



NEW SOUTH WALES

ATTORNEY GENERAL

14 JUL 2009

The Hon Kerry Hickey MP  
Chair  
Committee on the Ombudsman  
and Police Integrity Commission  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

**COPY**

Dear Mr Hickey

The Parliament has recently enacted legislation to establish a new regime for public access to Government-held information that will replace the current *Freedom of Information Act 1989*.

In particular, the following legislation has been enacted:

- the *Government Information (Public Access) Act 2009*, to establish a regime to replace the FOI Act and promote pro-active disclosure of Government information;
- the *Government Information (Public Access) (Consequential Amendments and Repeal) Act 2009*, to repeal the FOI Act and make consequential amendments to other Acts; and
- the *Government Information (Information Commissioner) Act 2009*, to establish the new office of Information Commissioner.

Under the *Government Information (Information Commissioner) Act 2009*, the Joint Parliamentary Committee is to be responsible for overseeing the exercise by the Information Commissioner of his or her functions. The Committee is also to have a power of veto in respect of the appointment of the Information Commissioner.

Additional functions are to be conferred on the Committee by the *Government Information (Public Access) Act 2009*. In particular, the Committee will be charged with keeping certain provisions of that Act under ongoing review.

I am writing to let you know that the Government will shortly be commencing the *Government Information (Information Commissioner) Act 2009* and appointing his Honour, Judge Taylor AM RFD as acting Information Commissioner under section 11 of that Act.

As you will be aware, Judge Taylor is currently the Privacy Commissioner and has performed that role with great competence and dedication.

It is proposed that Judge Taylor will continue in his existing role as Privacy Commissioner concurrently with his position as acting Information Commissioner.

This appointment is being made as a transitional measure only. It is being made as an interim arrangement in advance of the commencement of the *Government Information (Public Access) Act 2009 (GIPA Act)*, which it is proposed will be commenced in early 2010.

The Government will shortly commence the public advertisement and selection process for the appointment of a permanent Information Commissioner, with a view to having a permanent office holder appointed under section 4 of the *Government Information (Information Commissioner) Act 2009* upon commencement of the GIPA Act.

In the meantime, the acting Information Commissioner's role will be to lead the establishment of the office of the Information Commissioner to ensure that, when the permanent Information Commissioner is appointed and the new GIPA Act regime becomes operational, an appropriate institutional framework to support that regime will already be in place.

The acting Information Commissioner's role will include:

- working with the Department of Premier and Cabinet, NSW Treasury, the Attorney-General's Department and other relevant agencies to develop a fully-costed plan for the establishment of the office;
- selecting and employing appropriately-qualified staff, and establishing and equipping a physical office;
- establishing appropriate governance and financial arrangements for the new office, including working with NSW Treasury, the NSW Audit-Office and other relevant agencies;
- where appropriate, developing memoranda of understanding with other oversight and review agencies, such as the NSW Ombudsman and the Administrative Decisions Tribunal, to deal with matters such as information sharing and referral of complaints;
- developing draft guidelines, and other educational and training resources, for agencies in respect of the exercise of their functions under the GIPA Act; and
- establishing a web presence for the office of Information Commissioner, and beginning the process of developing on-line and off-line resources for the promotion of the objects of the GIPA Act.

I note that, until the GIPA Act commences, the current *Freedom of Information Act* 1989 will continue to operate, and the NSW Ombudsman will continue to exercise a review and complaint-handling jurisdiction in respect of the handling of applications made under that Act.

I will write to the Committee again once a candidate for the permanent office of Information Commissioner has been selected.

Yours sincerely

  
John Hatzistergos  
Attorney General