

DEBT RECOVERY IN NSW

Organisation: NSW Information Commissioner
Name: Ms Elizabeth Tydd
Position: Commissioner
Date Received: 22/05/2014



information
and privacy
commission
new south wales

Our reference: IPC14/A000042

Mr Bryan Doyle MP
The Chair
Legislative Assembly Committee on Legal Affairs
Parliament House
Macquarie Street
SYDNEY NSW 2000

Attention: John Miller

By email: legalaffairs@parliament.nsw.gov.au

Dear Mr Boyle,

Re: Inquiry into Debt Recovery in New South Wales

Thank you for your letter dated 11 April 2014 and the opportunity to make a submission to the inquiry on debt recovery in New South Wales.

I understand that the debt recovery framework is considered to include all aspects of debt recovery, and the inquiry particularly focuses on state regulations that govern debt recovery.

I am pleased to provide the following information to assist the Legislative Assembly Committee on Legal Affairs with its inquiry.

The Government Information (Public Access) Act 2009 (GIPA Act)

NSW citizens expect open, transparent and accountable government decision making and access to government information. The GIPA Act encourages proactive release of government information and provides the public with the ability to access their personal information held by a government agency.

The GIPA Act recognises there are circumstances where there an agency may take into account public interest considerations against disclosure determining an application under the Act. Generally, as it relates to a GIPA Act access application, individuals' rights would be a consideration in which agencies may take into account for the purpose of determining whether there is an overriding public interest against disclosure of government information. The considerations are detailed in section 14 and Schedule 1 of the GIPA Act.

My role and functions

I am responsible for the oversight of the operation of the *Government Information (Public Access) Act 2009* (GIPA Act) which upholds the principles of transparency and accountability, and for measuring and monitoring agency compliance with the GIPA Act.

Term of Reference 1: Effectiveness of current legislation and administrative arrangements

No submission on this term of reference.

Term of Reference 2: Barriers to the debt recovery process; and impacts on third parties responding to debt recovery actions

While the GIPA Act provides individuals with an enforceable right to access government information, the information access regime is not designed to specifically facilitate debt recovery action. However, the GIPA Act is a mechanism to seek information of a non personal nature which may include names, transactions, and business entities. In this regard, the GIPA Act is a potential means to obtain information relevant to debt recovery.

A preliminary analysis of applications across the government sector indicates the Act is used by individuals represented or otherwise to gain access to information that is not their personal information. Accordingly the Act could be applied to seek information in relation to the identity and location of a debtor to a third party.

Term of Reference 3: Possible measures to make the debt recovery process more efficient

No submission on this term of reference.

Term of Reference 4: Practice in debt recover in other jurisdictions

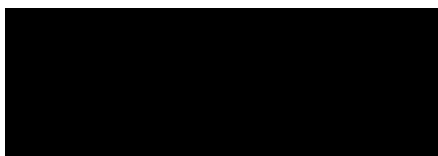
No submission on this term of reference.

Term of Reference 5: Any other relevant matters

The GIPA Act is a foundation for NSW Government agencies to provide open access to information to meet the community's expectations of openness and transparency whilst respecting requirements to safeguard personal information.

I hope this information will be of assistance to you. Please do not hesitate to contact me if you require anything further.

Yours sincerely



Ms Elizabeth Tydd

CEO, NSW Information Commissioner

21 May 2014