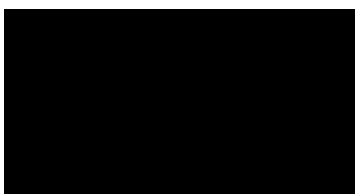


Ref: 2020-100995


17 August 2020





Dear 




I acknowledge receipt of your email dated 10 July 2020 in which you made an access application for certain information under the *Freedom of Information Act 2016* (the FOI Act).

Your access application was expressed in the following way:


We refer to the following:

▣ an email sent from the ACT Ombudsman on 20 February 2020, which requested policies and procedures from  in relation to the reportable conduct scheme (**the Policies**) under the *Ombudsman Act 1989* (ACT); and


We are seeking access to documents and government information under section 30 of the *Freedom of Information Act 2016* (ACT).

Particularly, we are seeking access to documents and government information relating to the ACT Ombudsman's enquiry into the Policies 
 as they relate to  ...'

This letter constitutes notice of my decision on your access application. The Ombudsman has appointed me as an information officer for the purposes of the FOI Act. This appointment authorises me to make this decision.

Decision

I sincerely apologise for the length of time taken to provide this decision to you. Your access application was not identified and actioned in accordance with our Service Standards. This was due to a workflow error in agency systems. We are implementing reviewed arrangements for managing the receipt of access applications under the FOI Act.

I have identified 72 items containing information which falls within the scope of your access application. Under s 35(1)(c) of the FOI Act, I have refused to give access to these items because the relevant information is contrary to the public interest information.

My reasons for this decision are set out in Attachment A to this letter.

Attachment B contains a schedule setting out the relevant documents.

Review rights

Ombudsman review

Under s 73 of the FOI Act, you may apply in writing to this Office for a review of this decision. To do so, you should write to the Ombudsman requesting a review, to actfoi@ombudsman.gov.au or using the contact information set out at the foot of the first page of this letter.

The review application must be made within 20 working days after the day this decision is published in our disclosure log which is available at: <http://ombudsman.act.gov.au/contact-us/seeking-information/disclosure-log>. While no particular form is required to apply for review of this decision, we recommend that applicants use the form available at: <http://www.ombudsman.act.gov.au/Freedom-of-Information>.

ACAT review

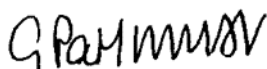
Should you be dissatisfied with this Office's review decision, you would be able to apply to the ACT Civil and Administrative Tribunal (ACAT) for review. Further information, including contact information for the ACAT, and information about how to make an application to the ACAT is available at: <https://www.acat.act.gov.au/>.

Judicial review

A further option for review of this decision may be available under the *Administrative Decisions (Judicial Review) Act 1989*. Advice about pursuing this option may be obtained from a qualified legal practitioner.

If you require clarification of any of the matters discussed in this letter you may contact me using the contact information set out at the foot of the first page of this letter.

Yours sincerely



Gregory Parkhurst
Information Officer

ATTACHMENT A – Statement of reasons for decision

Material taken into account

In making my decision I had regard to the following:

- the terms of your access application,
- consultation responses from other relevant agencies,
- the information to which you sought access, and
- relevant provisions of the FOI Act.

Information taken to be contrary to the public interest

Schedule 1 to the FOI Act sets out information the disclosure of which is taken to be contrary to the public interest.

Information in possession of the Ombudsman - Schedule 1 section 1.12

Under Schedule 1 section 1.12, I have refused to give access to the information contained in the documents falling within the scope of your access application because the requested information is contrary to the public interest information.

Schedule 1 section 1.12(c) provides that information in the possession of the Ombudsman that has been obtained or generated in relation to a function exercised under the *Ombudsman Act 1989*, division 2.2A (Reportable conduct) is information the disclosure of which is taken to be contrary to the public interest.

All of the information falling within the scope of your access request is information which was obtained or generated in relation to a function exercised by the Ombudsman under division 2.2A of the *Ombudsman Act 1989*.

The relevant information does not identify 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.

Attachment B – Schedule of documents

Schedule of documents for [REDACTED]				
Ombudsman's reference: 2020-100995				
Item no.	File	Description	Date	Decision
1	RC ENQ-2020-1-0016	Ombudsman's print out of case record		Access refused Schedule 1.12
2		Email received by Ombudsman (plus attachments 8 pages)	11-Feb-20	Access refused Schedule 1.12
3		Email received by Ombudsman (plus attachments 12 pages)	11-Feb-20	Access refused Schedule 1.12
4		Email received by Ombudsman (plus attachments 4 pages)	11-Feb-20	Access refused Schedule 1.12
5		Email received by Ombudsman (plus 1 page attachment)	11-Feb-20	Access refused Schedule 1.12
6		Email received by Ombudsman	11-Feb-20	Access refused Schedule 1.12
7		Ombudsman's internal email	11-Feb-20	Access refused Schedule 1.12
8		Ombudsman's internal email	11-Feb-20	Access refused Schedule 1.12
9		Email received by Ombudsman	11-Feb-20	Access refused Schedule 1.12
10		Email received by Ombudsman	11-Feb-20	Access refused Schedule 1.12
11		Email received by Ombudsman	12-Feb-20	Access refused

				Schedule 1.12
12		Email received by Ombudsman	12-Feb-20	Access refused Schedule 1.12
13		Email received by Ombudsman	13-Feb-20	Access refused Schedule 1.12
14		Email sent by Ombudsman	13-Feb-20	Access refused Schedule 1.12
15		Email sent by Ombudsman	13-Feb-20	Access refused Schedule 1.12
16		Email sent by Ombudsman	13-Feb-20	Access refused Schedule 1.12
17		Email sent by Ombudsman	13-Feb-20	Access refused Schedule 1.12
18		Ombudsman's internal email	17-Feb-20	Access refused Schedule 1.12
19		Ombudsman's internal email	18-Feb-20	Access refused Schedule 1.12
20		Ombudsman's internal email	19-Feb-20	Access refused Schedule 1.12
21		Email sent by Ombudsman	20-Feb-20	Access refused Schedule 1.12
22		Ombudsman's internal email (plus 4 page attachment)	20-Feb-20	Access refused Schedule 1.12
23		Email received by Ombudsman	20-Feb-20	Access refused Schedule 1.12
24		Email sent by Ombudsman	20-Feb-20	Access refused Schedule 1.12
25		Email sent by Ombudsman	20-Feb-20	Access refused Schedule 1.12
26		Ombudsman's internal email	21-Feb-20	Access refused Schedule 1.12
27		Ombudsman's internal email	28-Feb-20	Access refused

				Schedule 1.12
28		Email sent by Ombudsman	28-Feb-20	Access refused Schedule 1.12
29		Ombudsman's internal email (plus 5 page attachment)	28-Feb-20	Access refused Schedule 1.12
30		Email received by Ombudsman	28-Feb-20	Access refused Schedule 1.12
31		Email received by Ombudsman	2-Mar-20	Access refused Schedule 1.12
32		Ombudsman's internal email	2-Mar-20	Access refused Schedule 1.12
33		Email received by Ombudsman	2-Mar-20	Access refused Schedule 1.12
34		Ombudsman's internal email	3-Mar-20	Access refused Schedule 1.12
35		Ombudsman's internal email	3-Mar-20	Access refused Schedule 1.12
36		Email received by Ombudsman	3-Mar-20	Access refused Schedule 1.12
37		Ombudsman's internal email	5-Mar-20	Access refused Schedule 1.12
38		Ombudsman's internal email	6-Mar-20	Access refused Schedule 1.12
39		Ombudsman's internal email	13-Mar-20	Access refused Schedule 1.12
40		Ombudsman's internal email	19-Mar-20	Access refused Schedule 1.12
41		Ombudsman's internal email (plus 2 page attachment)	19-Mar-20	Access refused Schedule 1.12
42		Ombudsman's internal email	19-Mar-20	Access refused Schedule 1.12
43		Ombudsman's internal email	19-Mar-20	Access refused

				Schedule 1.12
44		Ombudsman's internal email (plus 2 page attachment)	19-Mar-20	Access refused Schedule 1.12
45		Ombudsman's internal email	19-Mar-20	Access refused Schedule 1.12
46		Email sent by Ombudsman	19-Mar-20	Access refused Schedule 1.12
47		Email received by Ombudsman (plus attachments 4 pages)	20-Mar-20	Access refused Schedule 1.12
48		Ombudsman's internal email	30-Mar-20	Access refused Schedule 1.12
49		Ombudsman's internal email	30-Mar-20	Access refused Schedule 1.12
50		Email sent by Ombudsman	31-Mar-20	Access refused Schedule 1.12
51		Email sent by Ombudsman (plus 2 page attachment)	31-Mar-20	Access refused Schedule 1.12
52		Ombudsman's internal email (plus attachments 6 pages)	31-Mar-20	Access refused Schedule 1.12
53		Email received by Ombudsman	1-Apr-20	Access refused Schedule 1.12
54		Email sent by Ombudsman	16-Apr-20	Access refused Schedule 1.12
55		Email received by Ombudsman	16-Apr-20	Access refused Schedule 1.12
56		Email sent by Ombudsman	24-Apr-20	Access refused Schedule 1.12
57		Email received by Ombudsman	30-Apr-20	Access refused Schedule 1.12
58		Ombudsman's internal email (plus attachments 5 pages)	30-Apr-20	Access refused Schedule 1.12
59		Ombudsman's internal email	30-Apr-20	Access refused

				Schedule 1.12
60		Ombudsman's internal email	1-Jun-20	Access refused Schedule 1.12
61		Ombudsman's internal email	10-Jun-20	Access refused Schedule 1.12
62		Email sent by Ombudsman	10-Jun-20	Access refused Schedule 1.12
63		Email sent by Ombudsman	26-Jun-20	Access refused Schedule 1.12
64		Email received by Ombudsman (plus attachments 33 pages)	3-Jul-20	Access refused Schedule 1.12
65		Ombudsman's internal email	3-Jul-20	Access refused Schedule 1.12
66		Email sent by Ombudsman	3-Jul-20	Access refused Schedule 1.12
67		Email sent by Ombudsman	6-Jul-20	Access refused Schedule 1.12
68		Ombudsman's internal email	6-Jul-20	Access refused Schedule 1.12
69		Ombudsman's internal email	7-Jul-20	Access refused Schedule 1.12
70		Ombudsman's internal email (plus attachment 2 pages)	10-Jul-20	Access refused Schedule 1.12
71		Ombudsman's internal email	10-Jul-20	Access refused Schedule 1.12
72		Ombudsman's internal email	10-Jul-20	Access refused Schedule 1.12

ATTACHMENT C – Relevant FOI Act provisions**16 What is *contrary to the public interest information*?**

In this Act:

contrary to the public interest information means information—

- (a) that is taken to be contrary to the public interest to disclose under schedule 1; or
- (b) the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

Schedule 1 Information disclosure of which is taken to be contrary to the public interest

(see s 16)

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.

Schedule 1 Information disclosure of which is taken to be contrary to the public interest**1.12 Information in possession of ombudsman**

Information in the possession of the ombudsman that has been obtained or generated in relation to –

- (a) an ombudsman review; or
- (b) an investigation undertaken by the ombudsman under the *Ombudsman Act 1989*, section 9; or
- (c) a function exercised under the *Ombudsman Act 1989*, division 2.2A (Reportable conduct)