

2019

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 (CYF-20/20)**

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



ACT
Government

Community Services

Michael Manthorpe
ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Mr Manthorpe, ^{Michael}

FREEDOM OF INFORMATION REQUEST – DECISIONS NOT MADE IN TIME
Our reference: CYF 20/20.

I refer to an access application received by the Community Services Directorate (the Directorate) on 22 September 2019, made under the *Freedom of Information Act 2016* (the Act) seeking documents relating to the safety of the applicant's children.

The scope of this access 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 in accordance with section 39 (1) (c) of the FOI Act to notify you that a decision regarding the release of the requested information was not made in the time allowed under the FOI Act (sections 40, 41 and or 42).

The time to decide this application under section 40 of the Act was 21 October 2019.

Background

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 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.

On 22 September 2019, the Directorate was processing 31 access applications that were received ahead of the applicant's. Five of the 31 access applications being processed were submitted by the applicant. These applications have been identified either as extremely large and/or complex.

The applicant stated in her application on 22 September 2019, that she will not agree to any requests for additional time to decide her access application. As such the Directorate did not seek any agreement for additional time from the applicant.

A respondent to an access application may apply to the Ombudsman for an extension of time under section 42 of the FOI Act, if:

- a) the respondent has asked the applicant for additional time under section 41; and
- b) the applicant has refused the request; or
- c) there are other exceptional circumstances.

On this occasion the Directorate did not apply to the Ombudsman for an extension of time. The Directorate decided to continue processing the request and to provide the information to the applicant ahead of her five other access applications, rather than cease processing to fulfil additional statutory requirements.

Despite the time to decide having expired, the Directorate continued to process this application in order to assist the applicant to receive information progressively, noting that several of the applications currently being processed for this applicant are extremely large and will take several months to complete. A decision on access has now been provided to the applicant.

Yours sincerely

RMCross

Rebecca Cross
Director-General
Community Services Directorate

13 November 2019