

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: CYF-20/64 & CYF-20/67, CYF-20/74, CYF-20/16

**Presented by
Rachel Stephen-Smith MLA
Minister for Families and Community Services
February 2021**



Mr Michael Manthorpe
ACT Ombudsman
michael.manthorpe@ombudsman.gov.au

Dear Mr Manthorpe

FREEDOM OF INFORMATION REQUEST CYF 20/64 and CYF 20/67 - DECISION NOT MADE IN TIME

I refer to two access applications received by the Community Services Directorate (the Directorate) from the same applicant on 15 & 29 May 2020, made under the *Freedom of Information Act 2016* (the FOI Act).

The applicant sought the following information:

*"All communications between the Community Services Directorate, regarding *Applicant or *Applicant aka1 or Applicant aka2 and her Working with Vulnerable People registration, including communications from Carol Harrison, Jodie Robinson, Helen Pappas, Tina Brendas and Leonie McKenna."; and*

*"1. Contents of "*Applicant folder" referred to in email of Tuesday 14 January 2020 from Craig Rose to Andrew Trevaskis; and
2. Contents of "*Applicant' personal file" referred to in email of Monday 13 January 2020 from Jodie Robinson to Craig Rose."*

*De-identified

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 either applications, was not made in the time allowed under section 40.

The time to decide these applications under section 40 of the Act were 16 June 2020 and 30 June 2020 respectively.

The Directorate contacted the applicant via email on 28 May 2020 and 15 June 2020, seeking an extension of time under section 41 (1) of the FOI Act. The applicant responded via email on both dates and did not agree to either request.

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 these access applications by their respective due date of 16 and 30 June 2020.

Please note this particular applicant has submitted seven (7) FOI applications this year and has not agreed to an extension of time for any of applications on each occasion.

The Directorate did not apply to the Ombudsman for an extension of time pursuant to section 42 (1) of the FOI Act, as neither access application meets the requirements under section 42 (2) of the FOI Act.

Despite the time to decide having expired, the Directorate will continue to deal with both applications and give notice of a decision on each application once completed.

The Directorate has written to the applicant to advise of the deemed refusal for both applications

Yours sincerely

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

Jo Wood
Director General
Community Services Directorate
7 July 2020



ACT

Government

Community Services

Mr Michael Manthorpe
ACT Ombudsman
GPO Box 442
Canberra ACT 2601

Dear Mr Manthorpe

FREEDOM OF INFORMATION REQUEST CYF 20/74 - DECISION NOT MADE IN TIME

I refer to an access application received by the Community Services Directorate (the Directorate) on 24 June 2020, made under the *Freedom of Information Act 2016* (the FOI Act).

The applicant sought the following information:

*"Records of all communications between November 2018 and June 2020 referencing *Applicant or *Applicant AKA and Liz Pallas, CYPs"*

*De-identified

The scope of this access application relates to personal affairs and the applicant's name 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 either applications, was not made in the time allowed under section 40.

The time to decide the application under section 40 of the Act was 22 July 2020.

The Directorate contacted the applicant via email on 7 July 2020, seeking an extension of time under section 41(1) of the FOI Act. The applicant responded via email and did not agree to the request.

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 this access application by the due date of 22 July 2020. At the time of writing this letter, there are 11 applications which have been received before this current application. However, prior to the application being allocated to an FOI Officer, administration processing has commenced to seek and scan documentation within the scope in preparation for allocation.

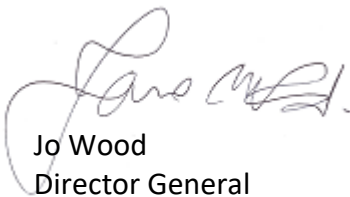
Please note this particular applicant has submitted seven (7) FOI applications this year and has not agreed to an extension of time for any of these applications. This applicant also has an application for review being undertaken by your office in relation to two other deemed applications. Please note that application CYF-20/64 has recently been allocated and processing has commenced for this application.

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

Despite the time to decide having expired, the Directorate will continue to deal with all applications received by this applicant and give notice of a decision on each application once completed.

The Directorate has written to the applicant to advise of the deemed refusal for this application.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jo Wood', is written over a faint circular stamp or watermark.

Jo Wood
Director General
Community Services Directorate
7 August 2020



ACT
Government
Community Services

Mr Michael Manthorpe
ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Dear Mr Manthorpe

FREEDOM OF INFORMATION REQUEST – DECISION NOT MADE IN TIME

Ref: FOI-CYF-20/16

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:

“All of my personal information and records relating to CYPS (if any exists).”

The scope of this access application relates to personal affairs and the applicant’s name 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 applications under section 40 of the Act was **19 October 2020**.

The Directorate contacted the applicant via email on 23 September 2020 to advise the information sought was classified as sensitive information under the *Children and Young People Act 2008* (CYP Act) and prohibited from being released under the *Freedom of Information Act 2016* (FOI Act). A request was made to withdraw the application, however the applicant stated they would prefer to continue with their application.

To assist the applicant, and in consultation with Child and Youth Protection Services (CYPS), the Freedom of Information Officer sought to move the application to an informal response. While sensitive and protected information is prohibited from being released under the FOI Act, there are certain delegations under the CYP Act (s850 Minister or Director General – Giving of Information to Person about the Person) where staff of CYPS can discuss certain matters directly with a client. This approach would have provided the

applicant with some information in this instance. An additional benefit of the informal response would have been a reduced wait time for the applicant and the removal of the formal process of an FOI decision in which no information could be given to the applicant under the FOI Act.

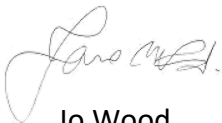
The Freedom of Information Officer and CYPS worker attempted on multiple occasions to contact the applicant. To date, the applicant has not responded. An extension was not requested from the applicant as the intention was to provide information informally and due to multiple unsuccessful attempts to contact the applicant, the application became a deemed refusal on 20 October 2020.

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

Despite the time to decide having expired, the Directorate continued to deal with the application and a notice of decision was sent to the applicant on 18 November 2020.

The Directorate advised the applicant of the deemed refusal.

Yours sincerely

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

Jo Wood
Director General
Community Services Directorate
10 December 2020