

## Appendix 7 Right to information

### Obligations under the *Government Information (Public Access) Act 2009 (NSW)*

Under section 7 of the *Government Information (Public Access) Act 2009 (NSW)*, agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

Our agency's program for the proactive release of information involves providing information on the Legal Aid NSW website. During the reporting period, we uploaded additional documents to the site and will continue to update the site regularly.

### Number of access applications received

During the reporting period, our agency received a total of 39 formal access applications (including withdrawn applications but not invalid applications).

### Number of refused applications for Schedule 1 information

During the reporting period, our agency refused six formal access applications (either wholly or partly) because the information requested was information referred to in Schedule 1 to the *Government Information (Public Access) Act 2009 (NSW)*.

#### **Table A: Number of applications by type of applicant and outcome\***

*\*Excludes three records that were invalid. This also applies to Table B.*

|  | Access<br>granted<br>in full | Access<br>granted<br>in part | Access<br>refused<br>in full | Information<br>not held | Information<br>already<br>available | Refuse to<br>deal with<br>application | Refuse to<br>confirm/<br>deny<br>whether<br>information<br>is held | Application<br>withdrawn |
|--|------------------------------|------------------------------|------------------------------|-------------------------|-------------------------------------|---------------------------------------|--|--------------------------|
| Media  | 1                            | 1                            | 0                            | 0                       | 0                                   | 0                                     | 0  | 0                        |
| Members of parliament                                  | 0                            | 0                            | 0                            | 0                       | 0                                   | 0                                     | 0  | 0                        |
| Private sector business                                | 0                            | 1                            | 0                            | 0                       | 0                                   | 0                                     | 0  | 0                        |
| Not-for-profit<br>organisations or<br>community groups | 0                            | 2                            | 0                            | 0                       | 0                                   | 0                                     | 0  | 0                        |
| Members of the public<br>(by legal representative)     | 4                            | 4                            | 0                            | 3                       | 0                                   | 3                                     | 0  | 3                        |
| Members of the public<br>(other)                       | 4                            | 9                            | 1                            | 0                       | 0                                   | 2                                     | 0  | 1                        |
| <b>Total</b>   | <b>9</b>                     | <b>17</b>                    | <b>1</b>                     | <b>3</b>                | <b>0</b>                            | <b>5</b>                              | <b>0</b>   | <b>4</b>                 |

|   | Access<br>granted<br>in full | Access<br>granted<br>in part | Access<br>refused in<br>full | Information<br>not held | Information<br>already<br>available | Refuse to<br>deal with<br>application | Refuse to<br>confirm/<br>deny<br>whether<br>information<br>is held | Application<br>withdrawn |
|---|------------------------------|------------------------------|------------------------------|-------------------------|-------------------------------------|---------------------------------------|--|--------------------------|
| Access applications<br>(other than personal<br>information applications)                        | 0                            | 5                            | 1                            | 1                       | 0                                   | 1                                     | 0  | 0                        |
| Access applications that<br>are partly personal<br>information applications<br>and partly other | 1                            | 5                            | 0                            | 2                       | 0                                   | 2                                     | 0  | 0                        |
| Personal information<br>applications*   | 8                            | 7                            | 0                            | 0                       | 0                                   | 2                                     | 0  | 4                        |
| <b>Total</b>  | <b>9</b>                     | <b>17</b>                    | <b>1</b>                     | <b>3</b>                | <b>0</b>                            | <b>5</b>                              | <b>0</b>   | <b>4</b>                 |

\*A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

\*More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E

| Reason for invalidity   | Number of applications |
|---|------------------------|
| Application does not comply with formal requirements (section 41 of the Act)      | 4                      |
| Application excluded information of the agency (section 43 of the Act)            | 0                      |
| Application contravenes restraint order (section 110 of the Act)                  | 0                      |
| Total number of invalid applications received                                     | 4                      |
| <b>Number of invalid applications that subsequently became valid applications</b> | <b>1</b>               |

**Table D: Conclusive presumption of overriding public interest against disclosure – matters listed in Schedule 1 to the Act** Number of times consideration used\*

|   |          |
|---|----------|
| Overriding secrecy laws                               | 5        |
| Cabinet information                                   | 0        |
| Executive Council information                         | 0        |
| Contempt  | 0        |
| Legal professional privilege                          | 1        |
| Excluded information                                  | 0        |
| Documents affecting law enforcement and public safety | 0        |
| Transport safety                                      | 0        |
| Adoption  | 0        |
| Care and protection of children                       | 0        |
| Ministerial code of conduct                           | 0        |
| Aboriginal and environmental heritage                 | 0        |
| <b>Total</b>  | <b>6</b> |

**Table E: Other public interest considerations against disclosure – matters listed in the table to section 14 of the Act** Number of occasions when the application was not successful

|  |           |
|--|-----------|
| Responsible and effective government                                 | 7         |
| Law enforcement and security   | 1         |
| Individual rights, judicial processes and natural justice            | 13        |
| Business interests of agencies and other persons                     | 7         |
| Environment, culture, economy and general matters                    | 0         |
| Secrecy provisions   | 4         |
| Exempt documents under interstate Freedom of Information legislation | 0         |
| <b>Total</b>   | <b>32</b> |

**Table F: Timeliness** Number of applications

|  |           |
|--|-----------|
| Decided within the statutory timeframe (20 days plus any extensions) | 38        |
| Decided after 35 days (by agreement with the applicant)              | 1         |
| Not decided within time (deemed refusal)                             | 0         |
| <b>Total</b>   | <b>39</b> |

| <b>Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)</b> | <b>Decision varied</b> | <b>Decision upheld</b> | <b>Total</b> |
|---|------------------------|------------------------|--------------|
| Internal review   | 1                      | 0                      | 1            |
| Review by Information Commissioner*   | 0                      | 0                      | 0            |
| Internal review following recommendation under section 93 of the Act                                    | 0                      | 0                      | 0            |
| Review by NCAT  | 0                      | 0                      | 0            |
| <b>Total</b>  | <b>1</b>               | <b>0</b>               | <b>1</b>     |

*\*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.*

| <b>Table H: Applications for review under Part 5 of the Act (by type of applicant)</b>                            | <b>Number of applications for review</b> |
|---|--|
| Applications by access applicants   | 1  |
| Applications by persons to whom information the subject of access application relates (see section 54 of the Act) | 0  |
| <b>Total</b>  | <b>1</b>                                 |

| <b>Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)</b> | <b>Number of applications transferred</b> |
|--|---|
| Agency-initiated transfers   | 0   |
| Application-initiated transfers  | 0   |
| <b>Total</b>   | <b>0</b>                                  |