

Ms Sarah Teasey

Email: lmteasey@icloud.com

Dear Ms Teasey

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Education Directorate (the Directorate) on 27 January 2026, in which you sought access to records relating to:

1. *Records relating to the out of school hours care services at Yarralumla Primary School from 1/1/2021 to 23/1/2026, specifically:*
 - a. *The agreements between the Education Directorate and the service providers, as they relate to rental, space, access to facilities, etc.*
 - b. *Briefs or letters to and from the Directorate relating to decisions about OOHSC services at Yarralumla.*
 - c. *The total facilities fee received by the ACT Government from Yarralumla Primary School outside school hours care each year (calendar or financial) from 2021 to 2026.*
2. *The policies and procedures applicable to agreements with out of school hours care providers at ACT public schools.*

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

In accordance with section 40 of the FOI Act, the Directorate was required to provide a decision on your access application within 30 working days of receipt, being 11 March 2026.

On 20 March 2026, you were advised that the processing timeframe for your request had been revised to 15 April 2026, following agreement on the scope of the request on 27 February 2026.

On 13 April 2026, we advised that third-party consultations were required in relation to records relevant to your request. This process extended the statutory decision timeframe by 15 working days to 7 May 2026. Additionally, we sought your agreement to a further

extension of 10 working days of processing time. Thank you for agreeing to this extension request.

On 29 May 2026, we advised that there had been a slight delay in commencing the third-party consultation process due to staffing pressures and the volume of records involved. We sought your agreement to a further extension of the processing timeframe to 19 June 2026. Your patience is greatly appreciated.

On 16 June 2026, you were advised that third party consultations had been completed; however, one of the consulted parties had raised objections to the information being released and their objections were not agreed. Consequently, in accordance with the FOI Act, the party was given 20 working days to request a review of my decision by the ACT Ombudsman. Thank you for your patience as these process requirements have been worked through.

Decision on access

Searches were completed for relevant records and 160 records were identified that fall within the scope of your request.

I have included as Attachment A to this decision the schedule of relevant records. This provides a description of each record that falls within the scope of your request and the access decision for each of those records.

In summary, my decision is:

- full access to seven records,
- partial access to 148 records with deletions applied, and
- non-release of five records.

The records released to you are provided as Attachment B to this letter.

My access decisions are detailed further in the following statement of reasons.

Material considered

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

- the FOI Act, particularly sections 16, 17, 35 and 50, and schedules 1 and 2,
- the content of the records that fall within the scope of your request,
- the *Human Rights Act 2004*,
- the views of third parties consulted,
- the *Information Privacy Act 2014*, and
- the FOI Guidelines issued under section 66 of the FOI Act by the Ombudsman.

Reasons for decision

I have considered the records that are relevant to your request in accordance with the requirements of the FOI Act.

Section 6(a) of the FOI Act provides for a right of access to government information unless access would, on balance, be contrary to the public interest. Contrary to the public interest information is defined at section 16 of the FOI Act as information that is taken to be contrary to the public interest to disclose under Schedule 1; or the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Section 50 of the FOI Act provides for records to be partially released with deletions applied where they contain contrary to the public interest information that can be removed, which enables the remainder of the record to be released. This provision has been applied where appropriate.

Refusal to deal with part of application

In accordance with section 43(1)(d) of the FOI Act, the Directorate may refuse to deal with an access application wholly or in part if the information sought is already available to the applicant. Section 45(a) of the FOI Act provides for information which is publicly available to be considered as already available to the applicant. Some of the information sought is not released because it is available on a website and a link is provided in the schedule.

Information taken to be contrary to the public interest to disclose

Some of the records contain information that is taken to be contrary to the public interest to disclose.

Schedule 1, 1.2 specifies that information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege is taken to be contrary to the public interest to disclose. The information concerned is communication between a lawyer employed by the ACT Government Solicitor (ACTGS) and the Education Directorate (the Directorate) as the client. The communication between the Directorate and ACTGS was confidential in nature and for the dominant purpose of ACTGS providing legal advice or professional legal services to the Directorate. For these reasons, legal professional privilege applies, resulting in redaction of this information.

Information, the disclosure of which would, on balance, be contrary to the public interest

The public interest test requires the identification of factors favouring disclosure and non-disclosure, the balancing of those factors, and a decision whether, on balance, disclosure of the information would be contrary to the public interest.

I have decided that the factors favouring disclosure, as listed at Schedule 2.1 of the FOI Act, are that disclosure of the information could reasonably be expected to:

- *promote open discussion of public affairs and enhance the government's accountability* (Schedule 2, 2.1(a)(i));
- *contribute to positive and informed debate on important issues or matters of public interest* (Schedule 2, 2.1(a)(ii)); and
- *inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community* (Schedule 2, 2.1(a)(iii)).

The information sought relates to the agreements between the Directorate and out of school hours care (OOSHC) services at a public school, including policies and procedures applicable to arrangements with OOSHC providers. Disclosure would promote transparency in government decision-making, improve accountability, and contribute to positive and informed debate on significant matters of public interest, particularly for school communities, parents and carers who rely on such services. However, the information sought relates to arrangements at an individual school rather than broad or systemic issues. Therefore, these factors favouring disclosure are given strong weight.

I have decided that the applicable factor favouring non-disclosure, as listed at Schedule 2.2 of the FOI Act, is that disclosure of the information could reasonably be expected to:

- *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004* (Schedule 2, 2.2(a)(ii))

The consideration of the right to privacy of individuals and their right to have their personal information protected activates provisions of the *Human Rights Act 2004* and the *Information Privacy Act 2014*. Section 12(a) of the Human Rights Act provides that everyone has the right '*not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily*'. Ombudsman review decisions addressing this matter have stated that this "can essentially be viewed as the right of an individual to preserve their personal sphere from interference by others". In addition, the Territory Privacy Principles contained in the *Information Privacy Act 2014*, set out the expectation that, in ordinary circumstances, individuals are required to give consent before their personal information, which includes information that could lead to them being identified, is disclosed. Consequently, I have decided that the right to privacy of individuals in relation to their personal information as a factor favouring non-disclosure has significant weight.

- *prejudice trade secrets, business affairs or research of an agency or person* (Schedule 2, 2.2(a)(xi))

Entities with a business relationship with government will have some expectations that aspects of their dealings may be publicly disclosed. However, businesses would also expect that government would protect their sensitive information and, unless legally required, not disclose the information arbitrarily without having regard to potential

impacts on the business. Therefore, I give significant weight to the protection of business information that would be prejudicial to the business if it were disclosed.

- *prejudice the management function of an agency or the conduct of industrial relations by an agency (Schedule 2, 2.2(a)(xv))*

I have determined that disclosure of some information would be prejudicial to the management function of the Directorate. The information concerned relates to sensitive personnel matters which would have industrial consequences if the information was released. Therefore, I give significant weight to this as a factor favouring non-disclosure.

I have considered the factors favouring disclosure and the factors favouring non-disclosure.

As the factors favouring non-disclosure have been given significant weight and the factors favouring disclosure have strong weight, information within the records has been redacted where it has been deemed contrary to the public interest to disclose.

In addition, information outside of the scope of your request has been redacted.

Charges

Processing charges are not applicable for this request because the subject is of interest to members of the community.

Online publishing – disclosure log

Under section 28 of the FOI Act, the Directorate maintains an online record of access applications called a disclosure log. Information about your request, my decision and records released to you in response to your access application will be published in the Directorate's disclosure log between three and 10 working days after a decision on access has been provided to you. Your personal information will not be published.

You may view the Directorate's disclosure log at www.act.gov.au/open/foi-disclosure-logs/education-foi-disclosure-logs.

Review of decision

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 FOI Act within 20 working days from the day my decision is provided to you, 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

Email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the FOI 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
Allara House, 15 Constitution Ave
GPO Box 370
Canberra City ACT 2601

Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

If you have any questions concerning the Directorate's processing of your request, please contact the Directorate's FOI team on 02 6205 0720 or email EducationFOI@act.gov.au.

Yours sincerely

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

Paula Murray
Information
Officer

17 July 2026