



30 January 2024

Me Me

**By email:** foi+request-10669-850a60e5@righttoknow.org.au

Dear Me Me

### **Notice of decision under the *Government Information (Public Access) Act 2009***

I refer to your access application lodged under the *Government Information (Public Access) Act 2009* ('**GIPA Act**') with the Department of Communities and Justice ('**Department**').

#### **Summary of access application**

Your application was received on 7 September 2023. You requested the following information:

*May I please request the current or most recent FaCS policy or policies, which are not publicly available, that relate to:*

1. *Ch 15 of the Children and Young Persons Care and Protection Act 1998*
2. *Coercive powers available to FaCS to use against foster carers not covered by (1)*
3. *FaCS powers with regards to interviewing foster carers not covered by (1) or (2)*

On 14 September 2023, the Department advised that your application was not a valid access application because the application did not include an application fee of \$30.

On 18 September 2023, you paid the required application fee.

On 22 September 2023, the Department decided that your application was now a valid access application and advised that your application was required to be decided on or before 16 October 2023. However, the due date was extended by agreement to 31 January 2024.

#### **Decision**

An application for government information cannot be severed into both valid and invalid parts because an application must comply with all of the requirements in section 41(1)(a)-(e) to be a valid 'access application' within the meaning of section 4 of the GIPA Act. The words "the government information" in section 41(1)(e) mean all the requested government information, not a severable part of that information.

My decision of today's date is that your access application is invalid pursuant to section 41(e) of the GIP Act – that is the access application does not include information as it reasonably necessary to enable the government information applied to be identified.

Section 51(4) of the GIPA Act provides that acknowledging receipt of an application as a valid access application does not prevent the agency from subsequently deciding that the application is not a valid access application.

The reason for my decision that your application is invalid relates specifically to items 2 and 3 above. The following is unclear:

- What is meant by “Coercive powers available to FaCS to use against foster carers”
- What is meant by “FaCS powers with regards to interviewing foster carers”

Please clarify.

If you are not able to provide additional details about what information you are referencing in items 2 and 3 of your application, you may wish to consider withdrawing those points of your application.

We have retained your initial access application and your payment awaiting your response.

### **Due date of application**

I will advise you of a new decision date if and when the Department receives and accepts a valid scope for your access application.

If you do not agree that your application is invalid, you may seek a review of this decision. A fact sheet outlining your rights review is also enclosed for your convenience.

### **Further information**

If you have any questions, please do not hesitate to contact me by email at [infoandprivacy@dcj.nsw.gov.au](mailto:infoandprivacy@dcj.nsw.gov.au).

Yours sincerely

*J.Creyson*

Jordan Creyson  
**Open Government, Information and Privacy | Legal  
Law Reform and Legal Services**