



ACT
Government

Health and Community Services

Our ref: FOI-CSD-25-30



Email:

Dear

Freedom of Information access application request: Notice of Decision, Stage 1

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the FOI Act), received by the Health and Community Services Directorate (HCSD) on 10 November 2025. You sought access to the following government information:

Any briefs, correspondence, disclosures and complaints about discrimination, insufficient cultural safety and/or cultural load experienced by Aboriginal and Torres Strait Islander public servants in the Office of Aboriginal and Torres Strait Islander Affairs since January 2024, including any correspondence and documentation related to the resignation of Mr Brendan Moyle.

On 22 January 2026, a Freedom of Information Officer sought an extension of time and staged release of approximately 5 stages. In response, you sought to amend the scope to reduce the volume of material and thus reduce the amount of time needed to process it. The agreed scope is as follows:

Any briefs and complaints about discrimination, insufficient cultural safety and/or cultural load experienced by Aboriginal and Torres Strait Islander public servants in the Office for Aboriginal and Torres Strait Islander Affairs since January 2024; and any briefs, correspondence, disclosures and complaints (including any correspondence and documentation) related to the resignation of Mr Brendan Moyle.

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.

I was required to provide a decision on your access application by 22 December 2025. On 9 December 2025, an extension to 22 February 2026 was requested and you agreed to an extension to 16 February 2026. Following further searches being completed and a large volume of information relevant to the request being found in scope, it was determined that a staged release would be necessary. On 22 January 2026, you agreed to a staged release of information with each stage being due as below, with a final a decision on your access application due on 27 May 2026.

Stage 1 – due 16 February 2026;
Stage 2 – due 7 April 2026; and
Stage 3 – only for use if required after outstanding searches are completed, due 27 May 2026.

Search for documents and material considered

Thorough searches of records in the Directorate were undertaken and over 2500 pages have been identified that fall within the scope of your request. Additional searches are ongoing. A total of 808 pages have been considered for Stage 1.

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

- the *Freedom of Information Act 2016*, particularly Schedule 1, sections 1.1B, 1.3(6) and 1.9 and Schedule 2, sections 2.1(a)(i), 2.1(a)(ii), 2.2(a)(ii), 2.2(a)(xi), 2.2(a)(xii), 2.2(a)(xiii), and 2.2(a)(xv), please refer to Attachment A;
- the *Territory Records Act 2002*;
- the *Human Rights Act 2004*;
- the *Information Privacy Act 2014*; and
- the content of the documents that fall within the scope of your request.

I have included as Attachment B to this decision, the Table of Contents of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

Public interest test

The FOI Act adopts a public interest test approach to determine whether government information should be made publicly available. Government information will not be released where an Information Officer decides that giving access to information is contrary to the public interest.

When determining whether the release of information would be in the public interest, Information Officers consider Schedules 1 and 2 of the FOI Act.

Information falling within one of the categories in Schedule 1 of the Act is presumed to be contrary to the public interest to disclose, except in very narrow circumstances.

Where the information does not fall within one of the categories identified in Schedule 1, the public interest test in section 17 must be applied to determine whether the information is contrary to the public interest information.

Schedule 2 sets out factors to be considered when applying the public interest test in section 17 to determine whether the release of the information would be contrary to the public interest.

Information Officers must consider all relevant factors for and against disclosure and must determine, on balance, whether it is in the public interest to release the information.

Decision on access

My decision is:

- To grant access to the documents with the status of “access granted” in the Table of Contents under s 35(1)(a) of the FOI Act.
- To refuse to give access to the documents with the status of “access refused”, and the information deleted in the documents with the status of “partial access” in the Table of Contents as the information is contrary to the public interest information under s 35(1)(c) of the FOI Act.
- To not give access to information that is outside the scope of the request or is a copy of a document with the status of “not released” in the Table of Contents.

I have decided to grant access, under section 50 of the Act, to copies of documents with deletions applied to information that I consider would be contrary to the public interest to disclose identified in the Table of Contents at Attachment B with status of “partial access”.

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

Statement of reasons

My reason for not granting access to information contained in documents identified in the Table of Contents at Attachment B is that I find the information, on balance, to be contrary to the public interest to disclose under the test set out in section 17 of the FOI Act.

Information identified that is considered contrary to the public interest under Schedule 1 of the FOI Act

1.1B Information related to integrity commission matters

(1) Information in the possession of the integrity commission, the integrity commission inspector, a special investigator or another entity, that would, or could reasonably be expected to—

(a) identify a person who has given information to the integrity commission or integrity commission inspector, or allow the identity of the person to be worked out; or

(b) adversely affect a preliminary inquiry, or an investigation, under the *Integrity Commission Act 2018*

Table of Contents 4 consists of information in the possession of the Integrity Commission or Inspector of the Integrity Commission. This information has been determined as not being administrative in nature and as such, this information cannot be released.

1.3 Information disclosure of which is prohibited under law

(6) Any other information the disclosure of which is prohibited by a secrecy provision of a law.

Section 44 of the *Public Interest Disclosure Act 2012* makes it an offence to divulge protected information. It defines protected information as “information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.”

1.9 Identities of people making disclosures

(1) Information that would, or could reasonably be expected to, disclose the identity of a person who has made—

(a) a public interest disclosure under the Public Interest Disclosure Act 2012

Information relating to public interest disclosures is protected information of which disclosure is prohibited under law.

Protected information is defined in section 44 of the *Public Interest Disclosure Act 2012* which includes all information given to a disclosure officer and the identity of the person making a disclosure. Under section 44 of the *Public Interest Disclosure Act 2012*, it is an offence to divulge protected information, regardless of who the information relates to and who provided the information.

The system of disclosure is one that is built on a foundation of reporter and report confidentiality. The confidentiality of reporters and the security that section 44 of the *Public Interest Disclosure Act 2012* affords is paramount to ensuring ongoing disclosures of maladministration and danger to public health or safety, or the environment. Without the protection of section 44, confidence of individuals to make disclosures could be compromised.

Information identified that is considered contrary to the public interest under Schedule 2 of the FOI Act.

Factors favouring disclosure under Schedule 2 of the FOI Act

Section 2.1 Factors favouring disclosure in the public interest

(a) *disclosure of the information could reasonably be expected to do any of the following:*

(i) *promote open discussion of public affairs and enhance the government’s accountability.*

- (ii) *contribute to positive and informed debate on important issues or matters of public interest.*

Factors favouring non-disclosure under Schedule 2 of the FOI Act

Section 2.2 Factors favouring nondisclosure in the public interest

(a) *disclosure of the information could reasonably be expected to do any of the following:*

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

...

- (xi) *prejudice the business affairs of an agency*

- (xii) *prejudice an agency's ability to obtain confidential information*

- (xiii) *prejudice the competitive commercial activities of an agency*

...

- (xv) *prejudice the management function of an agency or the conduct of industrial relations by an agency*

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

Some documents relevant to your application contain personal information of ACT government employees, including mobile phone numbers and employment information. When considering disclosure of this information, I have weighed how the public interest would be advanced by releasing this information. It is my view that disclosure of this information could reasonably be expected to prejudice the protection of an individual's right to privacy under the *Human Rights Act 2004*. Therefore, on balance, I am satisfied that the disclosure of this information is not in the public interest.

An exception to this is information relating to Mr Brendan Moyle as he provided consent for his information to be released.

- (xi) *prejudice the business affairs of an agency*

- (xiii) *prejudice the competitive commercial activities of an agency*

There is information within the scope of your application relating to external businesses. A factor favouring nondisclosure under Schedule 2.2 (a)(xi) is that disclosure could reasonably be expected to prejudice trade secrets, business affairs or research of any agency or person, as well as under Schedule 2.2 (a)(xiii) where disclosure would prejudice the competitive commercial activities of an agency. This information includes private contact information for those businesses that was provided to the directorate.

Further, there is information from these businesses relating to their pricing structures and quotations for service. This information was provided to the directorate for the purpose of offering services to the directorate and competing with other businesses to obtain the directorate as a customer. It is my view that releasing this information could reasonably prejudice the business affairs and competitive commercial affairs of these businesses, and the flow on effect is that it may impact the ability of the directorate to obtain such information from businesses in the future, thus jeopardising the directorate's ability to procure necessary services.

(xii) prejudice an agency's ability to obtain confidential information

(xv) prejudice the management function of an agency or the conduct of industrial relations by an agency

In addition, some information within scope of your application relates to a management function of an agency, such as discipline and occupational health and safety. Processes such as those detailed in the material heavily rely on participants and members of staff being able to trust that their information is managed appropriately and discreetly. Once the information is released under FOI, there are no limits to the use or dissemination of the information, and the information is released to the world at large. In considering the circumstances the information has been collected and the expected protections to all individuals and to the integrity of the complaints processes, I have placed significant weight on these factors and believe providing information subject to these provisions would diminish the expectation of confidentiality and limit an agency's ability to obtain information in matters concerning management functions.

Charges



Disclosure Log

Under section 28 of the FOI Act, the Directorate maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published on the Directorate's disclosure log no earlier than three (3) working days and no later than ten (10) working days after the notice of decision is provided to you. Your personal contact details will not be published.

You may view the Directorate's disclosure log at:

<https://www.act.gov.au/open/foi-disclosure-logs>

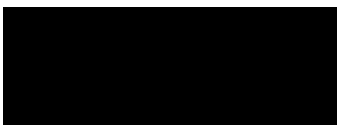
How to request a decision review

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek the Ombudsman's review of this outcome under section 73 and 74 (1)(a)(i) of the FOI Act within 20 working days from the day that my decision is published in Directorate's disclosure log, or a longer period allowed by the Ombudsman.

If you have any queries concerning the Directorate's processing of your request FOI-CSD-25/30, or would like further information, please contact the FOI processing officer Jessica Catlin on HCSDFOI@act.gov.au.

Yours sincerely



Chloe Stoddart
Information Officer
Health and Community Services Directorate
12 February 2026

Freedom of Information Act 2016

Section 12 - Relationship with *Health Records (Privacy and Access) Act 1997*

This Act does not apply to information in a health record under the [Health Records \(Privacy and Access\) Act 1997](#).

Section 13 - Relationship with *Territory Records Act 2002*

(1) This Act does not apply to—

(a) a record of an agency if a person is entitled to access the record under the [Territory Records Act 2002](#), part 3 (Agency records—access); or

(b) an accessible executive record.

(2) If the director makes a declaration under the [Territory Records Act 2002](#), section 28 (Declaration applying provisions of FOI Act) in relation to a record, this Act applies to the record while the declaration is in force.

Note: Unless sooner revoked, a declaration under the [Territory Records Act 2002](#), s 28 is in force for 10 years or any shorter period stated in the declaration.

Section 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.

Section 17 - Public interest test

(1) An agency or Minister, in deciding whether disclosure of information would, on balance, be contrary to the public interest, must take the following steps:

(a) identify any factor favouring disclosure that applies in relation to the information (a ***relevant factor favouring disclosure***), including any factor mentioned in schedule 2, section 2.1;

(b) identify any factor favouring nondisclosure that applies in relation to the information (a ***relevant factor favouring nondisclosure***), including any factor mentioned in schedule 2, section 2.2;

(c) balance any relevant factor or factors favouring disclosure against any relevant factor or factors favouring nondisclosure;

(d) decide whether, on balance, disclosure of the information would be contrary to the public interest;

(e) unless, on balance, disclosure would be contrary to the public interest, allow access to the information subject to this Act.

(2) The following factors must not be taken into account when deciding whether disclosure of information would, on balance, be contrary to the public interest:

(a) access to the information could result in embarrassment to the government, or cause a loss of confidence in the government;

(b) access to the information could result in a person misinterpreting or misunderstanding the information;

(c) the author of the information was (or is) of high seniority in an agency;

(d) access to the information could result in confusion or unnecessary debate;

(e) access to the information could inhibit frankness in the provision of advice from the public service;

(f) the applicant's identity, circumstances, or reason for seeking access to the information.

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.

Section 1.2 Information subject to legal professional privilege

Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.

Section 1.3 Information disclosure of which is prohibited under law

(1) Information that is confidential under the *Adoption Act 1993*, section 60 other than information disclosed to a person to whom the information relates.

(2) Information that is protected information under the *Children and Young People Act 2008*, section 844, other than information that —

(a) is disclosed to a person to whom it relates; and

(b) is not sensitive information under that Act, section 845.

(3) Information that is protected information under the *Crimes (Child Sex Offenders) Act 2005*, section 133A.

(4) Information that is protected information under the *Crimes (Restorative Justice) Act 2004*, section 64.

(5) Information that is protected information under the *Housing Assistance Act 2007*, section 28 other than information disclosed to a person to whom the information relates.

(6) Any other information the disclosure of which is prohibited by a secrecy provision of a law.

(7) In this section:

secrecy provision—a provision of a law is a secrecy provision if it—

- (a) applies to information obtained in the exercise of a function under the law; and
- (b) prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

1.6 Cabinet information

(1) Information—

- (a) that has been submitted, or that a Minister proposes to submit, to Cabinet for its consideration and that was brought into existence for that purpose; or
- (b) that is an official record of Cabinet; or
- (c) that is a copy of, or part of, or contains an extract from, information mentioned in paragraph (a) or (b); or
- (d) the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).

(2) Subsection (1) does not apply to purely factual information that—

- (a) is mentioned in subsection (1) (a); or
 - (b) is mentioned in subsection (1) (b) or (c) and is a copy of, or part of, or contains an extract from, a document mentioned in subsection (1) (a);
- unless the disclosure of the information would involve the disclosure of a deliberation or decision of Cabinet and the fact of the deliberation or decision has not been officially published.

(3) In this section:

Cabinet includes a Cabinet committee or subcommittee.

Section 1.9 Identities of people making disclosures

Information that would, or could reasonably be expected to, disclose the identity of a person who has made—

- (a) a public interest disclosure under the *Public Interest Disclosure Act 2012*; or
- (b) a mandatory or voluntary report under the *Children and Young People Act 2008*; or
- (c) a confidential report under the *Children and Young People Act 2008*, section 876.

Schedule 2

Factors to be considered when deciding the public interest

Section 2.1 Factors favouring disclosure in the public interest

The following are factors favouring disclosure in the public interest:

(a) disclosure of the information could reasonably be expected to do any of the following:

(i) promote open discussion of public affairs and enhance the government's accountability;

(ii) contribute to positive and informed debate on important issues or matters of public interest;

(iii) 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;

(iv) ensure effective oversight of expenditure of public funds;

(v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;

(vi) reveal or substantiate that an agency or public official has engaged in misconduct or negligent, improper or unlawful conduct or has acted maliciously or in bad faith;

(vii) advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government;

(viii) reveal the reason for a government decision and any background or contextual information that informed the decision;

(ix) reveal that the information was—

(A) incorrect; or

(B) out-of-date; or

(C) misleading; or

(D) gratuitous; or

(E) unfairly subjective; or

(F) irrelevant;

(x) contribute to the protection of the environment;

(xi) reveal environmental or health risks or measures relating to public health and safety;

(xii) contribute to the maintenance of peace and order;

(xiii) contribute to the administration of justice generally, including procedural fairness;

(xiv) contribute to the administration of justice for a person;

(xv) contribute to the enforcement of criminal law;

(xvi) contribute to innovation and the facilitation of research;

(b) the information is personal information of—

(i) the person making the request; or

(ii) a child and the information is to be given to the child's parent or guardian and the disclosure of the information to the child's parent or guardian is reasonably considered to be in the best interests of the child; or

(iii) a deceased person and the person making the request for the information is an eligible family member of the deceased person. background or contextual information that informed the decision;

Section 2.2 Factors favouring non-disclosure in the public interest

The following are factors favouring nondisclosure in the public interest:

(a) disclosure of the information could reasonably be expected to do any of the following:

(i) prejudice the collective responsibility of Cabinet or the individual responsibility of members to the Assembly;

(ii) prejudice the protection of an individual's right to privacy or any other right under the *Human Rights Act 2004*;

(iii) prejudice security, law enforcement or public safety;

(iv) impede the administration of justice generally, including procedural fairness;

(v) impede the administration of justice for a person;

(vi) prejudice the security or good order of a correctional centre;

(vii) impede the protection of the environment;

(viii) prejudice the economy of the Territory;

(ix) prejudice the flow of information to the police or another law enforcement or regulatory agency;

(x) prejudice intergovernmental relations;

(xi) prejudice trade secrets, business affairs or research of an agency or person;

(xii) prejudice an agency's ability to obtain confidential information;

(xiii) prejudice the competitive commercial activities of an agency;

(xiv) prejudice the conduct of considerations, investigations, audits or reviews by the ombudsman, auditor-general or human rights commission;

(xv) prejudice the management function of an agency or the conduct of industrial relations by an agency;

(xvi) prejudice a deliberative process of government;

(xvii) prejudice the effectiveness of testing or auditing procedures;

(xviii) prejudice the conservation of any place or object of natural, cultural or heritage value, or reveal any information relating to Aboriginal or Torres Strait Islander traditional knowledge;

(b) the information—

(i) is personal information of a child and the disclosure of the information is reasonably considered not to be in the best interests of the child; or

(ii) would be privileged from production in a legal proceeding on the ground of legal professional privilege; or

- (iii) is personal information of a deceased person and the person making the request is an eligible family member of the deceased person and the disclosure of the information could reasonably be expected to impact on the deceased person's privacy if the deceased person were alive; or
- (iv) is information disclosure of which is prohibited by an Act of the Territory, a State or the Commonwealth; or
- (v) is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct and disclosure of the information could prejudice the fair treatment of an individual.

Section 2.3 Meaning of *eligible family member* – sch 2

- (1) For this schedule, *eligible family member*, of a deceased person, means—
- (a) a domestic partner of the deceased person; or
 - (b) if a domestic partner is not reasonably available—an adult child of the deceased person; or
 - (c) if a domestic partner or adult child is not reasonably available—an adult sibling of the deceased person; or
 - (d) if a person mentioned in paragraph (a), (b) or (c) is not reasonably available and the deceased person was not an Aboriginal or Torres Strait Islander person—the next nearest adult relative of the deceased person who is reasonably available; or
 - (e) if a person mentioned in paragraph (a), (b) or (c) is not reasonably available and the deceased person was an Aboriginal or Torres Strait Islander person—a person who is an appropriate person according to the tradition or custom of the Aboriginal or Torres Strait Islander community to which the deceased person belonged and who is reasonably available.

Health Records (Privacy and Access) Act 1997

Section 10 – Statement of principle regarding right of access

A consumer has a right of access, in accordance with this Act, to a health record that is—

- (a) a health record held by a health service provider; or
- (b) to the extent that it contains personal health information relating to the consumer, any other health record;

as follows:

- (c) to the extent that the record contains factual matters, whenever the record was made;
- (d) to the extent that the record contains matters of opinion, if the record was created on or after the date of commencement of this Act.

Section 14 – Grounds for nonproduction

The grounds for nonproduction of the whole or any part of a health record are as follows:

- (a) that the record or part of the record is not in the possession, custody or control of the person alleged to be the record keeper;
- (b) that the record or part of the record does not relate in any respect to the consumer;
- (c) that the production of, or the giving of access to, the record or part of the record would contravene (i) a law of the Territory; or
 - (ii) a law of the Commonwealth; or
 - (iii) an order of a court of competent jurisdiction.

14A No access to health record relating to Children and Young People Act complaint etc

A record keeper must not give access to a health record or part of a health record under section 10 if—

- (a) the record or part of a record relates to—
 - (i) a child concern report under the *Children and Young People Act 2008* (see section 353); or
 - (ii) a prenatal report under the *Children and Young People Act 2008*, section 362; or
 - (iii) information that is care and protection report information within the meaning of the *Children and Young People Act 2008*, section 845 (2) (b); or
 - (iv) a report under the *Children and Young People Act 1999*, section 158 or section 159; or
 - (v) a notification under the *Children's Services Act 1986*, section 103; and
- (b) either—
 - (i) the record or part of a record identifies the person who made the report; or
 - (ii) the record keeper is satisfied that the record or part of the record allows the identity of the person who made the report to be worked out.