



Via email: [REDACTED]

Dear [REDACTED]

### **FREEDOM OF INFORMATION (FOI) REQUEST**

I refer to your application made under the *Freedom of Information Act 2016* (the FOI Act), received by the ACT Teacher Quality Institute (the Institute) on 18 February 2021, in which you sought access to records providing the reasons why teachers had been issued with a formal warning, had conditions placed on their registration, or had been de-registered due to their conduct, from the period 1 July 2019 to 2 February 2021. I note that the scope of your application was clarified in discussion with you, and that it was settled as being for:

1. *The document or documents which detail the reasons why any registered teacher has been issued with a formal warning, had conditions placed on their registration or been de-registered as a result of their conduct.*
2. *Any information disclosed under s.70A (1) (a) and (b) of the Teacher Quality Institute Act (TQI Act) to the Institute, whether or not the teacher's registration was suspended, cancelled or had conditions placed upon it.*
3. *Any information disclosed to the Institute in accordance with the 'notification event' requirements of s.70B of the TQI Act.*

I am an Information Officer appointed by the Director-General of the ACT Education Directorate under section 18 of the FOI Act to deal with access applications made under Part 5 of the FOI Act. In accordance with section 21 of the FOI act, the principal officer of the Institute, has requested that I deal with this access application.

The Institute was required to provide a decision on your application by 19 March 2021.

#### **Decision on access**

Searches were completed for relevant records and two records were identified that fall within the scope of your request. These records are excerpts of information held in

Institute systems that have been extracted for the purpose of responding to your application.

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 application and the access decision for each of those records.

I have decided to grant partial access to the records relevant to your application with deletions applied.

The records released 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 and 50, and schedule 2;
- the content of the records that fall within the scope of your application;
- the *Information Privacy Act 2014*; and
- the *Human Rights Act 2004*

### **Reasons for decision**

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

Records that are partially released with deletions applied in accordance with Section 50 of the FOI Act, contain information that would, on balance, be contrary to the public interest to disclose, in accordance with the public interest test set out in Section 17 of the FOI Act.

The public interest test has been applied in accordance with Section 17 of the FOI Act, which 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 factor favouring disclosure, as listed at Schedule 2.1 of the FOI Act, is that disclosure could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest (Schedule 2.1(a)(ii)). It is my view that the education of children and conduct of people responsible for educating and caring for children is very much a matter of public interest.

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)). In addition, I have decided that the

disclosure of information that could reasonably be expected to prejudice a current TQI investigation is also a factor favouring non-disclosure. Whilst this is not one of the factors listed at Schedule 2.2 of the FOI Act, the ACT Ombudsman's FOI Guidelines notes that the list is not exhaustive.

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

I place significant weight on the right to privacy of individuals and their right to have their personal information protected. I have decided that their right to privacy in relation to their personal information has a higher standing of public interest not to disclose, than the public interest in disclosing this information. Accordingly, the records are partially released with personal information, such as names of individuals, and other information that could enable them to be identified, deleted from the records being provided to you. These protections are particularly relevant in the ACT which is a geographically small jurisdiction with relatively low population. I have decided that the public interest will be satisfied through knowledge that there were instances in which action was taken against teachers in cases where inappropriate conduct was substantiated.

I also place significant weight on ensuring that current investigations are not jeopardised by the disclosure of information. The outcomes of these investigations contribute to the protection of children and upholding high standards of conduct in the teaching workforce. It would be contrary to the TQI's purpose if these were put at risk.

In addition, information that was outside of the scope of your application has been deleted. This information related to the Institute's administrative processes and was not relevant to the matters identified in your application.

### **Charges**

Processing charges are not applicable for this request because the number of pages disclosed does not exceed the threshold of 50 pages set at section 104(4) of the FOI Act.

### **Online publishing – disclosure log**

Under section 28 of the FOI Act, the Institute maintains an online record of access applications called a disclosure log. Information about your request, my decision and documents released to you in response to your access application will be published in the Institute'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 Institute's disclosure log on its website.

### **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 a decision was made, 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](mailto: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  
Level 4, 1 Moore St  
GPO Box 370  
Canberra City ACT 2601

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

If you have any queries concerning the processing of your request, or would like further information, please contact me on 02 6205 0720 or email [EducationFOI@act.gov.au](mailto:EducationFOI@act.gov.au).

Yours sincerely



Paula Murray  
Information Officer  
18 March 2021