

Monday 18th August 2025

Pages Total: (8) Eight
Attachments Total: (1) One

Secretary, Dept of Communities & Justice
Mr Michael Tidball
Locked Bag 5111
Parramatta NSW 2124

Copy to:
NSW Attorney General
The Honourable Michael Daley
GPO Box 5341
Sydney NSW 2001

Copy to:
NSW Premier
The Honourable Chris Minns
GPO Box 5341
Sydney NSW 2001

Copy to:
Office of the NSW Public Service Commissioner
Ms Kathrina Lo
GPO Box 3988
Sydney NSW 2001

Dear Secretary and interested parties,

REPORT – FRAUD & CORRUPTION – Dept of Communities & Justice

- ***Mr Michael McIntosh***
– Principal Solicitor, Open Government Information & Privacy Unit

It is with the deepest regret I write to you today to inform you of an action constituting corrupt conduct on the part of Michael McIntosh.

I reiterate past information provided to you Mr Tidball, firstly that I am a qualified criminologist and submit this report as an informer and / or whistleblower of repeat offences against the department's policies, legislation, the NSW government and parliament, and the public of NSW, which may constitute a serious crime under the Crimes Act 1900.

I write to you firstly Mr Secretary, and to other interested parties I anticipate will expect your outcome report.



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

I rely on the DCJ Fraud and Corruption Control System Policy (FCCSP) which is available on its website at <https://dcj.nsw.gov.au/documents/resource-centre/policies/DCJ-Fraud-and-Corruption-Control-System-Policy.pdf>.

The FCCSP includes reference to a number of other departmental documents including the Code of Ethical Conduct available on its website at <https://dcj.nsw.gov.au/documents/resource-centre/policies/code-of-ethical-conduct.pdf>.

The FCCSP additionally makes reference to the *Government Sector Employment Act 2013*.

These policies and the legislation make clear no employee is excluded from the zero-tolerance philosophy, no matter the employee's seniority of position. The policy makes clear no person is above or out of reach of the policy.

In this regard DCJ leaves no doubt as to its expectations each and every employee is bound by its policies and applicable legislation.

Point 3 – Policy Statement of the FCCSP reads:

“DCJ has a zero-tolerance approach to fraud and corruption. Disciplinary and / or legal action will be taken against those who commit fraud or corruption.”

The policy uses the term “will”.

As such the public has the right to rely on the policy and the fact DCJ will take disciplinary and / or legal action.

DCJ is able to take either disciplinary or legal action in response to offences of fraud or corruption.

Regardless DCJ has made public it will take either or both bases of action.

The public has the right to rely on that publication.

Informer Background

As stated in previous correspondence, I am a qualified criminologist. I am neither legally qualified or trained. I generally self-represent. My professional career has been in executive administration.

I am also the sole operator and full-time volunteer of the free community service NSW Freedom of Information which was launched during the Information Commissioner's Right to Know Week 2021.



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

I process large numbers of broad enquiries given this is the only service of its kind for the assistance of the public.

In addition to assisting the public understand the access to information process, my focus is the identifying and reporting on occurrences of white-collar crime.

I also publish articles of interest for the public's information and understanding of how NSW government agencies exercise delegated authority.

I have significant experience in the operations of the Government Information (Public Access) Act 2009, GIPA, since 2011. I have limited experience in the operations of the Privacy and Personal Information Protection Act 1998, PPIP.

Over this time period of (14) fourteen years I have lodged hundreds of Access Applications predominantly with the agency Port Stephens Council. I have lodged several with DCJ in recent years.

I have also lodged hundreds of Informal Access Applications predominantly with the agency Port Stephens Council. I have lodged several with DCJ in recent years.

DCJ's OGIPU is fully aware of my Access Application history as it recently divulged it obtained information from secondary agencies.

I am a registered lobbyist and confirm I have submitted several requests to the NSW Parliament to schedule public inquiries into the public's beneficial legislation and an arm of the judiciary.

Offender Background

Mr McIntosh's published professional profile documents his long career in the legal profession.

He became a solicitor in 2016 but has been employed in the DCJ OGIPU since 2017.

As such he is expected to have a solid working knowledge of both the GIPA and PPIP Acts as they are the primary legislation under the OGIPU's delegated authority.

Ms McIntosh has also had lengthy employment with NSW Police, again suggestive of his capabilities within the legal arena.

The corrupt conduct concerning this report occurred in Mr McIntosh's capacity as legal representative for DCJ in the matter of ***FHH v Secretary, Department of Communities & Justice – 2024 / 00318080***, where I was the Applicant.

That matter was ultimately withdrawn under threat of Mr McIntosh.



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

That threat was in the form of unlawfully misrepresenting the legislation for the purpose of influencing the withdrawal of the Application.

The matter of FHH concerned a Review of Agency Conduct under the Privacy and Personal Information Protection Act 1998 Section 53.

I had sought a review of the Department's, but particularly the Director of the OGIPU Ms Jodie Cobbin's, using my personal information for a collateral purpose other than what my personal information was originally collected for.

It is noted the PPIP Act 1998 binds the Crown.

The PPIP Act is noted at **Point 17.1 Legislation** of the DCJ *Code of Ethical Conduct*.

In this regard, Mr McIntosh as an employee of the Dept of the NSW Attorney General, and one who has delegated authority to administer the PPIP Act is also bound by it.

There can be no dispute Mr McIntosh's prestigious role as Principal Solicitor within the OGIPU concerns the Department's responses to all aspects of requests for access to information and the protection of the public's personal information.

Such confirmation has been repeatedly set out in Affidavit evidence to the NSW Civil & Administrative Tribunal (NCAT) in various GIPA proceedings; most recently the cases of **Webb v Justice NSW (2024) NSWCATAD 238** and **Dept of Communities & Justice & Ors v Webb & Ors (reserved)**, both of which mirrored each other's outline of DCJ's responsibilities under GIPA and PPIP.

Beneficial Legislation

The case of **FHH v Secretary, Department of Communities & Justice – 2024 / 00318080** concerned the PPIP Act 1998.

Mr Secretary and the interested parties are respectfully asked to note there is no mechanism within the PPIP Act 1998 for the awarding of legal costs.

The only mechanism for awarding any costs is at Section 55, 2(a).

Section 55, 2(a) concerns the awarding of costs in favour of an Applicant, payable by a Defendant Agency.



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

Enabling Legislation

In addition to being beneficial legislation, it is common ground the PPIP Act 1998 is also classified as enabling legislation.

It is the enabling legislation in any given case which enlivens the NCAT's jurisdiction.

NCAT is powerless to do anything without the enabling legislation.

In this regard, it is the enabling legislation which prevails over the NCAT Act 2013.

This fundamental legal concept is also common ground and fundamental to quality statutory interpretation.

Offender Corrupt Conduct

As mentioned, this report concerns the corrupt conduct of the OGIPU's Mr Michael McIntosh in the exercise of his duties as Principal Solicitor when representing DCJ in September 2024.

It is extremely important to note the PPIP Act 1998 is beneficial legislation.

It is neither penal or fiscal.

Mr McIntosh, having extensive knowledge of the statutes in which he operates, being the GIPA and PPIP Acts, is taken to fully comprehend his actions in relation to the exercise of those statutes.

However, on 05th September 2024 Mr McIntosh did under cover of departmental email, forward the department's application for dismissal and costs.

In this regard, Mr McIntosh has clearly abused the Tribunal's processes to bully, threaten and intimidate an unrepresented party.

Additionally, he did so with the full knowledge the application for costs was not based in law.

Mr McIntosh had at all times full knowledge his intention to place the NCAT Act 2013 Section 60 (2) above the prevailing legislation the PPIP Act 1998 was legally defective.

At the date of receipt of that document, being 05th September 2024, I was not aware Mr McIntosh's threat of costs was not founded in law.

As such, those documents significantly influenced my decision to withdraw my application.



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

Closing:

At first instance and at minimum, Michael McIntosh should be removed from his position.

He has displayed his willingness to misrepresent the legislation, in this instance the PPIP Act 1998 which is the public's beneficial legislation.

The Department of Communities and Justice is expected, by its title, to act for the benefit of NSW communities and ensure justice is not only seen to be done but that it is done.

The Department cannot ignore the evidenced gross professional misconduct on the part of one of its solicitors, particularly when that solicitor is acting out in full view of the public and on the record.

The public has the right to expect the highest standards from its public servants, particularly those at the executive level.

Having regard for the documented public actions by the Principal Solicitor Michael McIntosh, it is evident the Department's Fraud and Corruption Control System Policy has been completely ignored and denied by him in the course of his public duties in that executive role and as a role model and as a legal representative of the Department of Communities and Justice.

Mr McIntosh has completely disregarded the fact the PPIP Act 1998 binds the Crown; he has effectively misrepresented the legislation.

The evidence of his actions are within his own document, signed off as the owner and author.

Michael McIntosh has brought the Department of the NSW Attorney-General and indeed the broader NSW government into serious disrepute, has deliberately acted to usurp his delegated authority, acting outside of the legislation.

Jodie Cobbin's personal recommendation in March 2019 to unlawfully seek costs in the context of GIPA and PPIP has been completely effective in the following proceedings, (3) three of which were successful and (1) of which thankfully failed.

As an individual with access to unlimited legal and financial resources Michael McIntosh must be seen as a person who understands the statutory regimes in which he operates as in the case of ***Council of the Law Society of NSW v DXW (2019) NSWCATAD 101:***

56 ".....They are not to be regarded as unsophisticated members of the community with limited literacy skills and a limited understanding of the statutory regimes in which they are operating....."



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

PPIP does accommodate costs claims. That is costs claims in the context of legal costs awarded against an access or privacy applicant.

PPIP does provide a mechanism for an agency to be ordered to pay compensation to a privacy applicant.

The public recommendation to seek costs against privacy applicants can only be construed as deliberately punitive, knowing the legislation does not permit such action.

Such actions cannot be ignored or excused as acceptable under any circumstance.

Such actions are completely dependent on an ignorant public who has not properly interpreted the legislation (as in my case at the time I received Mr McIntosh's document on 05th September 2024), and where an application for costs relies upon one party maintaining an advantage over another as in the case of ***Commercial Bank of Australia v Amadio (1983) 151 CLR 447; (1983) HCA 14:***

- (1) "unconscionable conduct" is usually taken to refer to the class of case in which a party makes unconscientious use of his superior position or bargaining power to the detriment of a party who suffers from some special disability or is placed in some special situation of disadvantage.....
- (12) the jurisdiction of courts of equity to relieve against unconscionable dealing is long established as extending generally to circumstances in which (i) a party to a transaction was under a special disability in dealing with the other party with the consequence that there was an absence of any reasonable degree of equality between them and (ii) that disability was sufficiently evident to the stronger party to make it prima facie unfair or "unconscientious" that he procure, or accept, the weaker party's assent to the impugned transaction in the circumstances in which he procured or accepted it. Where such circumstances are shown to have existed, an onus is cast upon the stronger party to show that the transaction was fair, just and reasonable.....
- (22) if A having actual knowledge that B occupies a situation of special disadvantage in relation to an intended transaction, so that B cannot make a judgment as to what is in his own interests, takes unfair advantage of his (A's) superior bargaining power or position by entering into that transaction, his conduct in so doing is unconscionable. And if, instead of having actual knowledge of that situation, A is aware of the possibility that that situation may exist or is aware of facts that would raise that possibility in the mind of any reasonable person, the result will be the same



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted

I look forward to receiving the Secretary's return letter of acknowledgement with case file number, and notification of your course of action and resultant outcome(s) at first opportunity as I expect to be kept fully informed.

I confirm this document remains public.

Yours Sincerely

Telina Webb

Encl:



DraftCom Pty Ltd t/as NSW Freedom of Information
PO Box 8030 Marks Point NSW 2280
P: 1300 679 364 or 1300 NSW FOI
F: (02) 8246 3484
E: info@nswfreedomofinformation.net
W: <https://www.nswfreedomofinformation.net>
Errors & Omissions Excepted