

**2021**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Community Services Directorate Notice provided to the Ombudsman under section 39 of  
the Freedom of Information Act 2016 –**

**FOI Ref: HOU-20/19**

**Presented by  
Rebecca Vassarotti MLA**

**Minister for Homelessness and Housing Services**

**April 2021**





**ACT**  
Government  
Community Services

Mr Michael Manthorpe  
ACT Ombudsman

Via email: [ACTFOI@act.gov.au](mailto:ACTFOI@act.gov.au)

Dear Mr Manthorpe

**FREEDOM OF INFORMATION REQUEST FOI-HOU-20/19 – DECISION NOT MADE IN TIME**

I refer to an access application received by the Community Services Directorate on 9 October 2020 made under the *Freedom of Information Act 2016* (the Act), seeking access to documents relating to the applicant's tenancy with ACT Housing.

I am writing to inform you that a decision in regard to release of requested information was not made in the time allowed under section 40 or extended under section 41 or section 42 of the Act.

On 20 October 2020, the Directorate wrote to the applicant requesting an extension of 45 working days and advising that if the Directorate had not heard from her by 29 October 2020 the Directorate will proceed on the basis that she had agreed to the additional days.

The applicant did not respond, and the revised due date of 13 January 2020 was taken to be agreed to.

On 19 November 2020, the applicant wrote to the Directorate advising that she did not agree to the extension of time. In her email, she cited her 'nervous and traumatic collapse' as a result of the actions of Housing ACT as contributing to her inability to respond in time to the Directorate's request for an extension of time and noted she did not agree to the 45 day working day extension.

Although the applicant's response is outside the nominated response time to object to the extension, and that the Act under section 41 provides the Directorate the ability to grant an extension without a response, the Directorate has proceeded on the basis that the applicant's objection should nonetheless be noted and actioned, due to her reasoning for not being able to respond within the requested timeframe.

This has resulted in this application now being classified as deemed to make a decision under the Act as the Directorate has not responded by the deadline of 6 November 2020.

As noted previously, 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 did not apply to the Ombudsman for an extension of time pursuant to section 42(1) of the FOI Act, as the access application does not meet the requirements under section 42(2) of the FOI Act.

Despite the time to decide having expired, the Directorate has allocated an FOI Officer to this matter and processing is underway.

The Directorate will make contact with the applicant to explain this process and reassure her that her application has been allocated and will be processed as soon as practicable.

Yours sincerely



Jo Wood  
Director-General  
Community Services Directorate  
10 December 2020