

Ref: 2020-101407

16 October 2020

[REDACTED]

By email to [REDACTED]

Dear [REDACTED]

I acknowledge receipt of your online enquiry form on 18 September 2020 in which you made an access application for certain information under the *Freedom of Information Act 2016* (the FOI Act).

With reference to an Ombudsman case (our reference: [REDACTED] your access application was expressed in the following way:

‘...I am requesting any documentation pertaining to the above reference number that details the reasoning behind the decision...’

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 have identified one item 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 this item 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 document.

### **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](mailto: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

A handwritten signature in black ink, appearing to read 'G Parkhurst'.

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,
- 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 document 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*.

**Attachment B – schedule of documents**

<b>Schedule of documents for [REDACTED]</b>				
<b>Ombudsman's reference: 2020-101407</b>				
<b>Item no.</b>	<b>File</b>	<b>Description</b>	<b>Date</b>	<b>Decision</b>
<b>1</b>		Email from Ombudsman to ACT Together	24 June 2020	Access refused Schedule 1 s 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).