

**Submission
No 8**

PERFORMANCE MEASURES AND ACCOUNTABILITY OF OVERSIGHT AGENCIES

Name: Mr James Prior

Date Received: 28/01/2013

Telephone: [REDACTED]

Submission.

Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission.

This submission is primarily concerned with the Information and Privacy Commission and implicitly, the NSW Ombudsman.

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This submission is based on procedures in government agencies that are designed to inhibit and in fact, prevent members of the public from seeking information under current GIPA legislation. Essentially, the submission relates to the first item in the terms of reference, "(a). The reporting requirements of each agency" and to the fourth item " (d) How effective these measures are considered to be".

It will be submitted that the existing procedures for measuring and reporting upon agencies are inadequate in that they ignore a major factor that prevents measuring and reporting to be performed accurately.

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Background.

I recent years, I applied for information under the then Freedom of Information legislation, specifically, information relating to the **previous overseas** employment record of a person then occupying a senior position in a NSW Government agency. I subsequently was warned off by that agency, reminding me that when I had been employed by that

agency, I had signed a Deed that prevented my ever initiating any enquiries about the agency, after I had ceased to be employed there.

It was of some interest that the agency saw fit to communicate with me in terms that may well be construed as threatening.

My application for the information was declined.

The conclusion I drew from this suggested that the Freedom of Information legislation was being thwarted. Clearly it offered no protection for a former public servant raising a matter that might seem to be relevant to the purposes of the legislation.

The FOI legislation, of course, has been replaced by the GIPA legislation {Government Information (Public Access) Act 2009 no.52} with much the same purposes. However, I have been informed that similarly, this legislation offers no protection in the same circumstances.

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The purpose of this submission, therefore, is to raise the question as to whether the monitoring and reporting procedures presently in use, adequately acknowledge the constraints under which the Information and Privacy Commission operates.

It would seem that the intentions of the GIPA legislation, that is, granting to the public the right to information laws providing openness, accountability and transparency are not being satisfied. The view can be validly taken that by signing a deed, such as happened in my case, the public servant is deprived of all the rights available to him/her under existing government legislation.

Have the reporting procedures ever drawn attention to this? If so, to what end? Just as importantly, what measures, if any, are being employed to assess the performance of such agencies in truly and correctly carrying out the intentions of the GIPA legislation?

I submit that either:

- There has been a failure to report or
- Reporting agencies have reported such procedures and the appropriate authority has ruled them to be satisfactory.

I am prepared to appear before the Committee to submit that both of these possible circumstances invite review.



James Prior



28 January, 2013.