

# Government Information (Public Access) Act 2009

## NOTICE OF DECISION

Applicant:	Dr Tom Lonsdale
File Ref:	2018/1762
Decision-maker:	Mr Alex Maitland, Group Secretary
Date of decision:	14 May 2018

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## Notice of Decision

### 1. Summary of access application

The University received your access application under the *Government Information (Public Access) Act 2009* ("GIPA Act") on 9 April 2018.

Your application is as follows:

"In respect to the CVE 2018 courses, seminars and online tutorials conducted by:

- David Fraser AM BVSc PhD,
- Anthony Caiafa BDS Sc BVSc MACVSc
- Christine Hawke BSc (Vet) BVSc (Hons) PhD MANZCVS (Dentistry)
- Linda Fleeman BVSc PhD MANZCVS

Please provide:

- Copies of all pet-food advertisements that appear or will appear in print and online accompanying those CVE presentations.
- All documentation, contracts and correspondence relating to any pet food company advertising, marketing and sponsorship tied to CVE presentations.
- Details of any pet-food in-kind or giveaway brochures and product provided to course attendees.
- In respect to each presenter, details of all current and past pet-food company sponsorship, speaker fees, research funds and similar together with declarations as to the presentation topics, subject matter under sponsorship and descriptions of research funding.
- Signed copies of conflict of interest declarations for the four mentioned presenters."

### 2. 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) to provide access to some of the information
- under section 58(1)(b) of the GIPA Act that some of the information sought is not held by the University
- under section 58(1)(c) of the GIPA Act that some of the information sought is already available to you
- under section 60(1)(b) of the GIPA Act to refuse to deal with part of the application as the University has already decided a previous application by you for some of the same information and there are no reasonable grounds for believing that it would make a different decision on this application.

In this Notice of Decision I will explain my reasons. To meet the requirements of section 61 of the GIPA Act, I need to tell you:

- (a) the reasons for my decision and the findings on any important questions of fact underlying those reasons, and
- (b) the general nature and format of the records containing the information you asked for, with reference to the relevant public interest considerations against disclosure (see the attached Schedule of Documents).

### **2.1. Reviewable Decisions**

These decisions are reviewable under section 80 of the GIPA Act.

## **3. Searches for information**

Under the GIPA Act, we must conduct reasonable searches for the government information you asked for in your application. Enquiries were made with the Sydney School of Veterinary Science and the Centre for Veterinary Education. Information relevant to some parts of your request was located. This information is copies of pet-food advertisements and brochures that appear in print in relation to the CVE presentations, and details of sponsorship by pet food companies. The information concerns CVE seminars on Diabetes yet to be held, and comprises registration forms for diabetes seminars to be conducted by Dr Fleeman, the front and back cover of the intended proceedings booklet, the introductory slide for intended seminar powerpoint presentation, and a copy of the notepaper intended to be provided at the seminar. No information was located for other parts of your request.

We also searched the University recordkeeping system but no additional records were located.

### **3.1. Decision that information not held**

Although a reasonable search has been undertaken in relation to CVE 2018 courses, seminars and online tutorials conducted by the four named people, no government information has been identified relating to the following parts of your request:

- In relation to Professor Fraser, Dr Caiafa or Dr Hawke
  - Copies of pet-food advertisements that appear or will appear in print and online accompanying those CVE presentations.
  - Details of any pet-food in-kind or giveaway brochures and product provided to course attendees.
- In relation to Dr Fleeman
  - Details of any pet-food in-kind or giveaway product provided to course attendees.
- In respect of each presenter, details of all current and past pet-food company sponsorship, speaker fees, research funds and similar together with declarations as to the presentation topics, subject matter under sponsorship and descriptions of research funding.
- Conflict of interest declarations for Professor Fraser, Dr Caiafa, Dr Hawke or Dr Fleeman.

I therefore have decided under section 58(1)(b) of the GIPA Act that this information is not held by the University.

### **3.2. Decision that information is already available to you**

Details of sponsorship by pet food companies are included on the CVE website for the diabetes seminars conducted by Dr Fleeman. I have therefore decided under section 58(1)(c) of the GIPA Act that this information is already available to you.

The relevant web pages are at:

- <https://www.cve.edu.au/seminar/sweet-success-diabetes-seminar>
- <https://www.cve.edu.au/seminar/sweet-success-diabetes-seminar-0>

### **4. Decision to refuse to deal with part of application**

In responding to your GIPA application of 5 February 2018 we identified relevant information which included details of sponsorship arrangements and agreements between the University and two pet food manufacturers. This information, identified in the Schedule of Documents to the University's decision dated 22 March 2018, includes the same as that requested by you now as "[a]ll documentation, contracts and correspondence relating to any pet food company advertising, marketing and sponsorship tied to CVE presentations."

There are no reasonable grounds for me to make a different decision now than I made on that occasion. I have therefore decided under section 60(1)(b) of the GIPA Act to refuse to deal with that part of the application.

### **5. The public interest test**

Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you asked for, unless there is an overriding public interest against its disclosure.

Further, under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

To decide whether or not there is an overriding public interest against disclosure of the information you asked for, I applied the public interest test, which 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;
- and
- (c) deciding where the balance between them lies.

I did this in the way required by section 15 of the GIPA Act, which is:

- (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); and
- (e) with regard to the fact that disclosure cannot be made subject to any conditions on the use or disclosure of information.

### **5.1. Public interest considerations in favour of disclosure**

Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

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

- The general public interest in favour of disclosure of government information

### **5.2. Personal factors of the application**

Under section 55 of the GIPA Act I can also take into account any personal factors of your application.

Subsection 55(1)(b) includes as a personal factor that can be taken into account “the applicant’s motives for making the access application.” In your application you state that you are applying for this information to provide a special benefit to the public and have outlined the nature of that benefit. I take this into account as a personal factor of your application.

However this is just one of the factors that must be taken into account in balancing the public interest test. In *Lonsdale v University of Sydney* [2016] NSWCATAD 176, NCAT held that

“the applicant’s professional views / beliefs and motivations for the application ... were not the significant basis for which the Tribunal would both approach and decide the GIPA matter.”

### **5.3. Public interest considerations against disclosure**

When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the Table at Section 14 of the GIPA Act. I have not identified any relevant public interest considerations against disclosure in the Table at Section 14 of the GIPA Act.

### **5.4. Consultation**

No consultation under section 54 of the GIPA Act was required.

### **5.5. Balancing the public interest test**

I can identify no public interest considerations against disclosure in relation to copies of pet-food advertisements, brochures and product provided to course attendees. I have therefore decided under section 58(1)(a) to provide access to that information.

## 6. Access

Access is provided in the form of PDF copies of the material. A Schedule of Documents is attached.

## 7. Disclosure log

If information that would be of interest to other members of the public is released in response to a formal access application, an agency must record certain details about the application in its 'disclosure log' (under sections 25 and 26 of the GIPA Act).

I have decided that information relating to this application should be recorded in the disclosure log.

## 8. Review rights

If you disagree with any of the decisions in this notice that are reviewable, you may seek a review under Part 5 of the GIPA Act. Before you do so, I encourage you to contact Mr Tim Robinson to discuss your concerns. His contact details are set out below.

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.

To assist you, I have enclosed a fact sheet published by the Information and Privacy Commission (IPC), *Your review rights under the GIPA Act*. You will also find some useful information and frequently asked questions on the IPC's website: [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au).

You can also contact the IPC on freecall 1800 IPC NSW (1800 472 679).

## 9. Further information

If you have any questions about this notice or would like any further information, please contact Mr Robinson on 9351 4263.



Alex Maitland  
Group Secretary

**10. Schedule of documents**

1	Cover for seminar proceedings
2	PowerPoint slide for seminar
3	Royal Canin notepad (giveaway at seminar)