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17 March 2020



Our Ref: GIPA19/

Dear

Formal Access Application - Notice of Decision

I refer to your application under the *Government Information (Public Access) Act 2009* (the GIPA Act), lodged with the Department of Communities and Justice (the department), and the subsequent email from of your office, where the scope of your application was amended to request access to the following information:

- *The number of DCJ Housing tenants paying in excess of 30% of their gross household income in rent as at 30 June 2019.*
- *The number of households receiving Rent Choice or any other Private Rental Assistance products paying in excess of 30% of their gross household income on rent as at 30 June 2019.*

In my letter dated 6 March 2020, I advised you that processing charges, totalling \$75.00, were required for dealing with your access application. I confirm that the full payment of the processing charges was received by the department on today's date.

Section 53 of the GIPA Act requires that reasonable searches be conducted to identify the government information held by the department that falls within the scope of the access application.

In accordance with the obligations outlined in section 53 of the GIPA Act, I liaised with Family and Community Services Insights, Analysis and Research Unit (FACSIAR) and Housing Statewide Services (HSS). Searches were conducted of the respective data bases to identify information responsive to your access application. A document specifically responding to the two points of your access application were not held by DCJ.

However FACSIAR and HSS were able to source and extract the relevant data from the department's information technology system, HOMES, including the Electronic Data Warehouse (EDW), to provide information responsive to part of your request for information.

I am authorised pursuant to section 9(3) of the GIPA Act to make a decision in response to a formal access application. I have carefully considered your request in view of the objects of the GIPA Act where you have a legally enforceable right to obtain information, unless there is an overriding public interest against disclosure of the subject information.

In relation to the first point of your request, I have decided pursuant to section 58(1)(a) of the GIPA Act to provide you with full access to the information falling within the scope of your access application.

In relation to the second point of your request, I have decided pursuant to section 58(1)(b) of the GIPA Act that the information you have requested is not held by this agency.

These decisions are reviewable, pursuant to section 80 of the GIPA Act.

Public interest considerations

An 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.

I applied the public interest test by:

- a) identifying any public interest considerations in favour of disclosure;
- b) identifying any relevant public interest considerations against disclosure;
- c) attribute weight to each consideration for and against disclosure; and
- d) deciding where the balance between them lies.

Public interest considerations in favour of disclosure

The following are a number of public interest factors I considered which favour disclosure of the information requested:

- 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.
- 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.
- Disclosure of the information could reasonably be expected to ensure effective oversight of the expenditure of public funds.

Access decision

I will now respond to each point of your request in turn:

- **The number of DCJ Housing tenants paying in excess of 30% of their gross household income in rent as at 30 June 2019**

In responding to the first point of your access application, 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 in 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 your request. The information has been provided to you in the attachment titled 'Attachment A'.

I have decided in accordance with section 58(1)(a) of the GIPA Act, to provide you with access to the information requested.

Please note that in relation to point 1 of your request, if a client's subsidy eligibility is over 30% of their total household income, the department will charge the client market rent.

Further information about the Charging Rent policy can be found at <https://www.facs.nsw.gov.au/housing/policies/charging-rent-policy>.

- **The number of households receiving Rent Choice or any other Private Rental Assistance products paying in excess of 30% of their gross household income on rent as at 30 June 2019**

Answer to point 2:

The department is unable to provide a response to the second point of your access application.

For eligible clients, Rent Choice subsidies are calculated at 25% of the household's income for the first 12 months of receiving the product. At the end of the initial 12 month period, the household will begin to taper off the product, and will continue to taper between 25%-50% of the total household income.

However, the amount that a household is required to pay as the product is tapered, is calculated at a flat dollar amount based on the household's income, not on a percentage of the household's income.

Therefore, the department is unable to conduct a search based on households receiving Rent Choice, which are paying in excess of 30% of their household income.

Therefore, I have decided that, pursuant to 58(1)(b) of the GIPA Act, the department does not hold the information requested in point 2 of your access application.

Review Rights

If you are aggrieved by any of the reviewable decisions in this notice of decision, you may seek a review under Part 5 of the GIPA Act, by requesting any one of the following:

An internal review that must be lodged with Open Government, Information and Privacy within 20 working days of this notice of decision. You must lodge your internal review at the address shown at the bottom of the first page and must be accompanied by the appropriate application fee of \$40.

Alternatively, a request for an external review may be lodged with either the Information and Privacy Commission, or the NSW Civil and Administrative Tribunal. Please note that you must lodge your request for an external review within 8 weeks of this notice of decision.

If you have any questions regarding this notice, please contact me on telephone (02) 9716 3425.

Yours sincerely

Hayley Croft

Hayley Croft
Right to Information Officer
Open Government, Information and Privacy
Department of Communities and Justice

Attachment A

- **The number of DCJ Housing tenants paying in excess of 30% of their gross household income in rent as at 30 June 2019**

Answer to point 1:

8,016 households.