

2018

Community Services Directorate

**Notice provided to the Ombudsman under section 39 of the
Freedom of Information Act 2016**

**Presented by
Rachel Stephen-Smith MLA
Minister for Children, Youth and Families**



ACT
Government

Community Services

Mr Michael Manthorpe PSM
ACT Ombudsman
Email: actfoi@ombudsman.gov.au

Dear Mr Manthorpe PSM,

FREEDOM OF INFORMATION REQUEST CYF 18/81 – DECISION NOT MADE IN TIME

I refer to an access application received by the Community Services Directorate (the Directorate) on 2 October 2018 made under the *Freedom of Information Act 2016* (the Act).

The scope of the application relates to personal affairs and has not been provided due to privacy concerns, however can be discussed with the Ombudsman's Office if required.

I am writing to inform you that a decision in regards to release of the requested information was not made in the time allowed under section 40 or extended under section 41 of the Act.

On 10 October 2018, the Directorate sought an extension of time from the applicant under section 41(1) of the Act of 45 working days, noting that there were 41 FOI access applications in the system at the time of receipt. The applicant notified the Directorate that she did not agree to an extension of time.

Due to the volume, size and complexity of FOI access applications received by the Directorate, a 45 working day extension is routinely negotiated with each applicant on receipt of their application. The majority of the Directorate's applicants agree to extensions of time or a staged release of information, and appreciate that the Directorate treats all applicants equally in order of receipt of submission, ensuring a fair process.

The Directorate contacted the applicant again on 29 October 2018 to further request an extension of time. The applicant was informed that due to the number of applications received in advance of hers, it will not be finalised by the due date. The applicant again did not agree to extend the time for the Directorate to decide her access application. The applicant was informed her application will now fall into a deemed refusal and the Ombudsman would be notified.

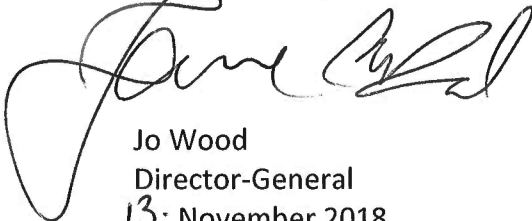
Due to the large number of FOI access applications being processed, the Directorate was unable to make a decision on the access application by the due date of 30 October 2018.

The Directorate did not apply to the Ombudsman for an extension of time pursuant to section 42 (1) of the FOI Act. The Directorate is aware that an extension of time granted by the Ombudsman must not be longer than 15 working days. Due to the volume, size and complexities of FOI access application currently being processed by the Directorate and the complexities of this request, a decision on this application would not be made by 20 November 2018 if this extension had been granted by the Ombudsman. Had an extension been granted the result would remain a deemed refusal. The Directorate recognises the current limitations of the FOI Act with regard to the Ombudsman's ability to extend the timeframe to decide an access application.

Despite the time to decide having expired, the Directorate will continue to deal with the access application and give notice of a decision on the application to the applicant as soon as possible.

The Directorate has also written to the applicant to advise of the deemed refusal process.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jo Wood', with a large, stylized loop at the end.

Jo Wood

Director-General

13 November 2018