

2024

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

ELEVENTH ASSEMBLY

**Community Services Directorate Notice provided to the Ombudsman – FOI-CYF-22/58
- pursuant to section 39 of the Freedom of Information Act 2016**

**Presented by
Michael Pettersson MLA
Minister for Children, Youth and Families
December 2024**

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Mr Iain Anderson
ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

OUR REF: DBC-24/939

FOI-CYF-22/58

Dear Mr Anderson,

FREEDOM OF INFORMATION REQUEST – DECISION NOT MADE IN TIME

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

“We request a complete copy of child protection records in relation to our client (the applicant). Could health records related to (the applicant) also be provided with this request.”

The scope of this application relates to personal affairs and the applicant’s name has therefore not been provided due to privacy concerns, however, can be discussed with your 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 the requested information was not made in the time allowed under section 40.

The date to decide the application under section 40 of the FOI Act was 18 October 2023.

Background

Due to the volume and complexity of FOI access applications received by CSD, an extension may be negotiated with each applicant upon receipt of a valid application. Most applicants agree to extensions of time and appreciate CSD 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.

Several extensions were negotiated for this application. On 1 November 2022, an FOI Officer wrote to the applicant and requested an extension of time to allow CSD to process the application by 18 October 2023 from the original due date of 16 November 2022. This extension was consented to by the applicant.

On 17 October 2023, CSD sought an extension until 27 March 2025, to enable the application to be processed by way of staged release. The extension was sought from the Ombudsman as the application had reached the 12-month threshold. By letter of 2 November 2023, the Ombudsman granted the extension as requested on the condition that:

1. CSD must provide an application with a table of contents for the information before 1 February 2024;
2. CSD must allocate the application to an FOI officer for processing before 1 February 2024; and
3. Once allocated and assessed by the FOI officer, CSD must notify the Ombudsman and the application the date each stage of information will be provided to the applicant.

However, as the allocation was not anticipated before April 2024, CSD wrote to the Ombudsman on 1 February 2024 and requested that consideration be given to removing these conditions from the granted extension.

Despite the best estimate, the application was not allocated until 15 May 2024 and the applicant was notified of the due dates for the first 5 stages of the planned 9 stage releases.

On 12 July 2024, the Ombudsman responded by advising CSD of its decision to revoke the extension granted on 2 November 2023 as CSD did not comply with the extension condition under s42(6)(b) of the FOI Act. Consequently, the application has now become a deemed refusal as of 18 October 2023.

Previously CSD has continued to process applications despite the time to decide having lapsed. However, in this instance, having re-assessed the size of the application, the nature of the information concerned, and the current workload within the FOI team, in consideration of the staff's health and wellbeing, CSD will not continue to process the application on the grounds that it would be an unreasonable and substantial diversion of resources.

CSD recognises the importance for those placed into care to have access to their personal information. However, this needs to be balanced to provide timely outcomes to all FOI applicants.

CSD will advise the applicant of the deemed refusal, and the decision not to process the application. CSD will provide to the applicant copies of available Annual Review Reports which detail significant events in the applicant's life in care including history of the family involvement with child protection services, backgrounds, their placements, court orders in place at that time and case plans. The reports would enable the applicant to gain an overview of time in care, and can assist the applicant in potentially narrowing the scope to a reasonable size for any future FOI requests.

Yours sincerely



Catherine Rule
Director-General
Community Services Directorate

23 September 2024