

AFFIDAVIT OF JONATHAN IAN FRANKLIN

13 DECEMBER 2024

FILE DETAILS

Tribunal	NSW Civil and Administrative Tribunal
Division	Administrative and Equal Opportunities Division
Case number	2024/00367444

TITLE OF PROCEEDINGS

Applicant	Secretary, NSW Department of Communities and Justice
Number of applicants	3
First respondent	Telina Webb
Number of respondents	3

FILING DETAILS

Filed for	Secretary, NSW Department of Communities and Justice
Legal representative	Justin Cahill, Principal Solicitor, Department of communities and Justice
Legal representative reference	
Contact name and telephone	Justin Cahill, Ph (02) 9716 2662
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[on separate page]

AFFIDAVIT

Name Jonathan Ian Franklin
Address 6 Parramatta Square, 10 Darcy Street Parramatta NSW 2150
Occupation Solicitor, Open Government Information and Privacy Unit, DCJ Legal
Date 13 December 2024

I affirm:

- 1 I am a solicitor employed in the Open Government Information and Privacy Unit ('**OGIP Unit**') in the Law Reform and Legal Services Division at the Department of Communities and Justice ('**DCJ**'). I was admitted by the Supreme Court of New South Wales in 2017 and the High Court of Australia in 2022. I have been employed by DCJ since February 2023.
- 2 The contents of this affidavit are true to the best of my knowledge, information and belief. In preparing this affidavit, I have relied on my own knowledge and recollections and, where necessary, I have reviewed relevant documents and files held by the OGIP Unit and consulted with relevant OGIP Unit officers.
- 3 I have requested that paras [68]-[74], [76], [79]-[84], [87]-[88], [93], [97], [100]-[101], [109] and [113]-[115] of my affidavit. This is because of my concerns that releasing this information would alert Ms Webb to the nature of the significant negative impact on myself and other DCJ staff members that her conduct has had. The paragraphs of my affidavit which I seek to make on a confidential basis are in red text and have been redacted from the copies to be served on the Respondents.

Exhibit

- 4 I have prepared a bundle of documents marked 'Exhibit JF-1'. I will refer to documents in this affidavit by reference to the tab numbers within Exhibit JF-1.

Summary

- 5 Since 2021, the Respondents have lodged 16 access applications under s 41 of the *Government Information (Public Access) Act 2009* ('**GIPA Act**') with DCJ. A table summary of the Respondents' access applications is contained at **Tab 1** to Exhibit JF-1.
- 6 Of those, four access applications lodged with DCJ on the letter head of DraftCom t/as NSW Freedom of Information ('**DraftCom letterhead**') and signed by Ms Webb resulted



in a finding that no records were held by DCJ pursuant to s 58(1)(b) of the GIPA Act, therefore satisfying the s 110(2)(b) of the GIPA Act criterion for lacking merit.

- 7 The Respondents have also published and made submissions which can be described as offensive, harassing, defamatory and insulting, introduced at para [75] and discussed at paras [103]-[106], [111] and [115]-[116].
- 8 The purpose of my affidavit is to provide an overview of the functions of the OGIP Unit, the access applications made by the Respondents that lack merit, and the conduct of the Respondents to date.

Access applications that lack merit

- 9 Since February 2024, four of the access applications made in the two years commencing on 4 October 2022, lodged on the DraftCom letterhead and signed by Ms Webb were decided on the basis that no information was held pursuant to s 58(1)(b) of the GIPA Act:
- a. GIPA23/666
 - b. GIPA23/5209;
 - c. GIPA24/1566; and
 - d. GIPA24/1568.

GIPA23/666

- 10 On 17 February 2023, Ms Webb sent an email to DCJ from the email address info@nswfreedomofinformation.net ('NSW FOI email address'). The email attached an access application on the DraftCom letterhead and was signed by Ms Webb. A copy of the email and access application is exhibited at **Tab 2** to Exhibit JF-1.

- 11 GIPA23/666 sought access to the following information:

...access case management data in the GIPA Tool...[to]...an unedited copy of the case management data records for each of my and / or NSW Freedom of Information's formal access applications concerning Justice NSW.

- 12 On 27 February 2023, Ms Webb confirmed the scope of the application as being:

A copy of the case management data records on the IPC GIPA Tool for each of your and/or NSW Freedom of Information's formal access applications concerning the NSW Department of Justice.

- 13 On 16 March 2023, DCJ held that no information was held pursuant to s 58(1)(b) of the GIPA Act. A copy of the Notice of Decision is exhibited at **Tab 3** to Exhibit JF-1. Ms Webb



was provided with further information, that *'it is not a mandatory requirement for NSW public sector agencies to use the IPC GIPA tool to record case management data. The Department of Communities and Justice does not currently use the IPC GIPA tool'*.

GIPA23/5209

14 On 27 November 2023, Ms Webb sent an email to DCJ from the NSW FOI email address. The email attached an access application on the DraftCom letterhead and was signed by Ms Webb. A copy of the covering email and access application is exhibited at **Tab 4** to Exhibit JF-1.

15 GIPA23/5209 requested all correspondence from DCJ to contain certain details including stating whether the officer was a solicitor, whether they were using a pseudonym, the approving officer of a pseudonym, reasons for use of a pseudonym and signature of the approving officer. Failure to do so would result in the *'documentation...considered legally defective'*.

16 The access application sought information related to a filed *'affidavit of one renowned Ms Jodie Cobbin, Director Open Government Information & Privacy Unit'*. The affidavit Ms Webb referred to related to a recently finalised external review application filed by her. The application for external review form completed by Ms Webb nominated the *'applicant'* as *'Telina Webb – NSW Freedom of Information'* and *'Secretary, Department of Communities and Justice'* as the respondent (GIPA23/1640). The access application sought the following information:

A full and unredacted copy of any and all communications between Ms Cobbin and / or Justice NSW and iCARE, inclusive of emails, records of telephone conversations, etc, specifically in reference to her knowledge of the GIPA Application Ms Cobbin refers to at her Sworn Affidavit Paragraph 11...

17 The access application further stated that:

In the alternative Justice NSW determines the above information is not held by it, the valid access application seeks the department's full disclosure of Ms Cobbin's and / or Justice NSW' knowledge of such given it is referenced in a Sworn Affidavit and is naturally expected to be (somewhat) truthful and intentionally designed to influence deciding NSW Civil & Administrative Tribunal Members.

18 On 22 December 2023, DCJ held that no information was held pursuant to s 58(1)(b) of the GIPA Act. A copy of the Notice of Decision is exhibited at **Tab 5** to Exhibit JF-1. This decision was affirmed on external review: *Webb v Secretary, Department of Communities and Justice* [2024] NSWCATAD 251.



GIPA24/1566

19 On 25 April 2024, Ms Webb sent an email to DCJ from the NSW FOI email address. The email attached an access application on the DraftCom letterhead and was signed by Ms Webb. A copy of the covering email and access application is exhibited at **Tab 6** to Exhibit JF-1.

20 GIPA24/1566 sought access to the following information:

A full and unredacted copy of the TRIM / EDRMS file containing all generated records further to Ms Cobbin's referenced departmental study.

Ref NSW Right to Information & Privacy Practitioner Network – Minutes 12th June 2019

- *TRIM FILE – All generated records*
- *Item 4 – Presentation from the Department of Justice*

21 On 24 May 2024, DCJ held that no information was held pursuant to s 58(1)(b) of the GIPA Act. A copy of the Notice of Decision is exhibited at **Tab 7** to Exhibit JF-1.

22 The 'departmental study' referred to by Ms Webb using the DraftCom letterhead in GIPA24/1566 was a presentation delivered by Ms Cobbin to the NSW Right to Information and Privacy Practitioners' Network. This presentation was the subject of an earlier access application in GIPA22/4424 which resulted in an IPC external review (GIPA23/663), a NCAT external review (GIPA23/1640; NCAT File No. 2023/00125842) and currently before the Appeal Panel (GIPA24/4042; Appeal Panel Case No. 2024/00361128). A table outlining all of the various types of applications with DCJ reference numbers is exhibited at **Tab 8** to Exhibit JF-1.

GIPA24/1568

23 On 25 April 2024, Ms Webb sent an email to DCJ from the NSW FOI email address. The email attached an access application on the DraftCom letterhead and was signed by Ms Webb. A copy of the covering email and access application is exhibited at **Tab 9** to Exhibit JF-1.

24 GIPA24/1568 sought access to the following information:

A full and unredacted copy of the TRIM / EDRMS file containing all generated records further to Ms Cobbin's referenced departmental study.

Ref NSW Right to Information & Privacy Practitioner Network – Minutes 29th March 2019

- *TRIM FILE – All generated records*



- *Item 3 – Presentation from the Department of Justice*

25 On 24 May 2024, DCJ held that no information was held pursuant to s 58(1)(b) of the GIPA Act. A copy of the Notice of Decision is exhibited at **Tab 10** to Exhibit JF-1.

Background

26 There are a few reasons which lead me to believe that the Respondents are the same person or acting in concert when they lodged the access applications that lack merit.

27 Ms Webb and Mr McEwan are married.

28 On 8 November 2024, I conducted a company search of DraftCom Pty Ltd ACN 076 511 941 through the Australian Securities and Investment Commission ('ASIC'). A copy of the current and historical company extract is exhibited at **Tab 11** of Exhibit JF-1.

29 Mr Paul McEwan is the sole director and shareholder of DraftCom which is a proprietary limited company currently registered in Fletcher NSW 2287.

30 On 7 September 2021, DraftCom registered NSW Freedom of Information ABN 87 076 511 941 as a business name. A copy of the ASIC current and historical business extract is exhibited at **Tab 12** of Exhibit JF-1.

31 On 9 September 2021, I conducted a search of the Lobbyist Register with the NSW Electoral Commission. The Lobbyists Register identifies that:

a. DraftCom was authorised to communicate and meet with NSW Government Officials for the purpose of lobbying from 4 March 2021. A copy of the screenshot is exhibited at **Tab 13** of Exhibit JF-1;

b. Mr McEwan was listed as the 'owner'. A copy of the screenshot is exhibited at **Tab 14** of Exhibit JF-1; and

c. Ms Webb was listed as an 'employee' holding the position of 'Executive Assistant'. A copy of the screenshot is exhibited at **Tab 15** of Exhibit JF-1.

32 Except GIPA21/1375, LEGAL2536/21, GIPA21/1363, GIPA21/1582 all of the other access applications lodged with DCJ are made on DraftCom t/as NSW Freedom of Information letterhead and signed by Ms Webb.

NSW Freedom of Information website

33 On 8 October 2021, Ms Webb sent an email to Mr Michael McIntosh, one of the OGIP Unit's Principal Solicitors, from info@nswfreedomofinformation.net. Ms Webb advised Mr McIntosh about the creation of the website: <https://nswfreedomofinformation.net/>

(‘**Website**’). Ms Webb attached a statement dated 1 October 2021. A copy of the covering email and attachments are exhibited at **Tab 16** to Exhibit JF-1.

34 Ms Webb stated:

A newly launched website designed to give the public a voice, inviting them to join in valuable conversations about current NSW freedom of information legislation, is set to level the playing ground for access NSW government documentation.

35 Ms Webb refers to herself as an ‘administrator’ of NSW FOI and stated that the website is solely operated by herself. A copy of this reference is exhibited at pages 261 to 263 of Tab 26 to Exhibit JF-1.

Ms Webb’s offer for advice and assistance

36 Ms Webb’s Website offers advice and guidance on how to access NSW government information. She provides a fillable form for people to request assistance and provide details of the government information sought. Additionally, she advises on the informal and formal access avenues under the GIPA Act and advice on review rights. A copy of this information is exhibited at **Tab 17** to Exhibit JF-1.

37 In a media release dated 3 July 2023, Ms Webb described her attempt to appear as an agent for an undisclosed applicant in the Tribunal concerning a privacy matter with the Commissioner of NSW Police. A copy of this media release is exhibited at pages 270 to 272 of Tab 26 to Exhibit JF-1.

Advertised McKenzie friend advocacy service

38 On the Website, Ms Webb advertises her services as a McKenzie friend with a fillable submission form to contact her. Ms Webb refers to herself as the ‘*NSW Freedom of Information Advocate*’. In addition to providing an explanation of what a McKenzie friend is, she states (see **Tab 18** to Exhibit JF-1): (emphasis added)

Collectively, the legislations make clear a person can act in the supporting role of a McKenzie Friend in the NCAT with the NCAT’s permission, or granting of leave, founded on a solid history of legal precedence.

*As part of the community services provided by NSW Freedom of Information, Advocate Telina Webb is able to act in the supporting role of a McKenzie Friend to a self-represented party to NCAT proceedings. A McKenzie Friend is not limited to sitting beside a party at the bar table of a Hearing room. **A McKenzie Friend is able to assist discretely in the background** to proceedings.*



For more information about Telina Webb and her experience in the NCAT arena see Site Administrator.

Or use this contact form to start the conversation. Telina does not charge for support in the context of a McKenzie Friend within the NSW Civil & Administrative Tribunal - Administrative & Equal Opportunity Division.

Functions of the OGIP Unit

- 39 The OGIP Unit is responsible for processing applications for government information under the GIPA Act lodged with DCJ and DCJ's 'subsidiary agencies' (being agencies declared in Sch 3 to the *Government Information (Public Access) Regulation 2018* to be part of DCJ, which includes its predecessor, the Department of Justice). For example, access applications lodged with the NSW Civil and Administrative Tribunal ('**NCAT**') or Crown Solicitor's Office are processed by DCJ.
- 40 In addition to processing applications, the OGIP Unit provides advice to DCJ and its subsidiary agencies regarding their obligations under the GIPA Act and provides training on how to conduct searches for information; develops resources and factsheets for staff and members of the public regarding the GIPA Act; maintains DCJ's disclosure log; prepares reports required under the GIPA Act; and represents DCJ in proceedings before the NCAT.
- 41 The OGIP Unit received 10,859 requests for advice and information in the 2023/24 financial year. It also receives large volume of requests for information under the GIPA Act each year. During the 2023/24 financial year, the OGIP Unit received a total of 5,374 requests and applications for information. Of these, 3,350 were access applications made under s 41 of the GIPA Act.
- 42 The OGIP Unit is staffed by 56 full-time ongoing officers. Not all these officers are routinely deployed to decide access applications. Ordinarily, 28 officers are engaged to decide typical access applications. However, when DCJ receives an access application that is complex or lodged by an applicant who is known to engage in unreasonable conduct, the pool of decision makers is limited to higher grade officers, totalling 14 staff members. At the highest degree of complexity, an access application will be limited to solicitors (12 in total).
- 43 Alongside its functions related to deciding access applications and informal requests for information, the OGIP Unit is also responsible for:



- a. conducting internal reviews under Part 5 of the *Privacy and Personal Information Protection Act 1998* ('**PPIP Act**') (20 applications completed in the last financial year);
- b. managing and investigating reports of suspected data breaches under Pt 6A of the *PPIP Act* (160 matters completed in the last financial year);
- c. providing expert advice regarding privacy and information sharing to internal DCJ clients (520 matters completed in the last financial year);
- d. managing DCJ's privacy and GIPA governance documents;
- e. responding to subpoenas and other court and statutory orders requiring DCJ to produce documents (3,160 matters completed in the last financial year);
- f. assisting the NSW Specified Advisor to provide advice to the Scheme Operator under the special assessment process established by s 63 of the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* and responding to requests for information under that Act (897 matters completed in the last financial year);
- g. providing training and assistance to Department employees on their compliance obligations relating to subpoenas, privacy and access to information;
- h. representing DCJ within the NCAT in relation to external review applications made under the GIPA Act and PPIP Act (36 matters completed in the last financial year); and
- i. responding to orders issued under Standing Order 52 of the Standing Orders of the Legislative Council, which sets out the procedure for the exercise of the Legislative Council's inherent power to compel members or other bodies of the Executive to produce documents to the Upper House, often on an urgent basis (3 matters completed in the last financial year).

44 Each of the OGIP Unit's functions, and particularly the management of access applications made under the GIPA Act, carry a significant administrative burden. The exercise of these functions often requires extensive data entry into records management systems, undertaking banking and accounting functions, coordinating searches, undertaking cross-agency enquiries, preparing correspondence, reviewing and redacting information, providing advice in relation to applications, drafting notices of decisions and managing general enquiries.




Processing applications under the GIPA Act

- 45 The general process for responding to an access application is:
- a. The application is received and registered;
 - b. The validity of the application is assessed;
 - c. A letter is sent to the applicant, either acknowledging receipt of the application as a valid access application or notifying the applicant that their application is invalid;
 - d. If an application is valid, search requests are sent out to relevant areas of DCJ for searches to be conducted;
 - e. The deciding officer will often be required to liaise with relevant areas of DCJ in relation to the searches and to redirect search requests. The deciding officer will then review any information captured by the scope of the access application and consult relevant persons in DCJ regarding any considerations against disclosure of the information; and
 - f. Finally, the deciding officer will make a decision under s 58 of the GIPA Act and draft the Notice of Decision. Where access is provided in part, the deciding officer will review and apply redactions to the information.
- 46 The time it takes to process a valid access application varies considerably, depending on the nature and volume of information requested, the volume of information held which is responsive to the application, the extent to which it is necessary to consult with third parties and other agencies and the complexity involved with drafting the notice of decision. More complex decisions require a review by a senior staff member or the Director.
- 47 OGIP Unit staff are required to record the processing time for each application in DCJ electronic records management system. Based on this information, on average, the processing time for a valid access application from receipt to sending the notice of decision to the applicant is approximately eight hours per application.

The Conduct of the Respondents and its impact

Respondents' applications

- 48 The management and processing of the applications lodged by Ms Webb or by her on behalf of DraftCom have absorbed significant resources of the OGIP Unit and have had a serious impact on DCJ's already strained resources.
- 49 In total, the Respondents have collectively lodged two informal requests for information



and 16 access applications with DCJ. Copies of the Respondents' 16 access applications are exhibited at **Tab 19** to Exhibit JF-1. The 16 access applications are comprised of:

- a. two informal requests for information from Ms Webb;
- b. one access application from Mr McEwan;
- c. three access applications from Ms Webb; and
- d. 12 access applications lodged on the DraftCom letterhead and signed by Ms Webb.

50 From those applications, DCJ has had to also deal with an additional 20 matters. Namely:

- a. two GIPA internal review applications under s 82 of the GIPA Act;
- b. 11 external review applications with the Information Commissioner;
- c. four external review applications with the NCAT;
- d. two Notices of Appeal with the Appeal Panel; and
- e. one privacy internal review application under s 53 of the PPIP Act.

Time spent dealing with the Respondents' applications

51 With respect to the applications lodged by Ms Webb or by her on behalf of DraftCom, I have adduced that the following hours have been spent on the various applications based on my review of the relevant matters:

Hours spent:	2020	2021	2022	2023	2024	Total
Informal applications	2	2	-	-	-	4
Formal access applications	-	20	20	53	21	114
GIPA internal review	-	-	15	20	-	35
Privacy internal review	-	-	-	-	18	18
IPC external review	-	3	-	5	30	38
NCAT external review	-	-	-	287	186	473
Total	2	25	35	365	255	682

- 52 In relation to the Respondents' informal requests for information and access applications, DCJ has spent the following number of hours dealing with their applications:
- a. formal access applications for Mr McEwan: seven hours;
 - b. Ms Webb:
 - i. informal requests for information: four hours;
 - ii. access applications: 13 hours; and
 - c. formal access applications lodged on the DraftCom letterhead and signed by Ms Webb: 94 hours.
- 53 In addition to the Respondents' applications, I estimate that the OGIP Unit has spent approximately 852 hours to date (inclusive of all the officers involved) preparing for Applicants' current application.
- 54 The total (approximate) processing time is considerable given that these resources are consumed by effectively one entity i.e. Ms Webb or Ms Webb using the DraftCom letterhead in the course of dealing with DCJ.
- 55 Having regard to each of the various applications made by Ms Webb or by her on behalf of DraftCom since 2021, it is extremely uncommon for one individual to generate this volume of work for the OGIP Unit.
- 56 An example of the interrelatedness of the resources consumed by Ms Webb and DraftCom arising from an access application is GIPA22/4424:
- a. GIPA22/4424: Ms Webb using the DraftCom letterhead, sought information related to a presentation delivered by the OGIP Unit Director: Tab 19, pages 135 to 136 of Exhibit JF-1. GIPA22/4424 has since been the subject of:
 - i. external review by the Information Commissioner (GIPA23/663): Tab 8, p 39 to Exhibit JF-1;
 - ii. external review by NCAT (GIPA23/1640; Case no. 2023/00125842) which consisted of an Appeal Panel matter during the proceedings (Tab 8, p 39 to Exhibit JF-1). The administrative review application form prepared by Ms Webb listed the 'applicant' as 'Telina Webb – NSW Freedom of Information' (**Tab 20**, pages 169 of Exhibit JF-1);
 - iii. Ms Webb filed a Notice of Appeal in relation to an interlocutory decision in these proceedings (GIPA23/2810; Appeal Panel case no. 2023/00209749)

The Notice of Appeal completed by Ms Webb listed the 'appellant' as 'Telina Webb – NSW Freedom of Information' (**Tab 21** to Exhibit JF-1);

- iv. Ms Webb has lodged another Notice of Appeal in relation to the Tribunal's decision in 2023/00125842. This is currently before the Appeal Panel. The Notice of Appeal completed by Ms Webb lists the 'appellant' as 'Telina Webb – NSW Freedom of Information' (GIPA24/4042; Appeal Panel Case no. 2024/00361128) (**Tab 22** to Exhibit JF-1).
- b. Ms Webb lodged an access application on the DraftCom letterhead seeking government information regarding a letter sent to her due to the conduct in the external review proceedings: GIPA23/4481: Tab 19, pages 144 to 145 of Exhibit JF-1. Ms Webb then sought external review with the Information Commissioner concerning this access application: GIPA23/5281: Tab 8, p 43 to Exhibit JF-1.
- c. Ms Webb lodged another access application on the DraftCom letterhead seeking government information regarding an affidavit used by DCJ as respondent in the external review proceedings: GIPA23/5209: Tab 19, pages 156 to 159 of Exhibit JF-1.
- d. In an unrelated access application lodged by Ms Webb on DraftCom letterhead (GIPA23/3166; Tab 19, pages 140 to 141 of Exhibit JF-1) which progressed to external review with the Tribunal (GIPA24/595; Case no. 2024/00063701), Ms Webb cross-examined DCJ's (as the respondent to those proceedings) witness about a statement related to the earlier proceedings at subpara [56(a)(ii)]. The witness' answer then was the subject of a Privacy Internal Review complaint (OGIP24/3706).
- e. The Privacy Internal Review complaint (OGIP24/3706) alleged that Ms Webb's personal information had been unlawfully accessed from another public sector agency related to the external review proceedings at subpara [56(a)(ii)]. The privacy internal review application form was lodged by Ms Webb on the DraftCom letterhead (**Tab 23** to Exhibit JF-1).

Respondents' recent dealings with the NSW Civil and Administrative Tribunal

- 57 The NSW Court and Tribunal Lists outline a range of different proceedings listed before the Tribunal involving Ms Webb and five different public sector agencies. A matter listed for 17 December 2024 identifies the applicant 'Telina Webb – NSW Freedom of Information'. Copies of the NSW Court and Tribunal Lists for September and December 2024 are exhibited at **Tab 24** to Exhibit JF-1.



Impact to the community and diversion of GIPA functions

- 58 DCJ is a human services agency, and most of its clients (and GIPA applicants) are vulnerable people seeking information for critical services. These clients include adoptees, children in care or detention, victims of domestic violence, people experiencing homelessness and housing crisis issues and people in custody. Many applications received by the OGIP Unit seek access to their own personal information or information that is relevant to the personal circumstances of the applicant. In some cases, these clients may be detrimentally affected if the information is not released promptly. For example, an inmate on remand may remain in custody longer where information is not readily available for their bail hearing.
- 59 The volume and scope of Ms Webb's applications, or applications lodged by Ms Webb on DraftCom letterhead, have caused significant resources to be diverted away from vulnerable clients seeking access to their own personal information. This is of particular concern to DCJ given these applications have no demonstrable relevance or importance to Ms Webb or DraftCom, nor do they appear to seek information which is relevant to some broader matter of public interest. A large amount of taxpayer funding is being allocated to a growing matter list with Ms Webb either acting as herself or on behalf of DraftCom. The funding for these resources could be better utilised to better serve the public and not be consumed by one individual.
- 60 Due to the number of applications received per year and also because resources are being diverted away from processing applications due to the Respondents' many various applications, DCJ has had a backlog of 151 access applications as at 10 December 2024. The OGIP Unit has dedicated several solicitors and the Director to prepare this application which diverts staff from assisting in processing GIPA applications for the benefit of the broader community.

Ms Webb's 'media releases'

- 61 Ms Webb facilitates a 'media release' section on her Website. She states that the purpose of the media releases are to (at **Tab 25** to Exhibit JF-1):

...highlight those atrocious occurrences, and name the government offenders for their actions.

It's not going to be pretty, and we don't have any intentions of sugar-coating one bit of it!

...

We look forward to publishing your story!

But in the meantime we invite you to read what's been exposed thus far.

62 Ms Webb has published 15 media releases on her Website related to OGIP Unit officers. Of these 15 media releases, 10 refer to me and include my full name, email address and telephone number. The media releases contain false and unsupported allegations, predominantly relating to Ms Jodie Cobbin (Director of the OGIP Unit), Mr Michael McIntosh (Principal Solicitor within the OGIP Unit) and I. These media releases are collated and exhibited at **Tab 26** of Exhibit JF-1, and are titled as follows:

Date	Title	Officers named	Exhibit JF-1 pp
24/08/2022	NSW Dept of Communities & Justice Discloses Inaccuracies in NCAT Members Terms & Conditions Handbook	Rachel	254 - 255
13/06/2023	NSW Dept of Communities and Justice Claim Non-Existent Certification to Support Access to Information Decisions	Jordan Creyson	256 – 257
13/06/2023	Ex-Top NSW Cop Creates Departmental Policy Document Recommending State's Employees Apply for Restraining Orders, Collude with Third Party Agencies, Engage NSW Police, and Seek Legal Costs Against Labelled Problematic Members of the Public Exercising Their Legal Rights to Request Access to Government Information and Secure Protection of Their Personal Information	Jodie Cobbin Jonathan Franklin	258 - 260
27/06/2023	Justice NSW Successfully Convinces NSW Civil & Administrative Tribunal to Withhold Access to Tribunal Services from Free Community Service Provider	Jodie Cobbin Jonathan Franklin	261 – 263
27/06/2023	Free Public Service Launches 1300 Smart Number to Provide Improved Services to NSW Community	Jonathan Franklin	264 – 266
29/06/2023	NSW Dept of Communities & Justice Cowardly Issues Warning Letter Under Pseudonym to Unrepresented Party in Response to Formal Submissions	Jodie Cobbin Jonathan Franklin	267 - 269
03/07/2023	Objectivity Disclosed As Essential Attribute for Prospective Agents to Represent Parties in the NSW Civil & Administrative Tribunal	Jonathan Franklin	270 – 272



03/08/2023	NCAT Principle Member Chooses to Omit Submissions of Unrepresented Party from Published Case Law, Stating Decision is a True and Accurate Account of Hearing	Jonathan Franklin	273 – 275
29/08/2023	NSW Dept of Communities & Justice Evidenced Switching between Work Health & Safety Legislation and Freedom of Information Legislation to Obstruct Legitimate Access to Government Records	Jordan Creyson	276 – 277
25/09/2023	Agency Professional Standards Dramatically Decline When Appearing Before NSW Civil & Administrative Tribunal Hearings	Michael McIntosh Jonathan Franklin	278 – 280
09/10/2023	Ex-Top NSW Cop Admits to Using Government Resources to Breach the Public's Privacy at Non-Governmental Meeting	Jodie Cobbin Jonathan Franklin	281 – 284
09/10/2023	Director Open Government Information & Privacy Unit, NSW Department of Communities & Justice, Concedes to Using Non-Legislated Prep-School Protection Policy to Enable Breaching of the Public's Privacy	Jodie Cobbin Michael McIntosh Jonathan Franklin	285 – 287
18/08/2024	NSW Dept of Communities & Justice Blatantly Thumbs its Nose at Valid Breach of Privacy Complaint with Privacy Commissioner	Jodie Cobbin	288 – 289
21/08/2024	NSW Civil & Administrative Tribunal Continues to Withhold Access to Tribunal Services from The Public In Contradiction to Open Justice Principles	Jodie Cobbin Michael McIntosh Jonathan Franklin	290 – 292
23/09/2024	Toxic State Government Behaviours Exposed! Public's Ongoing Investigation into NSW Right to Information and Privacy Officer Behaviours and Activities Reveals Cartel Posse Mentality, Denigrating Legislated Rights Undermining Beneficial Legislation	Director (Jodie Cobbin) and refers to officers of DCJ generally	293 - 300

Appeal Panel threats and accusations

63 On 28 July 2023, Ms Webb sent an email which attached a letter to the Tribunal, Mr McIntosh and I. A copy of the email and letter are exhibited to **Tab 27** to Exhibit JF-1, which stated:

Be advised that I do put you, Jonathan Franklin solicitor for the Secretary, Department of Communities and Justice who is notably not a registered solicitor...on notice that if you should breach in my view any or all of (but not limited to) the Government Sector Employees [sic] Act 2013, the NSW government's Model Litigant Policy, the Legal Profession Uniform Law Application Act 2014, the Dept of Communities & Justice Code of Conduct, the Australian Solicitors' Conduct Rules, the NSW Civil & Administrative




Tribunal Act 2013, I will notify the Tribunal of such conduct and thereafter consider reporting such conduct to the Office of the Legal Services Commissioner and any other relevant regulatory body.

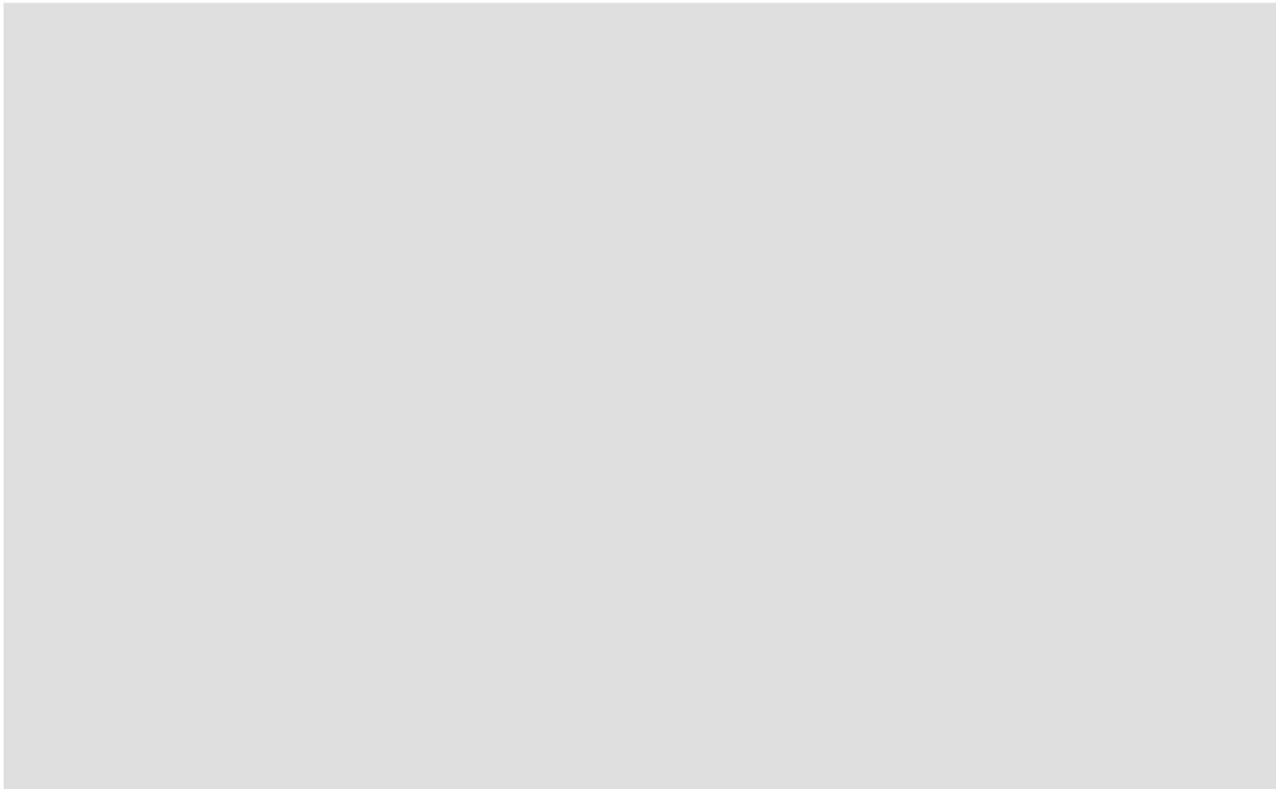
64 Later, on 28 July 2023, Ms Webb appeared before the Appeal Panel for an application that she brought (Appeal Panel Case no 2023/209749); *Webb v Secretary, Department of Communities and Justice* [2023] NSWCATAP 213 ('**Appeal Panel matter**').

65 On 26 July 2024, I obtained the sound recording for the Appeal Panel matter from the Tribunal.

66 On 30 July 2024, Transcript Counsel provided official legal transcription services to transcribe the Appeal Panel matter audio file. A copy of the official legal transcription is exhibited at **Tab 28** to Exhibit JF-1.

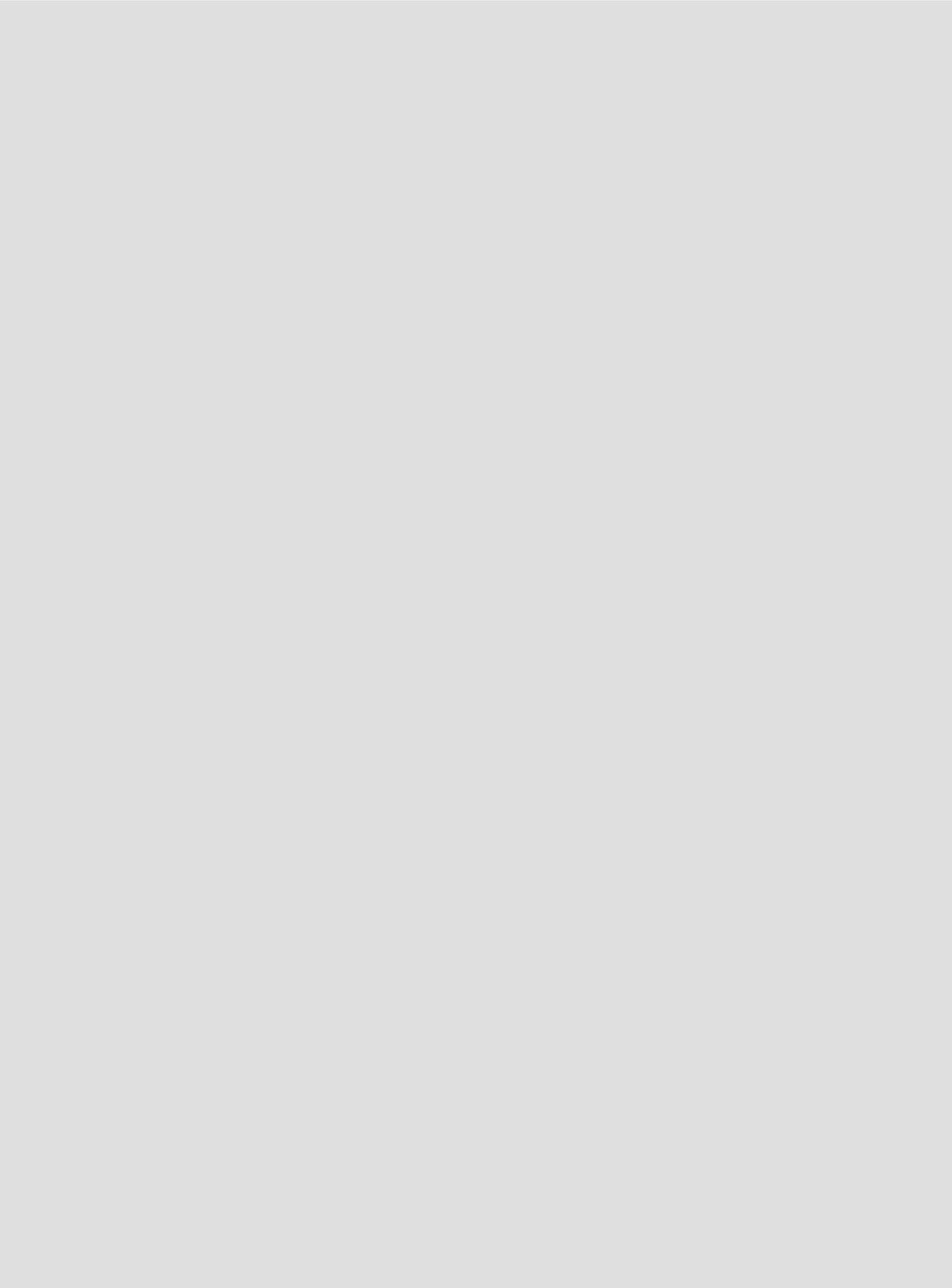
67 On 28 July 2023, Ms Webb submitted at lines 13-17, Tab 28, p 310 to JF-1:

...should [the Appeal Panel] dismiss the appeal, and I therefore be forced to attend a substantive hearing...in person, that the tribunal detail in its decision what measures it intends to take to ensure my safety, as I now understandably feel, threatened and intimidated by Mr Franklin on the basis he is engaging in stalking behaviours which I do consider to be a serious offence.



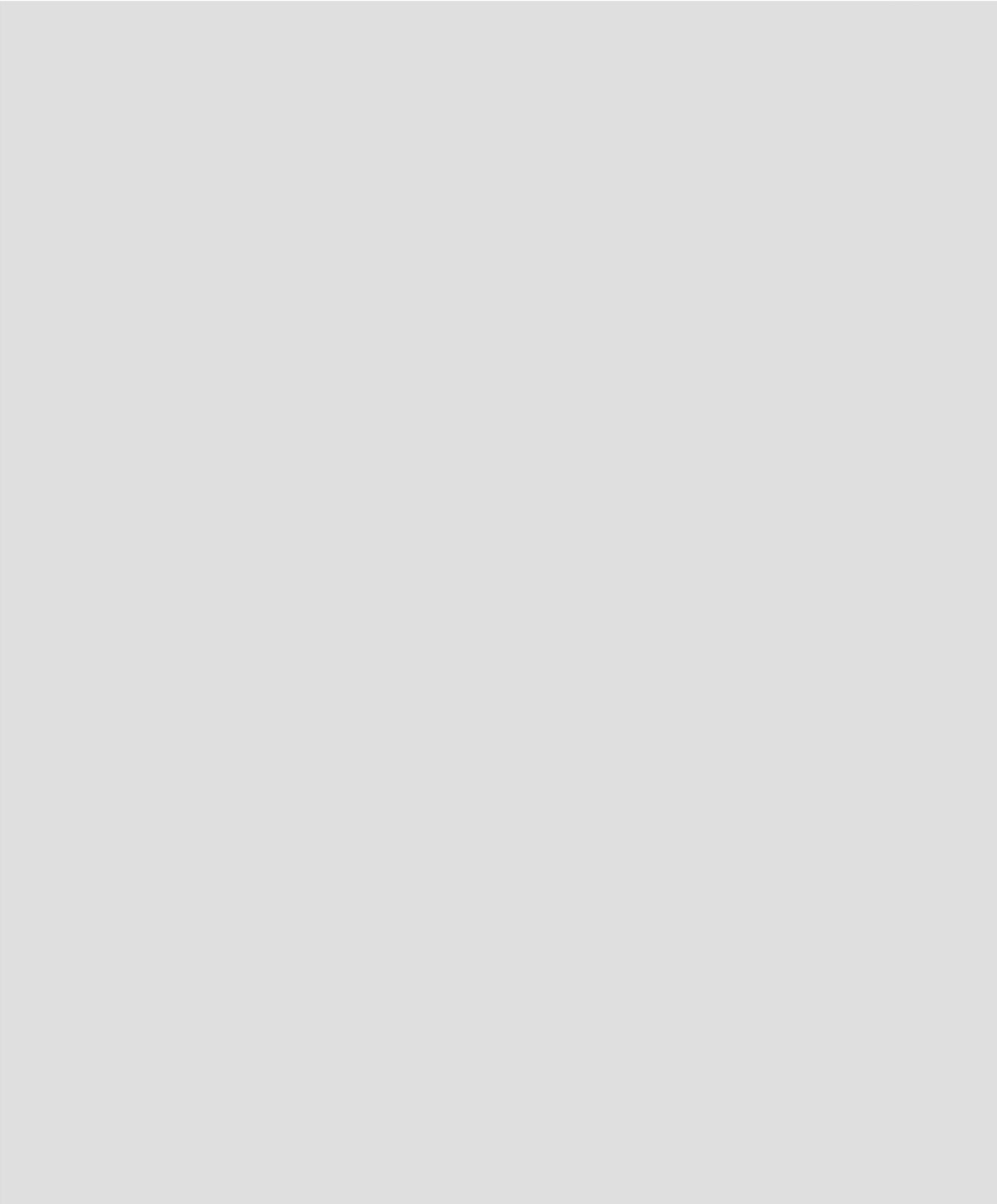
A handwritten signature in black ink, appearing to read 'Ms Webb', is located at the bottom left of the page.

A handwritten signature in black ink, appearing to read 'Mr Franklin', is located at the bottom right of the page.



Joseph L.

Joseph L.



Overview of work, health, safety concerns

75 I consider that Ms Webb's copious allegations about me are a risk to my health and safety at work. I also consider her attacks on other officers as a risk of harm with the persistence and intensity of her baseless allegations.

77 To manage and mitigate the risk of harm to officers of the OGIP Unit, the Unit may place blocking restrictions on individuals who engage in unreasonable conduct.

78 Ms Cobbin has been subject to various media releases published by Ms Webb as introduced at para [74]. These media releases accuse her of misleading the Tribunal, being offensive, abusing her power as a public official, breaching Ms Webb's privacy and that she is corrupt and offensive. Ms Cobbin was:

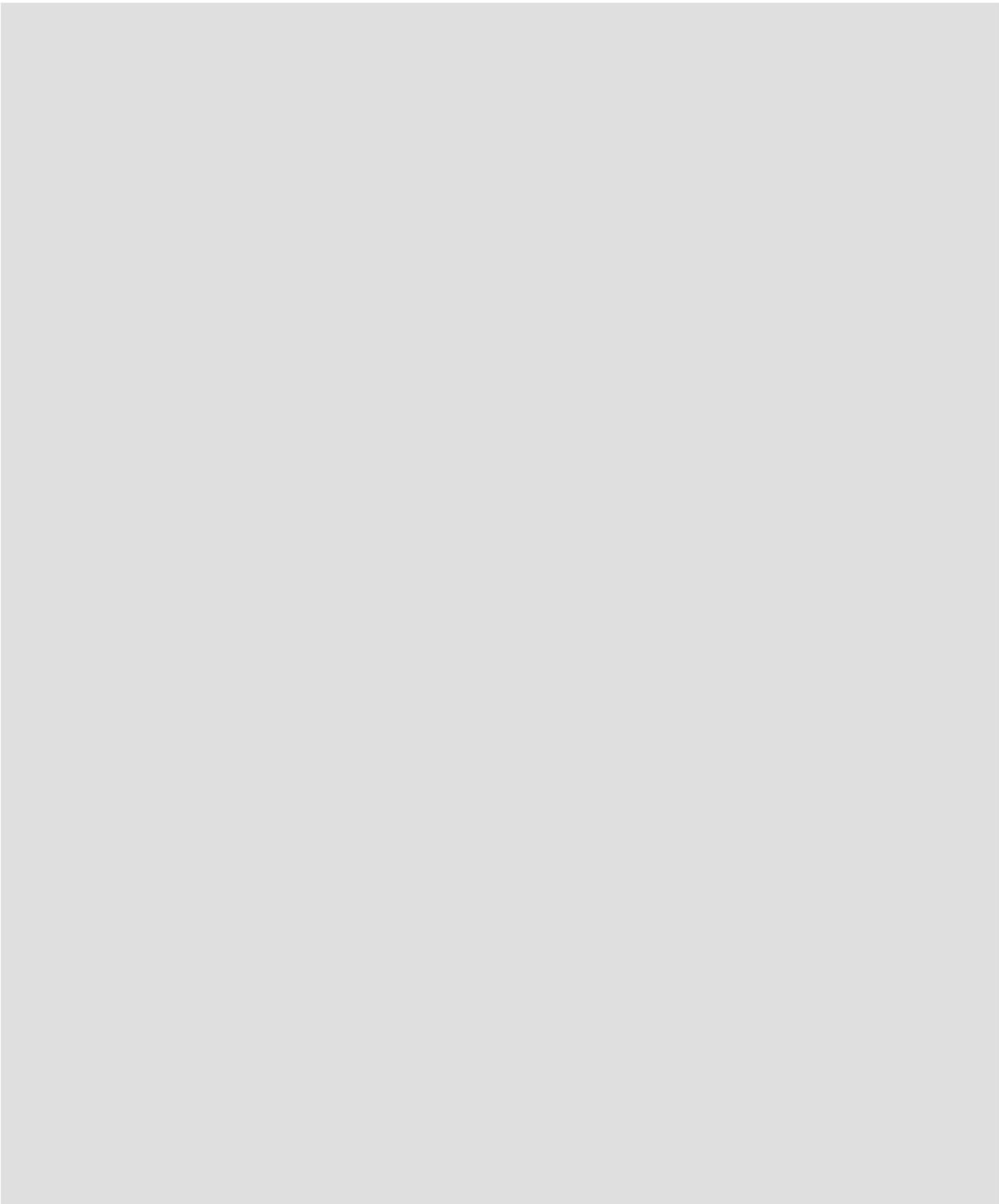
a. the main subject in six of Ms Webb's media releases:

- i. 13 June 2023: pp 258 to 260 Tab 26 to Exhibit JF-1;
- ii. 27 June 2023: pp 261 to 262 Tab 26 to Exhibit JF-1;
- iii. 9 October 2023: pp 281 to 284, Tab 26 to Exhibit JF-1;
- iv. 9 October 2023: pp 285 to 287, Tab 26 to Exhibit JF-1;
- v. 18 August 2024: pp 288 to 289, Tab 26 to Exhibit JF-1; and
- vi. 23 September 2024: pp 293 to 300, Tab 26 to Exhibit JF-1.

b. named in a further two media releases:

- i. 29 June 2023: pp 267 to 269, Tab 26 to Exhibit JF-1; and
- ii. 21 August 2024: pp 290 to 292, Tab 26 to Exhibit JF-1.





85 I am concerned for the false and misleading information published about OGIP Unit officers. For example, Ms Webb published a media article which stated that Mr McIntosh appeared remotely at a directions hearing with his children yelling in the background. This media article is false. I was appearing before the Tribunal via AVL at the time of the event Ms Webb refers to. Mr McIntosh had dialled into the hearing remotely using headphones.

His face briefly appeared for approximately 30 seconds on the screen. It looked to me like he was standing in an elevator. Mr McIntosh informed me that he was in a DCJ office building when the fire alarm was activated. He said that he accidentally pushed the camera button on his phone as he was exiting the building. Whilst there were other Department staff present, at no point were any children visible or audible on the screen. Mr McIntosh said that his children were in childcare nowhere in the vicinity of his telephone or workplace.

- 86 In my opinion, the statements made about Mr McIntosh's professionalism are a mere attempt to belittle or affect his standing within his employment: see pp 278, Tab 26 to Exhibit JF-1.

Effect of Ms Webb's conduct

- 89 Ms Cobbin, Mr McIntosh and I have endured insulting and malicious stories published by Ms Webb with full name, telephone number and email address.

- 90 I have been subjected to vague and baseless allegations, including:
- a. breached DCJ's Code of Conduct (Tab 26, p 265 to Exhibit JF-1);
 - b. breach of Model Litigant Policy (Tab 26, p 265 to Exhibit JF-1);
 - c. engaged in professional misconduct and abuse of position (**Tab 40** to Exhibit JF-1);



- d. internet trolling (Tab 26, p 290 to Exhibit JF-1);
- e. breaching the Article 19 of the United Nations Declaration of Human Rights (1948) (Tab 26, p 265 to Exhibit JF-1);
- f. the criminal offence of stalking (Tab 26, pages 270 to 271 to Exhibit JF-1); and
- g. engaging in unqualified legal practice (Tab 27 to Exhibit JF-1).

91 Ms Webb's tone on her website uses emotive language which intends to elicit an emotional response or incite anger from her readers such as:

- a. Stating '*Mr Franklin had succeeded in creating a moral panic*' in the context of an article about government agencies engaging in misconduct and including only my name and contact details at the end of the media release: p 290 of Tab 26 to Exhibit JF-1;
- b. Similarly, according to Ms Webb, Ms Cobbin created a '*moral panic*' presenting to the NSW Right to Information and Privacy Practitioners Network and inferring that Ms Cobbin abused her public power and questionable policing practices from her former employment with the NSW Police Force: pages 281 to 282 of Tab 26 to Exhibit JF-1;
- c. Ms Cobbin '*has simply transferred her police practices to her administrative role within the Dept of Communities and Justice and forgotten she is no longer a police officer, breaching and encouraging the breaching of the public's privacy...*': p 282 of Tab 26 to Exhibit JF-1;
- d. Ms Cobbin '*covertly*' uses the public's information to be '*used against them*' and is an example of '*how senior trusted government employees act behind closed doors to the detriment of the public she serves*': p 282 of Tab 26 to Exhibit JF-1;
- e. In the context of Ms Cobbin, Ms Webb uses language such as DCJ '*has now been exposed circulating*' a presentation made by an '*ex-NSW Police Superintendent who now occupies the role of Director, Open Government Information & Privacy Unit...who admitted to unlawfully using...identifying her targets to every...member...*': p 296 of Tab 26 to Exhibit JF-1;
- f. Repetition of the word 'expose' throughout her website. For example, within the following media articles:
 - i. '*Toxic State Government Behaviour Exposed!*': p 293 of Tab 26 to Exhibit JF-1; and

- ii. *'Justice NSW Successfully Convinces NSW Civil & Administrative Tribunal to Withhold Access to Tribunal Services from Free Community Service Provider'*: p 261 of Tab 26 to Exhibit JF-1.

92 I believe the inclusion of full contact details suggest that Ms Webb hopes for readers to contact the people targeted on her website. An example of Ms Webb's intention to incite anger is in her 3 July 2023 media release (pages 270 to 272 of Tab 26 to Exhibit JF-1):

Likewise there are numerous instances of agency solicitors behaving badly which see no action and much less commentary from the Tribunal, such as the recent actions of Justice NSW' Jonathan Franklin who provided evidence Justice NSW had trolled the internet for information to be used against an unrepresented party, screenshots which only showed a history of public commentary and the community's ongoing support for one another on the subject of NCAT and accessing government information. If a member of the public were to act in the same way as Jonathan Franklin the Tribunal would take a very dim view of such conduct and dismiss it as irrelevant to proceedings and decidedly vexatious.

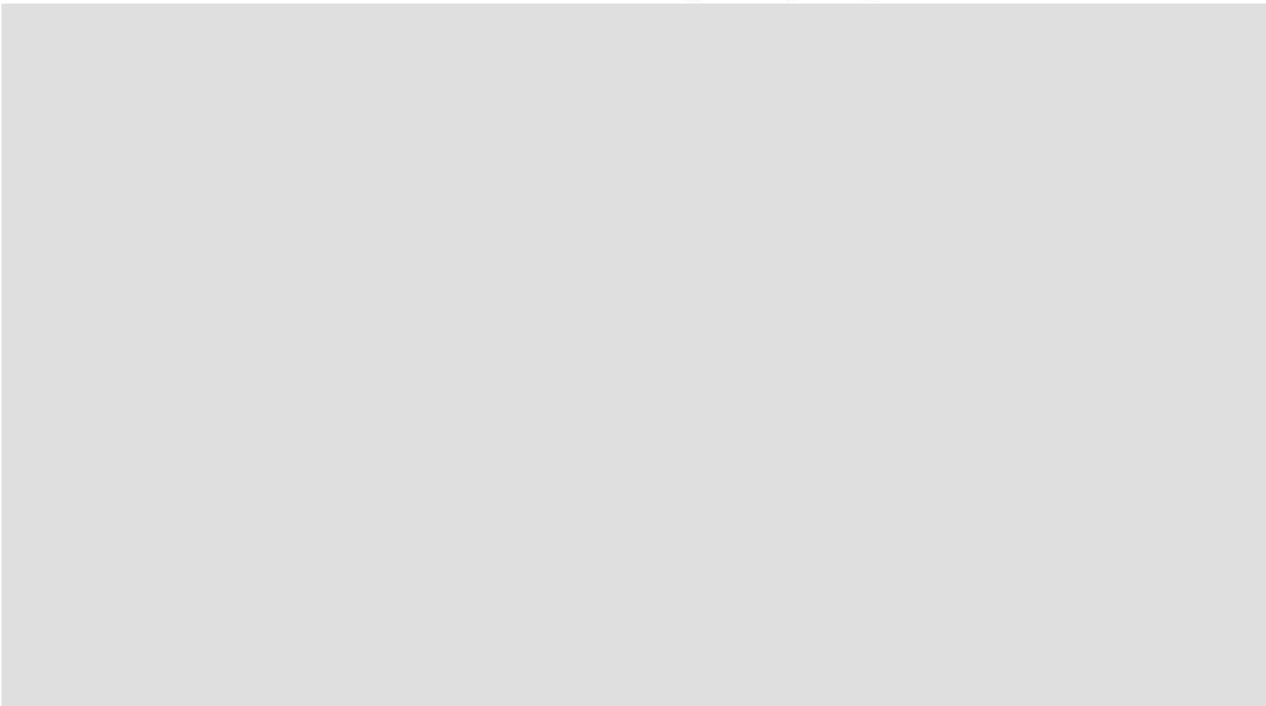
Personally, I consider trolling as stalking, which is an offence under the Crimes Act 1900.

94 I am aware of a document titled 'Submission for request urgent parliamentary inquiry into the maladministration, systemic abuse and failures of the NSW Civil and Administrative Tribunal (NCAT) and the NSW Civil and Administrative Tribunal Act 2013'. Ms Webb published this document and accompanying media release on her website on 30 August 2024. A copy of this media release and submission is exhibited at **Tab 31** to Exhibit JF-1.

95 Regarding my interactions with Ms Webb, her so-called exposing 'atrocious occurrences' of mine arose out of representing DCJ for one Tribunal matter. Ordinarily, interactions with a member of the public, whether it be in deciding an access application, privacy internal review or external review before the Tribunal is limited to direct lines of communication. I have never had a significant or long interaction with Ms Webb in person or over the telephone. Yet, Ms Webb continues to host and use her website to personally belittle my character without any basis.

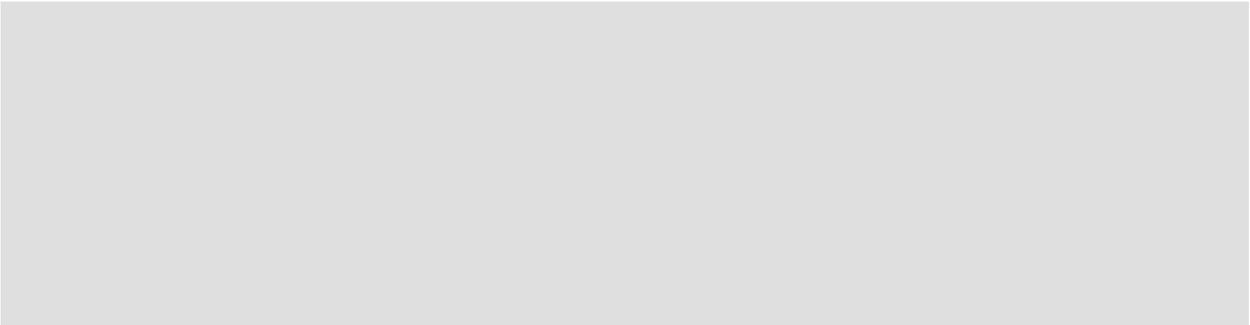


96 Once Ms Webb takes issue, she is persistent and gives little regard to the fact that the people she attacks are predominately government officers acting in the course of employment. My dealings with Ms Webb have been professional in nature, yet I have been met with numerous defamatory, slanderous and outlandish personal attacks on a forum that is viewed by people who think little of the judiciary and government.



98 Ms Webb does not care if a person is acting in the course of their employment or if they are employed by the public or private sector. For example, solicitors from external legal service providers are tracked on her website to identify new places of employment, even after the resolution of the matter in which they represented a government agency. A copy of this information is exhibited in the post, dated 8 August 2024 at **Tab 39** at pages 400 to 403 at Exhibit JF-1.

99 Given my understanding that Ms Webb has had a fixation on Port Stephens Council and its governance officers since 2011 which to date has not relented, I am very concerned about the ongoing impact of her conduct on OGIP Unit employees and the Unit's finite resources.



102 Ms Webb's criminal accusations about me arose from compiling submissions for an interlocutory application where I had included four screenshots of Twitter posts, one Facebook post and an excerpt from Ms Webb's website. The submissions to an interlocutory application were drafted in the course of NCAT proceedings 2023/00125842. Ms Webb applied to attend the hearing remotely which was opposed by DCJ. A copy of the submissions that I drafted is exhibited at **Tab 32** to Exhibit JF-1.

103 After the submissions at para [101], Ms Webb's published a media release on 27 June 2023. I consider the use of language to be an attempt to incite anger amongst her readers (pages 264 to 265 of Tab 26 to Exhibit JF-1):

...Jonathan Franklin of Justice NSW...was self-evidenced trolling the internet and the NSW Freedom of Information website, searching for evidence of those discussions and criticisms.

As a result of the micro-dossier he had compiled for the purpose of influencing those proceedings, Mr Franklin successfully convinced a Principal Member of NCAT the services and opportunities for open discussion between members of the public and Ms Webb were offensive as unacceptable conduct, should be constrained, and as such were painted in a bad light.

...

"In this instance, we have a representative of the NSW Justice System publicly stating the community should be prevented from communicating about whatever it is of concern to them. This does not align with the United Nations Universal Declaration of Human Rights (1948) Article 19...Further, Mr Franklin's public position does not align with the NSW Model Litigant Policy or the Department's Code of Conduct".

104 I consider Ms Webb's public media releases are designed to harass public officials when she does not receive what she demands. OGIP Unit staff who are fulfilling their professional obligations should not be subjected to Ms Webb's attacks.

105 As described in para [74], managers, including myself within the OGIP Unit have concerns with the effect of Ms Webb's conduct on staff due to her frequent and vocal media releases.

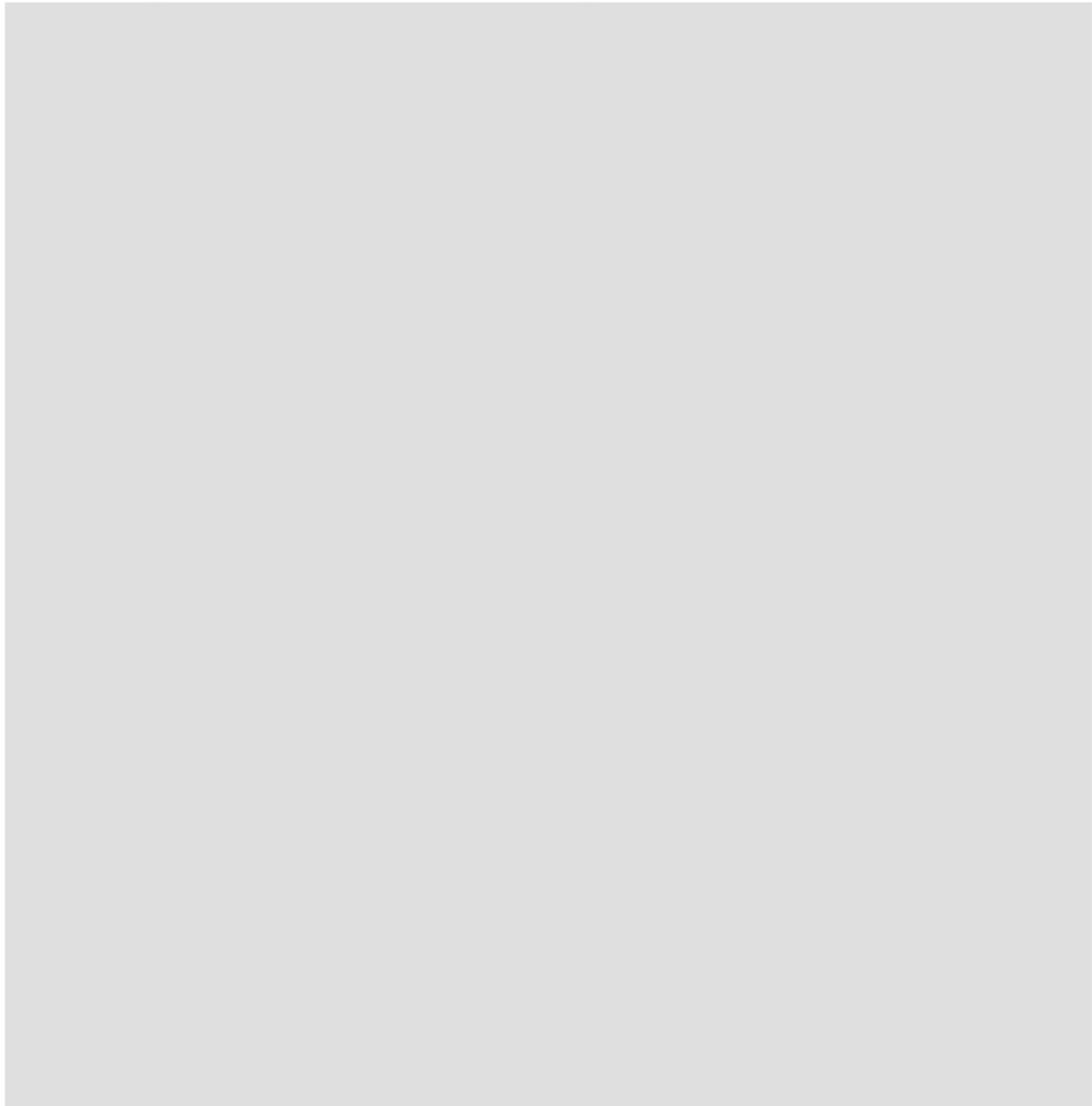


DCJ's attempts to limit Ms Webb's conduct

- 106 On 29 June 2023, DCJ wrote to Ms Webb informing her that 'staff have indicated that the content and tone of your communications are perceived as defamatory, threatening, insulting, misleading and abusive. This has resulted in significant levels of distress'. The reason for the warning letter arose from 'baseless allegations [made by Ms Webb] of gross professional misconduct and abuse of position, in addition to speculative threats and multiple allegations of a vague breach of the Department's Code of Conduct; and...misrepresentations that the Department is acting untoward and manipulative'.
- 107 Ms Webb was warned that if her conduct continued, she would be blocked from emailing the OGIP Unit and that all future correspondence would need to be sent through Australia Post.
- 108 The conduct which gave rise to the warning letter arose from assertions the Ms Webb made about me. A copy of the warning letter is exhibited at **Tab 33** to Exhibit JF-1.

- 110 On 29 June 2023, Ms Webb published a media release titled 'NSW Dept of Communities & Justice Cowardly Issues Warning Letter Under Pseudonym to Unrepresented Party in Response to Formal Submissions'. A copy of this media release is exhibited at p 267 of Tab 26 to Exhibit JF-1.
- 111 On 23 August 2024, Ms Webb drew attention to this via creating a post on social media platform, 'X' (formerly known as 'Twitter') using the username '@NSW_FOI'. A copy of this post is exhibited at **Tab 34** to Exhibit JF-1.
- 112 On 30 October 2024, Ms Cobbin wrote to Ms Webb. Ms Webb was advised that Ms Webb '*was blocked from communicating with the Open Government, Information and Privacy Unit (OGIP) using email, as your correspondence has caused significant levels of stress and is perceived by OGIP staff to be defamatory, threatening, insulting, misleading and abusive*', except in the course of Tribunal proceedings. A copy of the letter is exhibited at **Tab 35** to Exhibit JF-1.





Impact of an order made under s 110 of the GIPA Act

116 As outlined at paras [73]-[88] above, DCJ has attempted to engage with Ms Webb to find ways to manage the impact on DCJ caused by her frequent applications. Generally, Ms Webb has not been agreeable to engage with DCJ outside of written communication.

117 If an order is not made under s 110 of the GIPA Act, I expect that Ms Webb, either personally or through DraftCom or Mr McEwan will continue to lodge applications for information of the kind demonstrated by GIPA24/4341 (see Tab 19 at pages 164 to 167), being an access application received by DCJ on 28 October 2024 on the DraftCom

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A handwritten signature in black ink, appearing to be 'J. McEwan', is located at the bottom right of the page.

letterhead signed by Ms Webb. DCJ refused to deal with GIPA24/4341 on 5 December 2024 (see **Tab 38** of Exhibit JF-1).

118 I also reasonably anticipate that if a s 110 order is not made, DCJ its staff, including myself, will continue to be subject to the relentless and unkind conduct of the respondents as particularised above.

119 Ms Webb's applications have had a significant impact on the resources of DCJ, and her conduct has negatively affected staff in the OGIP Unit. I am concerned that Ms Webb's conduct will continue to escalate, and she will become more fixated with DCJ officers.

120 In those circumstances, I consider that an order under s 110 of the GIPA Act is necessary to safeguard DCJ's resources and protect the wellbeing of the OGIP Unit staff members.

AFFIRMED at

SYDNEY

Signature of deponent



Name of witness

Sue Chew

Address of witness

6 Parramatta Square, Darcy Street Parramatta NSW
2150

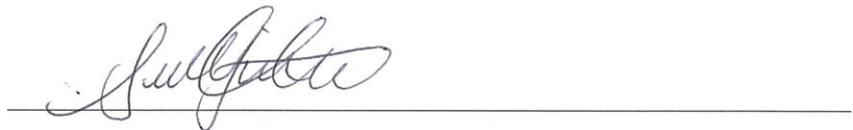
Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. I saw the face of the deponent,
2. I have known the person for at least 12 months

Signature of witness



Note: The deponent and witness must sign each page of the affidavit.