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18 January 2018

Our reference: GI/2018/1
Contact: Jo Flanagan
Telephone: 0292860961

Maddison Connaughton
foi+request-4300-aad57732@righttoknow.org.au

Dear Mr Connaughton

Your application for access to documents under the *Government Information (Public Access) Act 2009* received on 9 January 2018

Summary of access application

On 9 January 2018, our office received your access application under the *Government Information (Public Access) Act 2009* (GIPA Act). The GIPA Act replaced the *Freedom of Information Act 1989 (NSW)* on 1 July 2010.

You have applied for the following information:

Summary statistics of the number of written complaints concerning the use of drug detection dogs submitted to the NSW Ombudsman between July 2006 and December 2017 – Copies of all written complaints from people who were affected by or concerned about the use of drug detection dogs, which were submitted to the NSW Ombudsman between January 2007 and December 2017.

I am authorised by the principal officer, for the purposes of s. 9(3) of the GIPA Act, to decide your access application.

Decision that the application is invalid

I cannot give you copies of the documents you ask for because information relating to the Ombudsman's complaint handling, investigative and reporting functions is specifically excluded from the GIPA Act. This means that a valid application for such information cannot be made.

Under the GIPA Act your application is not a valid application for the following reason:

You sought access to information that comprises 'excluded information' held by the NSW Ombudsman. Section 43 of the GIPA Act sets out that an application under that Act cannot be made for documents that concern certain functions of our office, as follows:

Section 43 of the GIPA Act sets out that an application under that Act cannot be made for documents that concern certain functions of our office, as follows:

43 Access application cannot be made for excluded information

(1) An access application cannot be made to an agency for access to excluded information of the agency.

Note. Information is excluded information of an agency if it relates to any function specified in Schedule 2 in relation to the agency.

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(2) An application for government information is not a valid access application to the extent that the application is made in contravention of this section.

Functions of the Ombudsman's office listed under clause 2 of Schedule 2 to the GIPA Act, are as follows:

2 Complaints handling and investigative information

.....

The office of Ombudsman—complaint handling, investigative and reporting functions (including any functions of the Ombudsman under the Community Services (Complaints, Reviews and Monitoring) Act 1993).

Review rights

If you are aggrieved by the decision that your access application is not valid, you may seek review under Part 5 of the GIPA Act. There are three avenues of review: internal review by a senior officer, external review by the Information Commissioner or external review by the Administrative and Equal Opportunity Division of the NSW Civil and Administrative Tribunal (NCAT).

You should note that the time for seeking an internal review is 20 working days or, for external review, 40 working days from the date you were notified of this decision. You do not have to ask for an internal review prior to applying to the Information Commissioner. The Information Commissioner cannot review a decision that has already been reviewed by the NCAT.

You may obtain further information about your rights under the GIPA Act by contacting the Information and Privacy Commission. Its contact details are:

Phone: 1800 472 679
Mail: GPO Box 7011
SYDNEY 2001
Email: ipcinfo@ipc.nsw.gov.au
Web: www.ipc.nsw.gov.au

The contact details for NCAT's Administrative and Equal Opportunity Division Registry are:

Phone: 1300 006 228 (option 3)
Visit/mail: Level 10 John Maddison Tower,
86-90 Goulburn Street,
Sydney NSW 2000
Website: <http://www.ncat.nsw.gov.au>

Yours sincerely



Josephine Flanagan
Senior Investigation Officer

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