By email to: [Redacted]

CONFIDENTIAL

Dear [Redacted]

**Information Request under section 125U(1)(c) of the
*Education Act 2004 (ACT) – Power to Obtain Information.***

This notice is issued under Section 125U(1)(c) of the *Education Act 2004* (the Act).

Section 125U of the *Education Act 2004* (the Act) gives power to an authorised person (non-government) to obtain, in writing, information or documents or anything else that is reasonably required to assess a registered school’s compliance with the Act.

Section 125N of the Act provides that as an authorised person for the purposes of chapter 4 of the Act, I may request information from you. A failure to comply with this notice may constitute an offence under section 125V of the Act. Section 125W abrogates privilege against self-incrimination.

Legislative excerpts appear at the end of this request.

As an Authorised Person, I have a reasonable belief that you can provide me with information. As such, I request the following from you:

- [Redacted]
- and [Redacted]
- Your knowledge of [Redacted] at Brindabella Christian College.
- All and any information, notes, meeting notes, emails, documents, text messages or other correspondence between yourself and any Board Member or any staff member regarding [Redacted] at [Redacted]

Brindabella Christian College, including text messages sent to [REDACTED] and [REDACTED]; and

- Any emails, notes, documents or communication relating to correspondence with the ACT Ombudsman in relation to the Reportable Conduct Scheme and [REDACTED]; and
- Detailed information about your meeting with the [REDACTED] and yourself on [REDACTED]; and
- Actions taken [REDACTED] in relation to [REDACTED] between [REDACTED] and the Proprietor (BCEL) or any Board Member or staff Member regarding [REDACTED]

I am satisfied that the information requested reasonably required to assess Brindabella Christian College's compliance with the Act.

Requested information can be sent **by email** to NonGovSchools@act.gov.au. Please mark the email confidential and include this notice in the reply. This information must be provided **within seven days** of the date of this letter.

Yours sincerely



Nicole Withers
Authorised Officer
Non-Government Schools
ACT Education Directorate

10 October 2024

Education Act 2004

125U Power to obtain information

- (1) An authorised person (non-government) may, in writing, require any of the following people to give the authorised person (non-government) information, or produce documents or anything else, that the person has, or has access to, that are reasonably required by the authorised person (non-government) for this Act:
 - (a) a proprietor of a non-government school;
 - (b) a member of staff of a non-government school;
 - (c) any other person who has, or has access to, information or documents or anything else that is reasonably required by the authorised person (non-government) to assess a registered school's compliance with this Act.

Example: request and obtain by email a list of employees

- (2) A person must take reasonable steps to comply with a requirement made of the person under this section.

Maximum penalty: 10 penalty units.

125V Abrogation of privilege against self-incrimination

- (1) A person is not excused from answering a question or providing information or a document under this part on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty.
- (2) However, any information, document or thing obtained, directly or indirectly, because of the giving of the answer or the production of the document is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence arising out of the false or misleading nature of the answer, information or document.

125W Warning to be given

- (1) Before requiring a person to comply with a requirement under section 125T (1) (d) or (e) or section 125U, an authorised person (non-government) must warn the person—
 - (a) that failure to comply constitutes an offence; and
 - (b) about the effect of section 125V.
- (2) It is not an offence for an individual to refuse to answer a question put by an authorised person (non-government) or provide information or a document to an authorised person (non-government) under section 125T (1) (d) or (e) or section 125U

on the ground that the question, information or document might tend to incriminate the individual, unless the individual was first given the warning in subsection (1) (b).

- (3) Nothing in this section prevents an authorised person (non-government) from obtaining and using evidence given to the authorised person (non-government) voluntarily by any person.

This record is not released in accordance with section 16 of
the *Freedom of Information Act 2016*, Schedule 1.12(c)

This record is not released in accordance with section 16 of
the *Freedom of Information Act 2016*, Schedule 1.12(c)

From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#)
Subject: BCC Investigation Report - ISSUE 1 - Reportable Conduct
Date: Wednesday, 13 November 2024 3:28:17 PM
Attachments: [image001.png](#)
[image002.png](#)
Importance: High

OFFICIAL: Sensitive - Legal Privilege

Dear Sean

Please see the below link for the first phase of the BCC Investigation Report for your review.

This report refers only to **ISSUE 1 – REPORTABLE CONDUCT**.

Please note that the report is only complete up to page 19, with a report on the remaining issues to come.

[BCC ING REPORT – ISSUE 1](#)

[G:\Regulation and Compliance\NGE\NGS Concerns and ARR\Non-Government Schools\Independent Schools\Brindabella Christian College\Operation Canningvale 2024\0001 Investigation report](#)

We've spoken to many witnesses, have culled some allegations due to time pressure but BC has brought this all together and it's taken a massive effort and I've just tidied around the edges. ■■■

Kind Regards,

Nicole Withers | Senior Investigator | Assistant Director

nicole.withers@act.gov.au

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the *Freedom of Information Act 2016*, Schedule 1.12(c)

From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Subject: Re: Investigation Reports
Date: Saturday, 16 November 2024 9:08:16 PM
Attachments: [image001.png](#)
[image002.png](#)

OFFICIAL: Sensitive - Legal Privilege

Sure. I'll make time on Monday, send me a text when you're available and I'll jump online.

NW

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From: Moysey, Sean
Sent: Saturday, November 16, 2024 9:16:54 AM
To: Withers, Nicole
Subject: Re: Investigation Reports

OFFICIAL: Sensitive - Legal Privilege

I'm not going to include attachments before the Board.
Just excerpts in reg review.

Are you available on Monday to talk logistics on next phase of the investigation?
Regards
Sean

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From: Withers, Nicole
Sent: Friday, November 15, 2024 8:30:27 PM
To: Moysey, Sean
Subject: RE: Investigation Reports

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That's great. A huge thanks to Helen for doing that.

Do you need us to do anything before you meet with the Minister on Monday?

Do you need the attachments/redacting finished before Monday?

Kind Regards,

Nicole Withers | Senior Investigator | Assistant Director

nicole.withers@act.gov.au





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From: Moysey, Sean

Sent: Friday, 15 November 2024 8:07 PM

To: Withers, Nicole

Cc: Cropper, Brian

Subject: Re: Investigation Reports

OFFICIAL: Sensitive - Legal Privilege

Hi Nicole

I've finished superannuation s123 decision. Helen kindly converted superannuation and building into registration review reports. I made a folder.

Monday I plan to finish the other two s123 decisions and Helen will convert the carpark one.

I'm meeting Minister on Monday.

Regards

Sean

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From: Withers, Nicole <Nicole.Withers@act.gov.au>

Sent: Friday, November 15, 2024 6:58:03 PM

To: Moysey, Sean <Sean.Moysey@act.gov.au>

Cc: Cropper, Brian <Brian.Cropper@act.gov.au>

Subject: RE: Investigation Reports

OFFICIAL: Sensitive - Legal Privilege

Hi Sean,

Brian finished the buildings today – mammoth effort. Don't lose too much sleep over the weekend completing your report.

We will have the attachments/redacting sorted on Tuesday.

Have a great weekend.

Kind Regards,

Nicole Withers | Senior Investigator | Assistant Director

nicole.withers@act.gov.au




Education and Care Regulation and Support | Education | ACT Government


Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive, Stirling 2611

GPO Box 158 Canberra ACT 2601

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Hybrid work locations this week for me are:

Mon	Tues	Wed	Thur	Fri
				



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From: Moysey, Sean <Sean.Moysey@act.gov.au>

Sent: Thursday, 14 November 2024 9:50 PM

To: Withers, Nicole <Nicole.Withers@act.gov.au>

Cc: Cropper, Brian <Brian.Cropper@act.gov.au>

Subject: RE: Investigation Reports

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Dear Nicole, Brian

Outstanding, I've read them all. Thank you. I'm starting with superannuation. Today a staff member from BCC wrote to the Minister saying [redacted] had not been paid super.

Also, the comments from [redacted] to witness A in relation to super are evidence that the proprietor is [redacted].

Regards

Sean

Sean Moysey GAICD

Executive Branch Manager, Education and Care Regulation and Support

Education | ACT Government

P 02 6207 2143 M 0478 301 650

Level 3, Hedley Beare Centre for Teaching and Learning, 51 Fremantle Drive Stirling 2611 |

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From: Withers, Nicole <Nicole.Withers@act.gov.au>

Sent: Thursday, 14 November 2024 4:59 PM

To: Moysey, Sean <Sean.Moysey@act.gov.au>

Cc: Cropper, Brian <Brian.Cropper@act.gov.au>

Subject: Investigation Reports

Importance: High

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Dear Sean

Please see links to the following Reports for your review:

[Issue 1 – Reportable Conduct](#)

[Issue 2 – Demountable Buildings](#) (Brian to finalise this evening and early tomorrow)

[Issue 3 – Carpark](#)

[Issue 4 – Superannuation](#)

Please note that the mapping of the attachments is not yet finalised however, the relevant content is extracted in each report. Mapping will be finalised prior to COB Tuesday 19 November 2024. Similarly, all attachment still need to be redacted. Each attachment is listed in a table at the end of each report.

Any reference to witnesses should be avoided with use of their associated pseudonym only (e.g. Witness A, Witness B, etc). We would like to afford our witnesses the courtesy of advising them prior to their identity being released during regulatory proceedings.

The amount of evidence we have gathered is not reflected in our investigation reports. We have tried to simplify the issues as much as possible noting that this is not easy due to the interplay between each issue and the key parties involved. Despite this, we believe that the information provided meets the evidentiary threshold required at this time.

Brian and I will be online sporadically over the next 4 days to finalise these reports.

For reference, all reports and attachments are contained in this folder: [G:\Regulation and Compliance\NGE\NGS Concerns and ARR\Non-Government Schools\Independent Schools\Brindabella Christian College\Operation Canningvale 2024\0001 Investigation report\Registrar Report](#)

If you have any questions, please let us know.

Kind Regards,

Nicole Withers | Senior Investigator | A Assistant Director

nicole.withers@act.gov.au

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	?	?	?	
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From: [Withers, Nicole](#)
To: [Moysey, Sean](#)
Cc: [Cropper, Brian](#)
Subject: RE: Appointment of new Deputy Principal - BCC
Date: Wednesday, 27 November 2024 1:44:22 PM
Attachments: [image001.png](#)
[image002.png](#)

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Perfect. I'll be here.

Kind Regards,

Nicole Withers | Senior Investigator | Assistant Director

nicole.withers@act.gov.au



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From: Moysey, Sean

Sent: Wednesday, 27 November 2024 1:43 PM

To: Withers, Nicole

Cc: Cropper, Brian

Subject: Re: Appointment of new Deputy Principal - BCC

OFFICIAL: Sensitive - Legal Privilege

Hi Nicole

I'll call you in

Get [Outlook for iOS](#)

From: Withers, Nicole <Nicole.Withers@act.gov.au>

Sent: Wednesday, November 27, 2024 1:32:43 PM

To: Moysey, Sean <Sean.Moysey@act.gov.au>

Cc: Cropper, Brian <Brian.Cropper@act.gov.au>

Subject: Appointment of new Deputy Principal - BCC

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Dear Sean

I have spoken with a witness this afternoon who states that [REDACTED]
[REDACTED]. [REDACTED] Deputy Principal was appointed 2 days ago – Dr Daniel Kim -
<https://au.linkedin.com/in/daniel-kim-phd-4a170762>.

[REDACTED]
[REDACTED]

Can you please advise of the next steps in relation to this? [REDACTED]
[REDACTED].

Also, there have been a total of [REDACTED] resignations from staff in the last month at BCC.

Kind Regards,

Nicole Withers | Senior Investigator | Assistant Director

nicole.withers@act.gov.au




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