



15 September 2023

Our ref: GIPA23 [REDACTED]

[REDACTED]
By email: [REDACTED]

Dear [REDACTED]

Formal Access Application - Notice of Decision

I refer to your Formal Access Application (access application) under the *Government Information (Public Access) Act 2009* (GIPA Act) that you lodged with the Department of Communities and Justice (the Department), and your subsequent email dated 28 July 2023, where you confirmed that you are requesting a copy of the following information:

1. *The number of executives each year from 2013 to 2023.*
2. *The amount spent by DCJ on executive remuneration each year during this period.*
3. *The number of caseworkers each year from 2013 to 2023.*
4. *The number of children's court matters delayed by more than a year as a consequence of delays in meeting the required documentation timelines?*

Documentation is defined as anything referred to what is known as "The Bundle", which include some or all of the following:

- i. *Referrals made for the family*
 - ii. *Risk assessments*
 - iii. *Safety assessments*
 - iv. *Contact records*
 - v. *Psychological reports*
 - vi. *Home visit records*
 - vii. *Relevant education/health records*
 - viii. *All phone calls to family*
5. *How many caseworkers are on long-term sick leave or workers compensation?*
6. *How many children are in Alternative Care Arrangements or other hotel or interim style arrangements? What is the overall or average cost to the taxpayer of this?*
7. *The number of OOHC children placed with carers over the age of 70?*
8. *The number and location of CSCs that are unable to take on new cases due to staffing shortfalls.*

Access decision

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

I have decided:

- Under section 58(1)(a) of the GIPA Act, to provide access to some of the information sought in your access application.
- Under section 58(1)(b) of the GIPA Act that the information is not held by the Department.
- Under section 58(1)(c) of the GIPA Act that some of the information is already available to the applicant (see section 59).
- Under section 75 of the GIPA Act, to create a new record in response to some parts of your access application and providing access to that information in accordance with section 58(1)(a) of the GIPA Act.

These decisions are reviewable under sections 80(d-f) of the GIPA Act.

The public interest test

The applicant has a legally enforceable right to access the information requested, unless there is an overriding public interest against disclosing the information (section 9(1) of the GIPA Act). The public interest balancing test for determining whether there is an overriding public interest against disclosure is set out in section 13 of the GIPA Act.

The general public interest consideration in favour of access to government information set out in section 12 of the GIPA Act means that this balance is always weighted in favour of disclosure. Section 5 of the GIPA Act establishes a presumption in favour of disclosure of government information.

Before deciding whether to release or withhold information, the Department must apply the public interest test and decide whether or not an overriding public interest against disclosure exists for the information.

I have made my decision in accordance with section 13 of the GIPA Act by:

- a. identifying relevant public interest considerations in favour of disclosure
- b. identifying relevant public interest considerations against disclosure
- c. attributing weight to each consideration for and against disclosure
- d. determining whether the balance of the public interest lies in favour of or against disclosure of the government information.

I have applied the public interest test in accordance with the principles set out in section 15 of the GIPA Act which are:

- a. in a way that promotes the objects of the GIPA Act
- b. with regard to any relevant guidelines issued by the Information Commissioner
- c. without taking into account the fact that disclosure of information may cause embarrassment to, or a loss of confidence in, the Government (as that fact is irrelevant)

- d. without taking into account the fact that disclosure of information might be misinterpreted or misunderstood by any person (as that fact is irrelevant)
- e. with regard to the fact that disclosure cannot be made subject to any conditions on the use or disclosure of information.

Public interest considerations in favour of disclosure

Section 12(1) of the GIPA Act sets out a general public interest in favour of disclosing government information, which must always be weighed in the application of the public interest test. The Department may take into account any other considerations in favour of disclosure which may be relevant (s12(2) GIPA Act).

In my view the following public interest considerations in favour of disclosure apply when considering the documents in issue:

- a. The statutory presumption in favour of the disclosure of government information.
- b. The general right of the public to have access to government information held by agencies.
- c. Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.
- d. Disclosure of the information could reasonably be expected to inform the public about the operations of agencies and, in particular, their policies and practices for dealing with members of the public.
- e. Disclosure of the information could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed the decision.

Searches for information

In processing your application, I have taken into account the obligations referred to in section 53 of the GIPA Act, which states:

53 Searches for information held by agency

- (1) The obligation of an agency to provide access to government information in response to an access application is limited to information held by the agency when the application is received.*
- (2) An agency must undertake such reasonable searches as may be necessary to find any of the government information applied for that was held by the agency when the application was received. The agency's searches must be conducted using the most efficient means reasonably available to the agency.*
- (3) The obligation of an agency to undertake reasonable searches extends to searches using any resources reasonably available to the agency including resources that facilitate the retrieval of information stored electronically.*
- (4) An agency is not required to search for information in records held by the agency in an electronic backup system unless a record containing the information has been lost to the agency as a result of having been destroyed, transferred, or otherwise dealt with, in contravention of the [State Records Act 1998](#) or contrary to the agency's established record management procedures.*
- (5) An agency is not required to undertake any search for information that would require an unreasonable and substantial diversion of the agency's resources.*

I will now respond to each point of your access application, detailing the searches conducted.

Points 1 to 3

In relation to Point 1, 2 and 3 of your access application, I liaised with Workforce Strategy Inclusion & Systems, and Family and Community Services Insights, Analysis & Research (FACSIAR) within the Department.

In accordance with section 58(1)(c) of the GIPA Act, the Department may decide that government information is already available to the applicant, but only on one of the grounds set out in section 59(1) of the GIPA Act. When making such a decision, the Department is not required to provide access to the information that is already available to the applicant, but the Department must indicate why it believes the information is already available to the applicant and, if necessary, how the information can be accessed (see section 59(2) of the GIPA Act).

The grounds on which a decision that information is already available to an applicant include circumstances where the information is publicly available on a website (see section 59(1)(e) of the GIPA Act). I have decided on these grounds that the information requested in Points 1 to 3 of this access application is already available to the applicant because the information is publicly available on a website.

The Director, Workforce Strategy Inclusion & Systems has advised that the number of executives and average salaries are included in the Department's Annual Report. This information is located in Part 3 of the Annual Report at the section titled 'Human Resources'. The Department's Annual Reports can be found at:

<https://dcj.nsw.gov.au/resources/annual-reports.html>

<https://www.facs.nsw.gov.au/resources/publications/annual-reports>

FACSIAR have advised that information about the numbers of caseworkers is publicly available via the Caseworker dashboard on the Department's website at:

https://public.tableau.com/app/profile/dcj.statistics/viz/DCJCaseworkerDashboardPublic_16831720791260/DCJCaseworkerDashboard

Points 4 and 8

In relation to Point 4 of your access application, a search request was sent to the Department's Child Law team, within DCJ Legal, which advised that this data is not collected by the Department.

In relation to Point 8, a search request was sent to Cross Cluster Operations and Business Support who advised that the Department does not hold this information. Cross Cluster Operations and Business Support advised that all Community Service Centres across the state continue to allocate new families for assessment based on the safety and risk concerns identified in the risk of significant harm reports received at the Child Protection Helpline.

In accordance with section 58(1)(b) of the GIPA Act, I have decided that the information sought at Points 4 and 8 of your access application is not held by the Department.

Point 5

I confirm a search request was sent to Workers Compensation, Safety and Wellbeing within the Department and they confirmed that data relating to the number of caseworkers who are on long term workers compensation is available across multiple data sources and not in a record the Department already holds. Workers Compensation, Safety and Wellbeing advised that *long term* is defined as a duration greater than 6 months.

I have taken into consideration section 75 of the GIPA Act, which provides that although there is no obligation to provide access to government information by way of creating a new record or document, an agency is not prevented from doing so.

Therefore, I have used my discretion on this occasion to create a new record pursuant to section 75 of the GIPA Act to respond to Point 5 of your access application.

This information is available at the end of this notice, and is titled **Attachment A**.

Point 6

I confirm that a search request was sent to the Strategy and Implementation Unit, within the Department, which confirmed that in accordance with section 58(1)(b), the Department does not hold information relating to the overall or average cost to the taxpayer of children in Alternative Care Arrangements (ACA).

The Strategy and Implementation Unit has advised the Department cannot provide the average cost of children in ACA because the cost depends on the care arrangement, and the child's individual needs, meaning ACA costs are not directly comparable between children and any average would be effectively meaningless. General information about the cost of the Department's Permanency Support Program services is available at:

<https://www.dcj.nsw.gov.au/service-providers/oohc-and-permanency-support-services/contract-and-funding/funding-and-financial-support.html>.

In relation to the number of children in ACA, I have taken into consideration section 75 of the GIPA Act, which provides that although there is no obligation to provide access to government information by way of creating a new record or document, an agency is not prevented from doing so.

Therefore, I have used my discretion on this occasion to create a new record pursuant to section 75 of the GIPA Act to respond to this specific aspect of Point 6 of your access application. This information is available at the end of this notice and is titled '**Attachment B**'.

Point 7

I confirm that a search request was sent to FACSIAR who advised that the information sought is available across multiple data sources and not in a record the Department already holds.

I have taken into consideration section 75 of the GIPA Act, which provides that although there is no obligation to provide access to government information by way of creating a new record or document, an agency is not prevented from doing so.

I have used my discretion on this occasion to create a new record pursuant to section 75 of the GIPA Act to respond to Point 7 of your access application. This information is available at the end of this notice and is titled '**Attachment C**'.

Review rights

If you disagree with any of the decisions in this notice, you may seek a review under Part 5 of the GIPA Act.

You have three review options:

- internal review by another officer of this agency, who is no less senior than me
- external review by the Information Commissioner, or
- external review by the NSW Civil and Administrative Tribunal (NCAT).

You have 20 working days from the date of this Notice to apply for an internal review.

If you would prefer to have the decision reviewed externally, you have 40 working days from the date of this Notice to apply for a review by the Information Commissioner or the NCAT.

If you have any questions about this notice of decision, please contact me at juliet.butterworth@dcj.nsw.gov.au.

Yours sincerely

Juliet Butterworth

Juliet Butterworth
OGIP Advisor
Open Government, Information and Privacy Unit
Department of Communities and Justice

Attachment A

Question

How many caseworkers are on long-term sick leave or workers compensation?

Answer:

There were 50 caseworkers on long term workers compensation for the 2022-2023 financial year.

Attachment B

Question

How many children are in Alternative Care Arrangements or other hotel or interim style arrangements?

Answer:

There were 126 children in ACA as at 30 June 2023.

Attachment C

Question

The number of OOHC children placed with carers over the age of 70?

Answer:

As at 30 June 2023, there were 1,264 children and young people placed in foster care/relative-kin carer households that included a carer aged 70 and over.