

2018

**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**

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



ACT

Government

Community Services

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

Dear Mr Manthorpe PSM,

FREEDOM OF INFORMATION REQUEST CYF 18/50 – DECISION NOT MADE IN TIME

I refer to an access application received by the Community Services Directorate (the Directorate) on 4 May 2018 made under the *Freedom of Information Act 2016* (the Act), seeking.

The scope of the application 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 8 May 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 33 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.

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 4 June 2018.

The Directorate contacted the applicant again on 31 May 2018, to request a small extension of time. The applicant was informed that her application was nearing completion however, due to the number of applications received in advance of hers it was unlikely to be finalised by the due date. The applicant did not agree to extend the time for the Directorate to decide her access application.

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. However, the Directorate believes that a decision on the

access application could have been completed had the Ombudsman been able to grant an additional 15 working days. 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.

The applicant contacted the Directorate on 6 June 2018, to enquire about her next course of action, as the information she had requested was not provided to her within the statutory timeframe. The applicant was informed of the process, including the requirement of the Directorate to make a tabling statement at the next Assembly sitting. The applicant was also provided information on how to contact the Ombudsman regarding her review rights.

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.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Mitcherson', with a long horizontal stroke extending to the right.

Bernadette Mitcherson
Director-General

14 June 2018