



Department of Health & Human Services

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Our ref:

Your Ref: **Delete if not applicable**

<Name>
<Title>
<Company or organisation>
<Address 1>
<Address 2>
<SUBURB STATE POSTCODE>

Dear <Name>

Freedom of Information Notice of Refusal to Grant Access to Documents - Section 25A(5)

I refer to your request dated **INSERT Date** under the *Freedom of Information Act 1982* regarding access to:

"INSERT Wording of request"

Section 25A(5) of the Act allows an agency to refuse a request, without having identified any documents, where the requested documents are obviously exempt and where removal of the exempt material would not facilitate release of the documents, or where it is clear that you do not seek an edited copy of such documents.

It is generally accepted that there are three factors to consider when applying section 25A(5):

- whether the exempt nature of the documents is objectively apparent from the face of the request
- whether all the documents in the request are exempt
- if the applicant seeks access to an edited copy of documents meeting the request, whether an obligation arises under section 25 of the Act to provide such an edited copy.

In reaching the decision the department considered all of the above factors. It is objectively apparent from the face of the request that you seek access to documents which can be characterised as **(DESCRIBE DOCUMENT TYPES eg. internal working documents, law enforcement documents, the personal affairs information of another person, information obtained in confidence and information exempt due to a secrecy provision.)**

(Use the following exemptions where appropriate eg. use all exemptions for recent child protection matters and personal privacy for disability records etc)

Internal working documents

Section 30(1) exempts from disclosure documents that are internal working documents. For this section to apply, the documents must:

- disclose an opinion, advice or recommendation prepared by an officer, or relate to a consultation or deliberation that has taken place between officers and/or a minister, in the course of, or for the purpose of, deliberative processes involved in the functions of an agency and
- release must be contrary to the public interest.

The documents you seek would contain opinions and advice provided by departmental staff during the process of investigation into child protection matters. Release of this material is contrary to the public interest as it may inhibit the child protection investigation process.

Law enforcement documents

Section 31(1)(a) exempts from disclosure documents that if released would prejudice the investigation or proper administration of the law in a particular instance. Section 31(1)(c) provides that a document is exempt if its disclosure would (or would be reasonably likely to) disclose or enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of the law.

Personal privacy

Section 33(1) exempts from disclosure any document (or any part thereof) that would unreasonably disclose information relating to the personal affairs of another person. The documents you have requested are the personal information of a person other than yourself, therefore, if they existed, they would be obviously exempt under this section of the Act.

Information obtained in confidence

Section 35(1)(b) provides that a document is exempt if its release would divulge information communicated in confidence to the department and the disclosure would be contrary to the public interest on the basis that it would be reasonably likely to impair an agency's (or minister's) ability to obtain similar information in the future.

Secrecy provisions

Section 38 upholds the secrecy provisions of other legislation, such as sections 191(1) and 209(1) of the Children, Youth and Families Act 2005, which prohibit the disclosure of the identity of any person who has made a report regarding a child who they believe is in need of protection. Section 38 also prohibits the release of confidential information provided in the course of child protection investigations under the Children, Youth and Families Act.

It appears from the face of your request that you do not seek access to edited copies of documents. However, even if you did, we consider that no obligation would arise under section 25 to provide an edited copy because to do so would be impractical. It would be impossible to separate any documents from the file as suitable for release, as they would be so inextricably linked to the file as a whole.

I advise of my decision to refuse to grant access to the documents referred to in your application pursuant to section 25A(5) of the Act.

Review rights

If you are not satisfied with my decision you have the right to apply to the Freedom of Information Commissioner (the Commissioner) for review. This request needs to be made in writing within 28 days of the date you receive this notice of decision.

I have enclosed a fact sheet providing further information on making a request for review to the Commissioner.

Yours sincerely

<Name>
Freedom of Information Officer/Adviser
Executive Services

/ / 2015

Enc.

1. Fact Sheet – FOI Commissioner – Review of decision