



ACT
Government

Transport Canberra and
City Services

FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: TCCSFOI 2018-007

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule and documents	n/a
4. Additional information identified	No
5. Fees	n/a
6. Processing time (in working days)	32 days (extension granted)
7. Decision made by Ombudsman	n/a
8. Additional information identified by Ombudsman	n/a
9. Decision made by ACAT	n/a
10. Additional information identified by ACAT	n/a

Ireland-Bell, Bronwyn

From: [REDACTED]
Sent: Wednesday, 24 January 2018 5:06 PM
To: TCCS_FreedomOfInformation
Subject: REVISED freedom of information request - TCCS sexual harassment complaints

Good afternoon,

On Thursday January 11, I sent you a freedom of information request regarding documents created in the reporting, investigating and disciplinary action taken in relation to sexual harassment complaints made against senior executive service officials employed in the ACT Transport Canberra and City Services Directorate.

On reflection, I would like to revise my request. I now seek all documents created in the reporting, investigating and/or disciplinary action taken in relation to sexual harassment complaints made against any employee in the ACT Transport Canberra and City Services Directorate. I seek these documents created within the period beginning January 1 2014 and ending January 11 2018.

Please also provide figures for the number of complaints relating to sexual harassment received by the directorate during that timeframe.

[REDACTED]

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Dear 

Freedom of Information request: 18-007

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Transport Canberra and City Services Directorate (TCCS) on 25 January 2018, in which you sought access to all documents created in the:

1. reporting, investigating and/or disciplinary action taken in relation to sexual harassment complaints made against any employee in the ACT Transport Canberra and City Services Directorate since 1 January 2014 until 11 January 2018; and
2. the figures for the number of complaints relating to sexual harassment received by the directorate during that time period.

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

TCCS was required to provide a decision on your access application by 23 February 2018. I note that an extension was sought for 14 March 2018.

Decision on access

Part 1

I can confirm that TCCS holds documentation in relation to five reports of sexual harassments since 2014. I have decided to refuse access to all identified documents in relation to these reports as I consider them to be contrary to the public interest to disclose under schedule 1.

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

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

- the FOI Act, particularly:
 - Schedule 1, parts 1.4 and 1.14
- *Humans Rights Act 2004*;
- *the Information Privacy Act 2014*; and
- the content of the documents that fall within the scope of your request.

My reasons for deciding not to grant access to the identified documents is as follows.

As the group of documents requested compose of, or contain, sensitive information regarding an investigation of complaints against individuals I have decided that disclosure would be unreasonable under schedule 1.4 of the Act. Section 1.4 states that information, the disclosure of which would involve the unreasonable disclosure of sensitive information about any individual (including a deceased person) is taken to be contrary to the public interest to release. I have considered if parts of the reports could be released with names redacted but have decided that individuals could still be identified due to the content of the reports. The sensitive subject of the information is such that the documents as a whole can be considered sensitive. The removal of individual names will not in itself render the documents desensitised. Individuals and situations could reasonably be expected to be identified by others who work with these people.

Non-disclosure is also supported by schedule item 1.14 (Law enforcement or public safety information). Release of such documents would be contrary to public interest as the documents would reasonably be expected to prejudice the effectiveness of lawful method or procedure for preventing, detecting, investigating or dealing with contravention or possible contravention of the law. The methodology is designed to protect information and individuals and encourage disclosure. The consequences of releasing these types of documents could have an adverse effect on the directorate's ability to conduct future investigations by undermining staff confidence in the confidentiality of the process. It includes, in certain circumstance, covert actions to identify breaches or possible breaches of the law. If security (including personal security) methodology was widely known perpetrators could avoid detection.

As I have decided that schedule items 1.4 and 1.14 apply I have not considered other factors in deciding the public interest in not disclosing the information.

Part 2

During the period 1 January 2014 to 11 January 2018 there were five cases of alleged misconduct relating to sexual harassment. These cases were dealt with in accordance with relevant enterprise agreements and the TCCS Respect, Equality and Diversity (RED) framework.

Charges

Processing charges are not applicable for this request because no documents are being released to you.

Online publishing – disclosure log

Under section 28 of the Act, TCCS 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 in the TCCS disclosure log after 28 February 2018. Your personal contact details will not be published. You may view TCCS' disclosure log at www.tccs.act.gov.au/about-us/freedom_of_information.

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 Ombudsman review of this outcome under section 73 of the Act

within 20 working days from the day that my decision is published in TCCS's disclosure log, 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

Via email: ombudsman@ombudsman.gov.au.

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the 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 Street
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

www.acat.act.gov.au

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the FOI Coordinator on telephone 6205 5408 or email tccs.foi@act.gov.au.

Yours sincerely


Cherie Hughes
Information Officer
Transport Canberra and City Services

14 March 2018