

Decision and reasons of ACT Ombudsman

Application number:	AFOI-RR/24/80012
Applicant:	National Tertiary Education Union
Respondent:	University of Canberra
Respondent reference:	240465
Decision reference:	[2025] ACTOFOI 21
Date:	31 October 2025
Catchwords:	<i>Freedom of Information Act 2016</i> – refuse to confirm or deny information is held by the respondent – deciding access – whether information is contrary to the public interest information – information subject to legal professional privilege – promote open discussion of public affairs and enhances the government’s accountability – contribute to positive and informed debate on important issues or matters of public interest – ensure effective oversight of expenditure – 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 – reveal the reason for a government decision and any background or contextual information that informed the decision – inform the community of the government’s operations, including the policies, guidelines and codes of conduct followed by government in its dealings with members of the

community – reveal that the information was incorrect or misleading – prejudice the protection of an individual’s right to privacy or any other right under the Human Rights Act – prejudice the management function of an agency or the conduct of industrial relations by an agency – prejudice an agency’s ability to obtain confidential information.

Decision

1. For the reasons set out below, I **confirm** the decision of the University of Canberra (**UC**) dated 26 September 2024 under s 82(2)(a) of the *Freedom of Information Act 2016* (ACT) (**FOI Act**).

Background to Ombudsman review

2. On 25 July 2024, the National Tertiary Education Union (**NTEU**) (**the applicant**) applied to UC for access to information regarding the former Vice Chancellor of UC, Professor Paddy Nixon. On 12 August 2024, the applicant and UC agreed to the following revised scope of the application:
 1. Minutes of University Council relevant to Vice Chancellor remuneration for the period 1 July 2019 to 1 May 2020, as well as any Council papers submitted to and considered by University Council;
 2. Minutes of University Council relevant to Vice Chancellor remuneration for the period 1 July 2023 to 1 May 2024, as well as any Council papers submitted to and considered by University Council;
 3. Minutes of The Nominations and Senior Appointments Committee relevant to Vice Chancellor remuneration for the period 1 July 2019 to 1 May 2020, as well as papers submitted to and considered by this Committee or University Council;
 4. Minutes of The Nominations and Senior Appointments Committee relevant to Vice Chancellor remuneration for the period 1 July 2023 to 1 May 2024, as well as any papers submitted to and considered by this Committee or University Council;
 5. The employment contract of the former Vice Chancellor, Professor Paddy Nixon;

6. Any Deed of Release, Non-disclosure Agreement, or other written agreement relevant to the terms of the departure of the former Vice Chancellor, Professor Paddy Nixon, from the University of Canberra
 7. Any records of payments made to the former Vice Chancellor, Professor Paddy Nixon, upon or connected to his departure from the University of Canberra;
 8. Any records of payments made by the former Vice Chancellor, Professor Paddy Nixon (such as reimbursements), upon or connected to his departure from the University of Canberra;
 9. Any documentation related to investigations into the conduct (including potential misconduct or serious misconduct) of the former Vice Chancellor, Professor Paddy Nixon, between 1 January 2020 and 1 May 2024;
 10. Any documentation related to any suspension of the former Vice Chancellor, Professor Paddy Nixon, between 1 January 2020 and 1 May 2024.
3. On 26 September 2024, UC advised the applicant it had identified 6 categories of documents containing information within the scope of the access application.¹ The documents comprise:
- an employment contract entered between Professor Nixon and UC
 - the minutes of the University Council and UC's Nominations and Senior Appointments Committee (NASC), and papers attached to those minutes; and
 - records of payments made pursuant to the employment contract between Professor Nixon and UC.
4. UC decided to refuse access to all the documents identified because UC considered the documents contained contrary to the public interest information.
5. UC also refused to confirm or deny it held information within the scope of items 6, 9 and 10 of the access application because UC considered the information, if held, would be information which is contrary to the public interest information; and confirming or denying that the information is held

¹ The documents relate to items 1-5 and 7-8.

would, or could reasonably be expected to, be an unreasonable limitation on a person's rights under the *Human Rights Act 2004* (ACT) (Human Rights Act).²

6. On 23 October 2024, the applicant applied for Ombudsman review under s 73 of the FOI Act.
7. On 24 October 2024, the Office of the ACT Ombudsman (the Office) notified UC of the review by way of a notice issued under s 75 of the FOI Act (s 75 notice) and requested the following:
 - a copy of the access application dated 25 July 2024
 - a copy of the decision notice dated 26 September 2024
 - an unredacted copy of the information identified within the scope of the application, including information, if any, that UC refused to confirm or deny it held in the decision notice
 - copies of correspondence with the applicant in relation to re-scoping the application
 - copies of correspondence about consultation undertaken internally or externally in processing the application.
8. On 4 November 2024, UC acknowledged the s 75 notice and requested a meeting to discuss the review. In an email to the Office, UC noted, without confirming or denying it held information relevant to items 6, 9 and 10, that any such information would be highly sensitive in nature.
9. On 8 November 2024, UC provided a response to the s 75 notice.

² Section 35(1)(e) of the [Freedom of Information Act 2016 \(ACT\)](#) (FOI Act).

10. Through February 2025 to May 2025, the Office engaged with UC about the provision of the information at issue. On 6 May 2025, the Office received all the necessary information at issue.
11. On 26 September 2025, I provided my preliminary view to the parties in a draft consideration.
12. On 9 October 2025, UC indicated it accepted the draft consideration, making no further submissions.
13. On 27 October 2025, the applicant confirmed they did not wish to make additional submissions.

Third party consultation

14. Prior to making its decision, UC identified that disclosure of information may reasonably be expected to be of concern to a relevant third party, Professor Nixon.
15. On 5 September 2024, UC contacted Professor Nixon to consult with him before deciding the access application. Professor Nixon did not provide a response to UC's consultation notice and UC proceeded to make its decision.
16. Section 76 of the FOI Act requires the primary decision-maker, on receiving a notice under s 75 of an application for Ombudsman review, to tell each relevant third party consulted under s 38 of the application for Ombudsman review.
17. UC has confirmed that they contacted Professor Nixon on 4 November 2025 to inform him of the Ombudsman review. Professor Nixon did not seek to participate in or provide submissions to this review.

Information at issue

18. The information at issue in this Ombudsman review is the 6 categories of documents, containing information within the scope of items 1-5 and 7-8 of the access application. UC refused access to all 6 categories of information.
19. The information at issue may also include any documents, should they be held by UC, containing information within the scope of items 6, 9 and 10 of the access application. I will consider below whether UC correctly refused to confirm or deny they held such information.
20. In making my decision, I have had regard to:
- the applicant's access application and review application
 - the respondent's decision
 - the ACT FOI guidelines, a notifiable instrument under s 66 of the FOI Act
 - the FOI Act, in particular Schedule 2.1 and 2.2
 - the Human Rights Act
 - the *Information Privacy Act 2014* (ACT)
 - an unedited copy of the information at issue
 - relevant case law, including:
 - [*AA and Transport Canberra and City Services Directorate*](#) [2018] ACTOFOI 1 (20 July 2018),
 - [*BP and Justice and Community Safety Directorate*](#) [2021] ACTOFOI 19 (22 December 2021), and
 - [*DK and Community Services Directorate*](#) [2025] ACTOFOI 7 (3 July 2025).

Relevant law

21. Section 7 of the FOI Act provides every person with an enforceable right of access to government information. This right is subject to other provisions of the FOI Act, including grounds on which access may be refused.³
22. Contrary to the public interest information is defined in s 16 of the FOI Act as:
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.
23. The public interest test set out in s 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring nondisclosure to decide whether, on balance, disclosure would be contrary to the public interest.
24. Section 35(1)(c) of the FOI Act provides an access application may be decided by refusing to give access to the information sought because the information being sought is contrary to the public interest information.
25. Section 35(1)(e) of the FOI Act provides an access application may be decided by refusing to confirm or deny that the information is held by the respondent because:
 - (i) the information is contrary to the public interest information; and
 - (ii) doing so would, or could reasonably be expected to—
 - (A) endanger the life or physical safety of a person; or
 - (B) be an unreasonable limitation on a person's rights under the *Human Rights Act 2004*; or
 - (C) significantly prejudice an ongoing criminal investigation.

³ Section 35(1)(c) of the [FOI Act](#).

26. Section 12 of the Human Rights Act provides:

Everyone has the right—

- (a) not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and
- (b) not to have his or her reputation unlawfully attacked.

27. Schedule 2 of the FOI Act sets out a non-exhaustive list of public interest factors which must be considered, where relevant, when determining the public interest.

The submissions of the parties

28. In the decision notice UC said:

For the following reasons, I consider that, if any information exists which responds to items 6, 9 and 10 of request:

- that information would be contrary to the public interest information; and
- the release of that information could reasonably be expected to be an unreasonable limitation on a person's rights under the Human Rights Act.

... In relation to the factors favouring non-disclosure, I consider that, if any information exists which is relevant to items 6, 9 and 10, releasing that information in response to the FOI request could reasonably be expected to prejudice Professor Nixon's right to privacy. Confirming that any information exists which responds to items 6, 9 and 10 would reveal private information about Professor Nixon (because it would reveal the existence of a suspension, deed of release or investigation). Likewise, confirming that any information responding to items 6, 9 and 10 *does not* exist would equally interfere with Professor Nixon's right to privacy because doing so would reveal that no such suspension or investigation occurred. In either case, disclosing whether any information responsive to items 6, 9 and 10 exists would reveal private information about Professor Nixon's employment and the circumstances of his departure from the University.

I also consider that revealing the existence or otherwise of any information responding to items 6, 9 and 10 would also prejudice the University's ability to carry out its management function (Schedule 2.2 (xv)). Investigations into complaints about misconduct must necessarily be carried out in private, and all parties to such an investigation must be assured that their privacy will be protected during any investigation. Revealing the existence or otherwise of any information responsive to items 6, 9 and 10 could reasonably be expected to reduce the confidence of any future prospective complainants that their complaint will be handled confidentially.

... I consider that releasing Documents 1-6⁴ would interfere with the University's management function...

... I also consider that the release of Documents 1-6 could prejudice the University's business affairs...

... Document 1⁵ contains personal information of Professor Nixon in the form of details about the terms of his employment with the University... I also consider that the release of the employment contract would constitute an unreasonable limitation on Professor Nixon's personal privacy...

29. In their Ombudsman review application, the applicant submitted that disclosure would:

- promote open discussion of public affairs and enhance the government's accountability
- contribute to positive and informed debate about to remuneration of university Vice Chancellors
- 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
- ensure effective oversight of expenditure of public funds
- 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
- reveal the reason for a government decision and any background or contextual information that informed the decision, and
- reveal that information was incorrect or misleading.

⁴ 'Documents 1-6' in this instance refer to information relating to items 1-5 and 7-8 of the access application.

⁵ Document 1 is an Employment Agreement between UC and Professor Nixon.

30. The applicant further submitted:

Senior Executive remuneration is published in the University of Canberra Annual Report every year. The Vice Chancellor's remuneration has been extensively reported on in media and is clearly identifiable at the highest value remuneration in the Annual Report.

... Documentation relating to early termination of employment is common, and the early cessation of employment in Professor Nixon's case is not disputed (and is a matter of public record). NTEU contends that information (or redacted information) could be supplied in a manner which still complies with the *Human Rights Act*...

31. These submissions are discussed in more detail below.

Considerations

32. The issues to be decided in this Ombudsman review are:

- whether UC is entitled to rely on s 35(1)(e) of the FOI Act to refuse to confirm or deny they held information sought within the scope of items 6, 9 and 10 of the access application, and
- whether, on balance, the information at issue is contrary to the public interest information.

Refusing to confirm or deny information held relevant to items 6, 9 and 10

33. To determine whether a decision-maker may rely on s 35(1)(e) to refuse to confirm or deny that information sought is held, a two-step test is necessary:

- consideration of the broader public interest, and a balancing of relevant public interest factors, and, if the information, if held, is determined to be contrary to the public interest information
- consideration of s 35(1)(e)(ii) – in this case, whether confirming or denying the information is held would or could reasonably be expected to be an unreasonable limitation on a person's rights under the Human Rights Act.

Is the information, if held, contrary to the public interest information?

34. In relation to the first limb of s 35(1)(e), information is contrary to the public interest information if it is either listed in schedule 1 of the FOI Act (schedule 1 information) or, after applying the public interest test in s 17 of the FOI Act, disclosure of the information would, on balance, be contrary to the public interest.
35. The information sought within the scope of items 6, 9 and 10 of the access application is:
- any agreement relevant to the terms of the departure of the former Vice Chancellor from UC
 - any documentation related to investigations into the conduct or misconduct of the former Vice Chancellor of UC, and
 - any documentation related to any suspension of the former Vice Chancellor of UC

Schedule 1 information

36. Schedule 1 to the FOI Act provides categories of information which is contrary to the public interest to disclose in all circumstances. These categories relevantly include information that would be privileged from production in a legal proceeding (schedule 1, s 1.2) (LPP information).
37. LPP information is defined in schedule 1, s 1.2 of the FOI Act as information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege (LPP).
38. I consider that if relevant information is held by UC, the information would be likely to include LPP information. It would not be unexpected for legal advice to be sought and given in matters such as these.
39. I would not expect, however, that the information sought, if held, would in its entirety consist of LPP information and be contrary to the public interest information under schedule 1. Therefore, I will also consider whether disclosure

of the remainder of the information, if held, would be contrary to the public interest under the test set out in s 17 of the FOI Act.

Schedule 2 information – public interest test

40. To determine whether disclosure is contrary to the public interest, the FOI Act prescribes the following five steps:

- identify any factor favouring disclosure that applies in relation to the information (*a relevant factor favouring disclosure*), including any factor mentioned in schedule 2, s 2.1
- identify any factor favouring nondisclosure that applies in relation to the information (*a relevant factor favouring nondisclosure*), including any factor mentioned in schedule 2, s 2.2
- balance any relevant factor or factors favouring disclosure against any relevant factor or factors favouring nondisclosure
- decide whether, on balance, disclosure of the information would be contrary to the public interest
- unless, on balance, disclosure of the information would be contrary to the public interest, allow access to the information

Factors favouring disclosure

41. UC identified 3 factors favouring disclosure of the information, if held.

42. In their Ombudsman review application, the applicant submitted an additional 2 factors favouring disclosure of the information, if held.

Promote open discussion of public affairs and enhance the government's accountability—Schedule 2, s 2.1(a)(i)

43. In its original decision, UC identified that release of the information, if held, could reasonably be expected to promote open discussion of public affairs and enhance the government's accountability.
44. I consider the information, if held, would relate to the conduct expected of a senior public official and would be a matter of interest for the ACT community, noting that UC is a public university with over 11,000 students.⁶
45. I accept that disclosure of the information, if held, would be in the public interest because it would enhance the government's accountability and would provide insight into the decisions made by the government, and matters considered relating to the conduct of senior public officials.
46. I afford this factor moderate weight.

Contribute to positive and informed debate on important issues or matters of public interest—Schedule 2, s 2.1(a)(ii)

47. UC identified that release of the information, if held, could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest.
48. I accept that matters relating to the governance of UC, including information about the conduct expected of the Vice Chancellor, is an important matter and it is reasonable to expect that disclosure of information, if held, would carry some capacity to contribute to or inform debate on the governance of UC.
49. I afford this factor moderate weight.

Ensure effective oversight of expenditure of public funds—Schedule 2, s 2.1(a)(iv)

⁶ [University of Canberra Annual Report 2024](#), p 21.

50. In its original decision, UC identified that release of the information, if held, could ensure the effective oversight of expenditure of public funds.
51. I agree this factor is relevant. The management and operation of a public university is a significant undertaking involving considerable financial costs. It is likely that the information, if held, would include some financial information and it is reasonable to expect that disclosure of the information, if held, could assist in oversight of the expenditure of public funds.
52. I afford this factor moderate weight.

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—Schedule 2, s 2.1(a)(vi)

53. The applicant submitted, in their application for Ombudsman review, that the information, if held, could reasonably be expected to 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.
54. I agree that this factor is relevant. Considering the scope of the access application, it is reasonable that the information, if held, might reveal or substantiate that an agency or public official has engaged in misconduct.
55. I afford this factor moderate weight.

Reveal the reason for a government decision and any background or contextual information that informed the decision—Schedule 2, s 2.1(a)(viii)

56. The applicant also submitted, that the information, if held, could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.
57. I accept that this factor is relevant. The information, if held, could reasonably include information about any decision taken by the government in relation to

the former Vice Chancellor of UC. Such information, however, would only reveal the reasons for an individual decision, as opposed to a class of decisions more broadly.

58. I afford this factor minor weight.

Factors favouring nondisclosure

59. UC identified 2 factors favouring nondisclosure of the information, if held.

60. I have identified an additional factor favouring nondisclosure of the information, if held.

Prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act—Schedule 2, s 2.2(a)(ii)

61. UC, in its decision, considered there was a reasonable expectation disclosure of the information, if held, could prejudice an individual's right to privacy under the Human Rights Act.

62. Section 12 of the Human Rights Act is extracted above at paragraph 26.

63. I consider that the information relevant to items 6, 9 and 10 of the access application, if held, would contain personal information.

64. In considering whether the disclosure of the information, if held, could reasonably be expected to prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act, relevant matters include any detriment disclosure may cause, the nature of the information, and the circumstances in which the information was collected.⁷

⁷ [Freedom of Information \(Volume 4 – Considering the public interest\) Guidelines 2023](#)

65. I consider disclosure of the information, if held, could present an arbitrary interference with a person's privacy under s 12 of the Human Rights Act.
66. The *Information Privacy Act 2014 (ACT)* (Information Privacy Act) sets out how personal information is handled by public sector agencies and how the privacy of individuals is protected. An individual's privacy is 'interfered with' if an act or practice breaches a Territory Privacy Principle (TPP) in relation to personal information about the individual.⁸
67. TPP 6 provides if an agency holds personal information about an individual that was collected for a particular purpose (primary purpose), the agency must not use or disclose the information for another purpose (secondary purpose) unless the individual consents or an exception in TPP 6.2 or 6.3 applies.
68. An agency may use or disclose non-sensitive personal information for a secondary purpose if the use or disclosure is related to the primary purpose; required or authorised by law; or a permitted general situation exists.
69. The personal information that would be expected to be included in the information, if held, may have been obtained by UC for the primary purpose of management of the former Vice Chancellor, including any investigation of the former Vice Chancellor's conduct.
70. I consider that the disclosure of the information, if held, for a secondary purpose would not be reasonably expected by the former Vice Chancellor and disclosure of the information, if held, would not be related to the primary purpose of the collection.
71. I afford significant weight to this factor.

⁸ Section 11 of the [Information Privacy Act 2014 \(ACT\)](#) (Information Privacy Act)

Prejudice the management function of an agency or the conduct of industrial relations by an agency—Schedule 2, s 2.2(a)(xv)

72. UC identified that there was a reasonable expectation that disclosure of the information, if held, could prejudice the management function of an agency or the conduct of industrial relations by an agency.

73. In *BP and Justice and Community Safety Directorate*,⁹ the Acting Senior Assistant Ombudsman observed:

... maintaining a system for reporting integrity matters... is inextricably linked to the management function of an agency.

74. In *DK and Community Services Directorate*,¹⁰ the Senior Assistant Ombudsman stated:

... the ability to obtain confidential information from employees is a central element of the management function of the conduct of industrial relations by an agency.

75. It is not unreasonable that such information, if held, may include information provided in confidence by employees about the conduct of the former Vice Chancellor.

76. I consider that disclosure of such information, if held, could reasonably be expected to prejudice both UC's management function and conduct of industrial relations, through inhibiting the receipt and monitoring of allegations of misconduct, there thereby also prejudicing the ability to act upon matters of internal integrity. Disclosure of such information, if held, may make complainants or witnesses reluctant to fully participate in future investigations.

77. I afford this factor significant weight.

⁹ [\[2021\] ACTOFOI 19](#).

¹⁰ [\[2025\] ACTOFOI 7](#).

Prejudice an agency's ability to obtain confidential information—Schedule 2, s 2.2(a)(xii)

78. I consider an additional factor favouring nondisclosure may apply to the information, if held.
79. Disclosure of the information, if held, could reasonably be expected to prejudice an agency's ability to obtain confidential information.
80. The information, if held, may relate to allegations or information about the conduct of a senior public official. If disclosed, such information may have a chilling effect on the engagement of employees generally with similar processes in the future.
81. I afford this factor significant weight.

Balancing the factors

82. Having identified public interest factors favouring disclosure and factors favouring nondisclosure, I now must consider the public interest balancing test set out in s 17 of the FOI Act.
83. I have identified 5 public interest factors favouring disclosure. I attribute moderate weight to 4 factors and minor weight to one factor.
84. I have identified 3 public interest factors favouring nondisclosure of the information, if held. I attribute significant weight to all 3 factors.
85. I find, on balance, the public interest factors favouring nondisclosure outweigh the public interest factors favouring disclosure. In particular, if the information sought is held by UC, I consider there is a significant public interest in protecting the privacy of the individuals involved and preventing the prejudicing of UC's ability to carry out its management functions, and obtaining confidential information.

Whether confirming or denying the information is held would or could reasonably be expected to be an unreasonable limitation on a person's rights under the Human Rights Act.

86. Having completed the first limb of s 35(1)(e) and finding that, on balance, the information, if held, would be contrary to the public interest information, I must now consider whether confirming or denying whether the information is held would or could reasonably be expected to be an unreasonable limitation on a person's rights under the Human Rights Act.
87. Section 12 of the Human Rights Act is extracted above at paragraph 26 of this decision.
88. UC decided that confirming they held information within scope of items 6, 9 and 10 of the access application would reveal private information about the former Vice Chancellor (because it would reveal the existence of a suspension, deed of release, or investigation). UC decided, likewise, that denying they held information within scope of items 6, 9 and 10 of the access application would reveal that no such suspension or investigation occurred.
89. I agree that, if the information sought existed, a response which *confirmed* that such information is held, would impose an unreasonable limitation on a person's rights under the Human Rights Act. I also agree that a response which *denied* that such information is held, could impose an unreasonable limitation on a person's rights under the Human Rights Act, as either response could have the effect of disclosing private information about the former Vice Chancellor and the reasons for his departure from UC.
90. I agree that UC is entitled to rely on s 35(1)(e) of the FOI Act in relation to any information within scope of items 6, 9 and 10 of the access application.

The information at issue relevant to items 1-5 and 7-8

91. I have reviewed an unedited copy of the information at issue together with the information provided by the applicant and UC.
92. The information at issue includes information relating to the recruitment and engagement of the former Vice Chancellor specifically and recruitment of a Vice Chancellor in general, remuneration for senior executives and records of payments made to the former Vice Chancellor.

Schedule 1 information

93. I have not identified that the information at issue contains information that is taken to be contrary to the public interest to disclose under schedule 1 of the FOI Act. Therefore, for the information sought to be contrary to the public interest, disclosure of the information sought must, on balance, be contrary to the public interest under the test set out in s 17 of the FOI Act.
94. As set out in paragraph 40, to determine whether disclosure is contrary to the public interest, the FOI Act prescribes a 5-step process.

Factors favouring disclosure

95. The original decision from UC identified 3 factors favouring disclosure as relevant. The applicant submitted an additional 4 factors favouring disclosure are also relevant.

Promote open discussion of public affairs and enhance the government's accountability—Schedule 2, s 2.1(a)(i)

96. In their decision notice, UC identified there was a reasonable expectation that disclosure could contribute to open discussion of public affairs and enhance the government's accountability.
97. The information relates both to the engagement of Professor Nixon specifically and the engagement of a Vice Chancellor in general, it and would be a

matter of interest for the ACT community for the reasons included above at paragraph 44.

98. I accept disclosure of the information would be in the public interest because it would enhance the government's accountability and would provide insight into the decisions made by the government, and matters considered relating to the engagement of senior public officials.

99. Noting that the information at issue includes information specific to the engagement of Professor Nixon and the engagement of a Vice Chancellor in general, I afford this factor moderate weight.

Contribute to positive and informed debate on important issues or matters of public interest—Schedule 2, s 2.1(a)(ii)

100. UC identified that release of the information could reasonably be expected to contribute to positive and informed debate on important issues or matters of public interest.

101. I accept that matters relating to the governance of UC, including information about the recruitment and engagement of a person to the role of Vice Chancellor, are important matters and it is reasonable to expect that disclosure of information would carry some capacity to contribute to or inform debate on the governance of UC.

102. I afford this factor moderate weight.

Ensure effective oversight of expenditure of public funds—Schedule 2, s 2.1(a)(iv)

103. In its original decision, UC identified that release of the information could ensure the effective oversight of expenditure of public funds.

104. I agree this factor is relevant and consider that the reasons I have expressed at paragraph 51 also apply.

105. I afford this factor moderate weight.

Inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by government in its dealings with members of the community—Schedule 2, s 2.1(a)(iii)

106. The applicant submitted, in their application for Ombudsman review, that the information could reasonably be expected to inform the community of the government's operations.

107. I consider that only a small portion of the information at issue¹¹ includes information that could be considered a code of conduct to be followed by the Vice Chancellor. I do not consider this factor is relevant to the remainder of the information at issue.

108. I afford this factor minor weight.

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—Schedule 2, s 2.1(a)(vi)

109. The applicant submitted, in their application for Ombudsman review, that the information could reasonably be expected to 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.

110. I have carefully reviewed the information at issue and am satisfied that release of the information would not reveal or substantiate that an agency or public official has engaged in misconduct.

111. I disagree that this factor is relevant to the information at issue.

¹¹ Document 1, being an Employment Agreement between UC and Professor Nixon.

Reveal the reason for a government decision and any background or contextual information that informed the decision—Schedule 2, s 2.1(a)(viii)

112. The applicant submitted that the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.

113. I consider that this factor is relevant. The information includes information about any decision taken by the government in relation to the former Vice Chancellor of UC. Such information, however, would only reveal the reasons for an individual decision and not for a class of decisions more broadly.

114. I afford this factor minor weight.

Reveal that the information was incorrect or misleading—Schedule 2, s 2.1(a)(ix)

115. The applicant submitted that the information could reasonably be expected to reveal that information was incorrect or misleading, stating in their application for Ombudsman review:

UC Chancellor Lisa Paul has told media:

“There was no ‘golden handshake.’”¹²

This disclosure would also ascertain whether that information was incorrect or misleading.

116. I agree the information at issue includes details of remuneration to Professor Nixon, including in the event of the termination of his contract with UC, and records of payments made to Professor Nixon. I disagree, however, that release of this information would reveal that information—specifically a denial by the Chancellor of UC that there was a ‘golden handshake’—is incorrect or misleading.

¹² Canberra Times, [*University of Canberra denies giving former head a ‘golden handshake’*](#), 23 July 2024.

117. I have considered the media article referenced by the applicant and I note that the article states that the Chancellor advised University staff that the remuneration paid to Professor Nixon included a pay rise and accrued entitlements.

118. The term 'golden handshake' is an informal term and may mean different things to different people. It is colloquially used to mean a generous severance package provided to a senior official upon their departure from an organisation. In that sense, payments made to Professor Nixon upon his departure from UC might be termed a 'golden handshake'; at the same time, employers are generally required to pay departing staff their accrued entitlements, which might not constitute a 'golden handshake'.

119. I disagree that this factor is relevant to the information at issue.

Factors favouring nondisclosure

120. UC identified 2 factors favouring nondisclosure of the information at issue. I have identified an additional factor favouring nondisclosure.

Prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act—Schedule 2, s 2.2(a)(ii)

121. UC, in its decision, considered there was a reasonable expectation disclosure of the information could prejudice an individual's right to privacy under the Human Rights Act.

122. Section 12 of the Human Rights Act is extracted above at paragraph 26.

123. I consider that the information at issue, would contain the personal information of multiple individuals.

124. I consider that my reasoning outlined above in this decision at paragraphs 64 – 70 is relevant.

125. The personal information included in the information at issue has been obtained by UC for the primary purpose of engaging the former Vice Chancellor and negotiating the terms of his employment with the university.

126. The personal information of other individuals is also included in the information at issue, including names, positions, signatures and opinions held.

127. I agree with UC, who stated in their original decision:

... the release of the employment contract would constitute an unreasonable limitation on Professor Nixon's personal privacy. In particular, I note that the contract includes information as to the structure of Professor Nixon's remuneration, his address and contact details, and other benefits provided to Professor Nixon, and the conditions of his employment. I consider that the release of any of this information would constitute an unreasonable limitation on his privacy, particularly in circumstances where the parties to the employment contract agreed to its terms being held confidential between the parties.

128. I also consider that the disclosure of the information for a secondary purpose would not be reasonably expected by the former Vice Chancellor and disclosure of the information would not be related to the primary purpose of the collection.

129. I afford significant weight to this factor.

Prejudice the management function of an agency or the conduct of industrial relations by an agency—Schedule 2, s 2.2(a)(xv)

130. UC identified that there was a reasonable expectation that disclosure of the information could prejudice the management function of an agency or the conduct of industrial relations by an agency.

131. The 'management function' of an agency includes activities such as recruitment, management, promotion and compensation. The 'conduct of industrial relations' refers to an agency's management of employment-related entitlements and obligations.¹³

¹³ [*Freedom of Information \(Volume 4 – Considering the public interest\) Guidelines 2023*](#)

132. Further, the ability to obtain confidential information from employees is a central element of the management function of the conduct of industrial relations by an agency.¹⁴

133. UC, in its decision, noted that information recorded in the minutes of the University's Nominations and Senior Appointments Committee and the University Council, was provided in confidence by members of the committee and the council.

134. I consider that disclosure of the information could reasonably be expected to prejudice both UC's management function and conduct of industrial relations, through inhibiting UC's ability to engage with negotiation with potential future employees as to the terms and conditions of their employment, as well as undermining the confidence of committee and council members in having confidential discussions about sensitive matters relating to staffing and recruitment.

135. I afford this factor significant weight.

Prejudice an agency's ability to obtain confidential information—Schedule 2, s 2.2(a)(xii)

136. I consider an additional factor favouring nondisclosure applies to the information at issue.

137. Disclosure of the information could reasonably be expected to prejudice an agency's ability to obtain confidential information.

138. The considerations above at paragraphs 132 - 134 is applicable to this factor. If disclosed, such information may have a chilling effect on employee engagement with similar processes in the future.

139. I afford this factor significant weight.

¹⁴ [DK and Community Services Directorate \[2025\] ACTOFOI 7](#)

Balancing the factors

140. Having identified public interest factors favouring disclosure and factors favouring nondisclosure, I now must consider the public interest balancing test set out in s 17 of the FOI Act.

141. I have identified 5 public interest factors favouring disclosure are relevant to the information at issue. I attribute moderate weight to 3 public interest factors favouring disclosure and minor weight to the remaining 2 factors favouring disclosure.

142. Balancing public interest factors is not simply a case of quantifying the number of relevant factors for disclosure and non-disclosure, with the higher quantity being considered in the public interest. The decision-maker's task is to consider the relative importance and weight of each factor identified; the weight given to a factor will depend on the effect that disclosing the information has on the public interest.

143. The FOI Act has a pro-disclosure bias, and as a result, the public interest test should not be approached on the basis that there are empty scales in equilibrium, waiting for arguments to put on each side. Rather, the scales are 'laden in favour of disclosure'.

144. I identified 3 public interest factors favouring nondisclosure of the information at issue. I attribute significant weight to all 3 factors.

Conclusion

145. On balance, the public interest factors favouring nondisclosure outweigh the public interest factors favouring disclosure.

Decision

146. For the reasons set out above in this decision, I **confirm** UC's decision under s 82(2)(a) of the FOI Act.

Iain Anderson

ACT Ombudsman

31 October 2025