



**Review report under the  
Government Information (Public Access) Act 2009**

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<b>Applicant:</b>	<b>Ms Alison Branley (Newcastle Herald)</b>
<b>Agency:</b>	<b>University of Newcastle</b>
<b>OIC reference:</b>	<b>11-358</b>
<b>Date review request received:</b>	<b>24 October 2011</b>
<b>Date of this report:</b>	<b>2 April 2012</b>

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**Summary of this report**

1. Ms Branley, Education Reporter for the Newcastle Herald, requested information from the University of Newcastle (the University) about University-funded overseas trips taken by senior employees. She asked the University to grant her a 50% reduction in the processing charge as the information applied for is of special benefit to the public generally.
2. The University decided not to grant Ms Branley a discount in the processing charge. In making that decision, the University considered the Information Commissioner's guideline 2 and the factors of the application. In our view, the University made a decision that was available to it under the GIPA Act and we therefore uphold that decision.
3. We have also reviewed the University's estimate of processing charges and request for an advance deposit. The University does not hold the information in the way requested by Ms Branley and has told us that the work involved in collating and confirming the information is extensive. If similar information is held in a different format, we encourage the University to discuss that with Ms Branley and see if there is a more cost effective way of providing access to the information.
4. There is a strong public interest in favour of releasing information of the type requested by Ms Branley. We recommend that the University consider proactively releasing the information, or similar information, to the public.

**Our review**

5. Ms Branley made a formal access application to the University on 8 July 2011. Following the University's estimation of processing charges and a request for an

advance deposit, Ms Branley reduced the scope of her access application on 19 August 2011. She asked for the following information:

“Details of all University funded overseas trips by the Vice-Chancellor, Deputy Vice-Chancellor (Academic and Global Relations), Deputy Vice-Chancellor (Research) and Deputy Vice Chancellor (Services) between July 1, 2010 and June 30, 2011.”

6. Ms Branley also asked for a 50% reduction in the processing charge given that the information is of special benefit to the public generally.
7. On 22 August 2011, the University requested an advance deposit of \$330. Ms Branley again asked the University to consider the requested reduction of processing charges. On 2 September 2011, the University decided not to grant her a discount in the processing charge.
8. Ms Branley asked our office to review the decision to refuse a reduction in the processing charge, which is a reviewable decision under section 80(k) of the GIPA Act. We received her request for review on 24 October 2011.

### **Special benefit to the public generally**

9. Section 66 of the GIPA Act provides:

An applicant is entitled to a 50% reduction in a processing charge imposed by an agency if the agency is satisfied that the information applied for is of special benefit to the public generally.

10. The Information Commissioner has published *Guideline 2: Discounting Charges – special benefit to the public generally*. In accordance with section 15(b) of the GIPA Act, an agency must have regard to the Guideline when making a decision about section 66 of the GIPA Act.
11. When deciding whether or not an applicant is entitled to a reduction under section 66 of the GIPA Act, the agency must be satisfied that the information applied for is of special benefit to the public generally. In its notice of decision, the University considered the Information Commissioner’s Guideline, the provisions of the repealed *Freedom of Information Act 1989* and the nature of the information requested by Ms Branley. The University decided that the requested information may ‘satisfy a public curiosity’ and that it is in the public interest that the information be made available. However, the University is not satisfied that the information would be of a special benefit to the public.
12. In this case, the University has made a decision available to it under the GIPA Act. While another decision maker may have reached a different conclusion and granted the discount, that does not mean that the University’s decision is incorrect. We therefore uphold the University’s decision to refuse a discount in the processing charges.

### **Calculation of processing charges**

13. We have looked at the estimated processing charges and discussed them with the University. Given that Ms Branley has reduced the scope of her request to include only the trips taken by four senior employees over one financial year, the estimated processing charge of \$660 for 22 hours of work seems quite high.
14. The University has told us that it does not hold the information in the way requested by Ms Branley. In order to deal with the access application, the University would have to collect and collate the information from various sources and consult with the personal

assistant to each employee about whether requested travel was actually taken and to check transaction records.

15. The University has spoken with Ms Branley about ways to reduce the processing charges, such as reducing the scope of the application, or being given estimates of the figures and overall amounts as opposed to a breakdown of each trip. Ms Branley has been flexible in her approach to the application.
16. In the interests of facilitating access to information in a prompt and cost effective manner, we recommend that the University consider what information of this type it does hold and how. For example, how are travel expenses reported on at the end of the financial year? If there is information that can be released to Ms Branley without the need for the high processing charges then that should be discussed with her and information made available where possible. If Ms Branley wants the information exactly as requested, then she can continue with the access application by paying the advance deposit.
17. We consider that there is a strong public interest in releasing information of this type and recommend that the University consider compiling this type of information, or similar information, to be proactively released each financial year.

### **Request for advanced deposit**

18. On 22 August 2011, the University asked Ms Branley to pay an advance deposit of \$330, being 50% of the total estimated processing charges to deal with the application.
19. The University's notice requiring payment of an advance deposit met all of the requirements of section 68(3) of the GIPA Act. We uphold the University's decision to require an advance deposit.

### **Decision to refuse to deal further with application**

20. On 5 October 2011, the University advised Ms Branley that her application was closed as the time period for payment of the advance deposit had expired.
21. Section 70 of the GIPA Act provides:

An agency may refuse to deal further with an access application if the applicant has failed to pay an advance deposit within the time required for payment (unless the applicant has applied for review under Part 5 of the decision to require the advance deposit within the time required for payment of the advance deposit).
22. Ms Branley was given 20 working days to pay the advance deposit, as required by 68(3)(c) of the GIPA Act. When the University closed Ms Branley's application, she had not yet requested an internal or external review of the decision to require an advance deposit. We therefore uphold the University's decision not to deal further with Ms Branley's application.
23. However, Ms Branley's review rights with respect to the decision to impose an advance deposit and refuse a reduction in the processing charge continued for a further four weeks. Her request for a review of the decision of 2 September 2011 was made to us within time, but after the University had closed the application.
24. We have spoken with the University and it has confirmed that it is willing to continue to process Ms Branley's application following our review and recommendations, despite the earlier decision not to deal with it.

## Our recommendations

25. We uphold the University's decision not to grant a reduction in the processing charge.
26. In order to facilitate and encourage access to government information, promptly and at the lowest reasonable cost, we recommend:
- a. the University discuss the scope of the application with Ms Branley and identify any of the requested information that can be provided to her in a different format for less cost,
  - b. the University consider proactively releasing the information and other information of its type.
27. If both parties wish to proceed with the applicant as it is, we recommend:
- a. the University grant Ms Branley a further 20 working days in which to pay the advance deposit,
  - b. Ms Branley pays the advance deposit.
28. We note that the period within which an application is required to be decided stops running from the date that the decision to require an advance deposit is made until payment is received (section 68(2) of the GIPA Act). The advance deposit was requested on 22 August 2011 and so the time to deal with the application is taken to have stopped running on that date. Once the advance deposit is paid, the time will recommence.
29. We ask that the University advise Ms Branley and us by **11 April 2012** of any action it intends to take in response to our recommendations.

## Review rights

30. Our recommendations are not binding and are not reviewable under the GIPA Act. A person who is dissatisfied with a reviewable decision of an agency may apply to the Administrative Decisions Tribunal (ADT) for a review of that decision.
31. If Ms Branley is dissatisfied with:
- a. our recommendations, or
  - b. the University's response to the recommendations,
- then Ms Branley may ask the ADT to review the University's original decision.
32. An application for ADT review can be made up to 20 working days from the date of this report.
33. For information about the process and costs associated with a review by the ADT, please contact the ADT. The ADT's contact details are:

Administrative Decisions Tribunal  
Level 10, 86 Goulburn Street,  
Sydney, NSW, 2000  
Telephone (02) 9377 5711

Facsimile (02) 9377 5723

TTY (02) 9377 5859

Internet <http://www.lawlink.nsw.gov.au/adt>

e-mail [ag\\_adt@agd.nsw.gov.au](mailto:ag_adt@agd.nsw.gov.au)

34. If the University makes a new reviewable decision as a result of our review, Ms Branley will have new review rights attached to that new decision, and 40 working days from the date of the new decision to request an external review at the OIC or ADT.

### **Closing our file**

35. This review is now closed.

36. If you have any questions, please contact the Information and Privacy Commission on 1800 472 679.

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