

2025

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

ELEVENTH ASSEMBLY

**Community Services Directorate Notice provided to the Ombudsman – FOI-HOU-25/8
- pursuant to section 39 of the Freedom of Information Act 2016**

**Presented by
Yvette Berry MLA
Minister for Homes and New Suburbs
June 2025**

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ACT
Government
Community Services

Mr Iain Anderson
ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

Our reference: DBC-25/418

Dear Mr Anderson,

FREEDOM OF INFORMATION REQUEST – DECISION NOT MADE IN TIME

Ref: FOI-HOU-25/8

I refer to an access application received by the Community Services Directorate (the Directorate) made under the Freedom of Information Act 2016 (the FOI Act), in which the applicant sought the following information:

'I want reports of law enforcement (AFP) reports and emergency services reports for the property next door to where I live at XXXX. There was a fire there recently, and also there has been a lot of crime (evidenced by, among other things, police cars). Housing ACT, whose tenants live in the property, is not keeping me informed. My apartment is on the boundary next to XXXX so my children and I are directly affected.'

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

I am writing in accordance with section 39 (1) (c) of the FOI Act, to inform you that a decision regarding the release of requested information for the abovementioned application, was not made in the time allowed under section 40.

The time to decide the application under section 40 of the FOI Act was 1 April 2025.

Background

Due to the volume, size and complexity of FOI access applications received by the Directorate, a 60 working days extension is negotiated with the applicant upon receipt of a valid application. Most applicants agree to extensions of time and appreciate that the Directorate treats all applicants equally in order of receipt of submission ensuring that no applicant is disadvantaged because of the size or complexity of their application. In this matter, the applicant did not agree to an extension of time.

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 did not meet the requirements under section 42 (3) of the FOI Act.

The scope provided by the applicant, in its current form, would entail a large-scale search of both Community Services Directorate and Justice and Community Safety Directorate records, with significant impact on both Directorates. The scope requested did not provide sufficient information to enable a targeted search of records and would impose an excess burden on public resources, outweighing the public interest.

On 25 March 2025, the Directorate contacted the applicant to discuss a potential revision of the scope, however the applicant was unwilling to discuss or provide a revised scope.

On 31 March 2025, the Directorate provided the applicant with a Notice of Intention to Refuse (NOITR) letter (under Section 46 (1) (b) of the FOI Act) advising of the Directorate's intention to refuse to deal with the access application, on the grounds that dealing with the application would require an unreasonable and substantial diversion of resources (under Section 43 (1) (a) of the FOI Act). The NOITR provided the applicant with a consultation period of 10 working days, to 14 April 2025, to consider and re-scope the request. The applicant did not respond to the consultation.

The application became a deemed refusal on 15 April 2025.

While section 39 (3) of the FOI Act provides a respondent may continue to deal with an application and give notice of decision, this does not apply to a decision to refuse to deal with an application. Therefore, the Directorate will not continue to deal with this application.

The Directorate has advised the applicant of the deemed refusal.

Yours sincerely



Catherine Rule
Director-General
Community Services Directorate
27 May 2025