

Editing Ward Records – Guidelines

Most frequently used exemptions:

S.18	Transfer of request
S.25A (5)	Refusing requests for apparently exempt documents
S.30	Internal working documents
S.33 (1)	Unreasonable disclosure regarding personal affairs
S.35 (1)(b)	Documents containing material obtained in confidence (including Notifier in Child Protection)
S.38	Documents to which secrecy provisions of enactments apply (e.g. Adoption Information)
S.33 (3)	* Notifying 3 rd parties that information about them is to be released

**If information about a 3rd party is considered reasonable to release, according to the Act, the person to whom the information relates is to be notified "if practicable" to give them an opportunity to object to the release of information. In relation to S 33 (3), FIND adopts a flexible and compassionate approach - in accordance with Senate Inquiry and recommendations into Forgotten Australians 2004. – Brendon Carroll (December 2010)*

Section 18. Provides for the transfer of request for access to a document where the document is not in the possession on that agency but in the possession of another agency, or where the subject matter of the document is more closely connected to the functions of another agency.

Section 25A (5). Under s 25A(5) the department may refuse a request where it is apparent from the request that the requested documents would be exempt and where part-release (under s 25) is not possible or not wanted by the applicant.

Section 30. The purpose of s 30 is to protect the deliberative processes of Government and to ensure sufficient confidentiality to allow decisions on policy and similar issues to be made after a frank and confidential exchange of views and ideas between officers and Ministers. It is the *deliberation* rather than the decision that is protected, where a failure to protect would be contrary to the public interest.

Section 33(1). The purpose of s 33(1) is to prevent unreasonable invasion of the privacy of third parties.

Section 35(1) (b). A document is exempt under section 35(1)(b) of the Act if the following two conditions are satisfied:

First, disclosure of the document would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and

Secondly, disclosure of this information or matter would be contrary to the public interest "by reason that the disclosure would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future".

Section 38. The purpose of s 38 is to prevent disclosure of information, where that information is prohibited from being disclosed under other legislation.

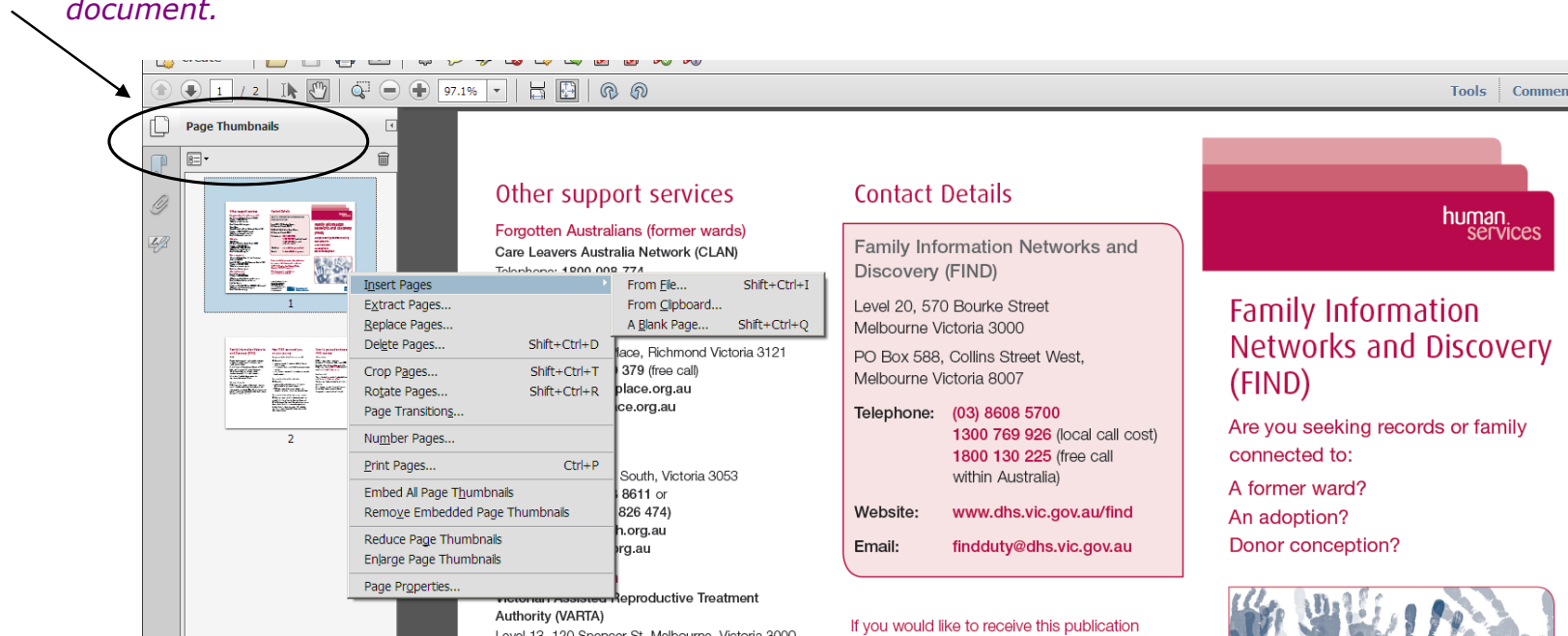
Section 33 (3) Third party information considered reasonable to release will be impacted on by the assessors knowledge of the relationship between the applicant and the third party. For example, if it is known the applicant's mother would object to the release of personal information - then S33 (3) is applied. (Brendon Carroll – Dec 2010)

Redacting using Adobe X Pro - tips and risks

Instructions for using Adobe X Pro to edit documents can be found at *F:\CYF FRIS FIND\Former Ward Service (FWS)\Editing Former Ward Records*

Risks to be aware of:

- *With the page navigation tab open (see below), pages can be moved, extracted, and inserted by 'dragging and dropping' or by right clicking the mouse to access a number of page display options.*
- *While a useful tool, there is also a risk that pages can be moved or deleted by mistake. Please take care when editing documents and ensure that the final number of pages matches the original number of pages in the document.*



INFORMATION ABOUT BIRTH SIBLINGS IN APPLICANT'S FILE		SECTION
Sibling illness/conditions	<p>Enuresis (bed wetting)/encopresis (soiling) – depends on context of file</p> <p>Sibling illnesses/conditions – usually reasonable to release, except highly personal/individual conditions (eg sexually transmitted infections)</p> <p>Reference to conditions – reasonable</p> <p>If lots of detail – may be considered unreasonable</p> <p>Mental health</p> <ul style="list-style-type: none"> - Suicide attempts – may leave in if children were present/aware of the attempt at the time - Mental health conditions – may be reasonable if provides information about genetic mental illness? 	
Siblings Ward numbers	Leave in	
Information about siblings	<p>General information about siblings mentioned in the applicants file can be left in. Any highly personal information is exempt.</p> <p>Consideration can be given to obtaining siblings permission in writing to the release of highly personal information about them.</p> <p>Examples:</p> <p>Allambie report – general information about siblings is reasonable e.g. descriptions of children's appearance and general behaviour. Highly personal information is exempt e.g sexualized behaviour.</p> <p>School reports of siblings – Allambie brief descriptions usually reasonable to release. Full page school reports about siblings considered unreasonable.</p> <p>Psychiatric assessments of siblings - exempt</p> <p>Reports with siblings name as title:</p> <ul style="list-style-type: none"> - Assess by content, not by title. Information about family or applicant is reasonable; 	33(1)

	<p>detailed siblings information usually unreasonable.</p> <p>Letters only about siblings – assess by content.</p> <p>Pregnant siblings – if clear the applicant knows about the child or pregnancy, reasonable to release. Otherwise exempt under section 33(1). <i>If child was adopted, consider still exempting under 33(1) as using s38 will disclose the fact that the child was born and adopted.</i></p>	
Applicant's ward register entry says to 'Refer to' entry of sibling	<p>Leave part that refers to both children.</p> <p>Release of other information about sibling can be reasonable in most cases, however exempt information about siblings foster parents/carers.</p> <p>If clear that no adoption took place, consideration can be made to leave foster parents names in. Need to always consider any other reasons why it may be unreasonable to disclose the foster parents names.</p>	
Siblings who have been adopted	<p>If a sibling has been adopted, always exempt the adoptive surname and the identifying information of the adoptive parents.</p> <p>Date of birth can be left in as this helps identify which sibling is referred to.</p> <p>Birth names of siblings can be left in where siblings knew of each other/were in care together.</p>	S38
Siblings offences	<p>Exempt details of criminal conviction- can leave in that they were in trouble with the law but not why.</p> <p>Could be reasonable to release where applicant committed offences with siblings.</p>	S33(1)
Information about siblings foster parents	<p>Exempt addresses, applications, and all other personal information of the siblings' foster parents.</p> <p>Could consider release of names and addresses if applicant was also fostered by same people or visited them.</p>	S33(1)

	<p>If we can confirm that no adoption took place, and applicant knew/had contact with siblings foster parents, consideration can be made to leave foster parents names in. Need to always consider any other reasons why it may be reasonable to disclose the foster parents names.</p>	
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WHERE APPLICANT HAS BEEN ADOPTED **SECTION**

	<p>If applicant was adopted FIRST and then made a ward, ward file is released under FOI (pages making direct reference to the adoption need to be jointly released under Adoption Act).</p> <p>If applicant was a ward of state and then adopted, ward file is released under Adoption Act.</p>	
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INFORMATION ABOUT THE APPLICANT CONTAINED IN A SIBLING'S FILE **SECTION**

	<p>Information about the applicant themselves or general information about the family can be released.</p> <p>Information that relates only to the sibling is not released without their permission.</p>	
<p>Where sibling has been adopted</p>	<p>On occasion the release of information about the applicant only can be considered however this needs to be discussed with a Team Leader prior to release, and no adoption information relating to the sibling can be released (eg. adoptive name).</p>	

FOSTER PARENTS		SECTION
Name and address	Usually considered reasonable to release (unless indicated that release would endanger life or physical safety of foster carers).	33(1), see 33. 2A
Name and age, DOB of children of foster parents	As above	
Payments where address and name appears	Payments OK to release. Name and address considerations are as above.	
Applications and Assessments of potential foster parents/ adoptive parents	<p>If placement did not eventuate - exempt</p> <p>If prior to placement of particular child – Detailed personal information about potential foster parents/adoptive parents is exempted. Some information may be considered reasonable to release depending on the context eg length of time child stayed with family. A summary of why applicants were approved as carers may be considered reasonable to release. If unsure – exempt.</p> <p>Could consider release of more information if application was made specifically for the applicant.</p>	33(1)
Assessments of how placement is going	<p>Usually OK to release, as this is relevant to the former ward and the context of their care and upbringing.</p> <p>May choose to exempt information personal to foster parents/siblings where it does not relate to the applicant.</p>	33(1)

PARENTS	SECTION	
Parents partners	<p>Leave in the names of step-parents, Defacto partners, or other partners that the parents' might have had to help explain the dynamics of the family constellation.</p> <p>Parent's friends – usually reasonable to leave names in. May exempt detailed personal information. Friend's children in care – exempt.</p> <p>Partner's children (not children of parent) – depends on context of file. If children were in contact/lived together – reasonable to release.</p>	
Details of offences	<p>Usually exempt. Left in where these relate directly to their care of the child eg neglect, vagrancy, failure to pay maintenance.</p> <p>Where there is uncertainty as to whether offence was committed eg no conviction, consideration must be given to protecting privacy of parent ie offence is usually exempted.</p>	33(1)
Reasons for divorce	Exempt if these don't relate directly to the child.	33(1)
Illnesses/admissions to hospital	<p>Usually left where this explains why parents not able to care for children. Hereditary illnesses also left in.</p> <p>Detailed information about illnesses may be exempted if particularly personal eg detailed mental health information.</p> <p>Examples: Hysterectomy – usually left in. Suicide attempts – may leave in if its relevant to parents capacity to care for children, reasons why they were removed from their care, if children were present/aware of the attempt at the time; or provides information about mental illness of parents.</p>	
Rape of mother	<p>If applicant was conceived as a result of rape: Although highly personal to the mother, this may be considered reasonable to release to the applicant, as it helps explain:</p> <ul style="list-style-type: none"> - circumstances around their conception - mother's relationship with child - character of their birth father, eg may affect their wish to search for their birth father 	

	<i>Please consider S33 (3). The question of reasonableness is impacted by the current relationship with the mother. Is there an amiable or conflictual relationship? Is she alive or deceased? Is it practicable to contact her? BC 22/12/10</i>	
Financial information relating to the parents	For consideration - how old are the records? What type of financial information is described - is it unreasonable to release? Likely to be able to release this information in most cases given the age of our records.	

POLICE REPORT		SECTION
Notifier names	Consider exempting notifier details (consult if notifiers are mentioned)	S35(1)(B) and S33(1)
Victim name and details	Exempt	33(1) 31(1)(c)
Victim's statements (not the applicant)	Exempt under 33(1) and 35(1)(b) – information provided in confidence	33(1) 35(1)(b)
Names of co-offenders	First names can be left in, unless identifying. Surnames exempt. If co-offenders were siblings, full name can usually be left in (depending on the nature of the offence)	33(1)

ALLEGATIONS OF ABUSE/SEXUAL ABUSE		SECTION
Allegations that applicant was abused	<ul style="list-style-type: none"> If made by applicant –reasonable to release If made by another person – consider their privacy or information provided in confidence. May choose to take their name out but leave allegation in. 	33(1) 35(1)(b) 33(1)(c)
Names of other victims	Allegations that siblings were abused <ul style="list-style-type: none"> Consider s33(1) personal information This information is exempted under s.38 (Secrecy provisions). This is because the 	S33(1) S38

	<p>Judicial Proceedings Review Act prohibits the publication of information that identifies another person as a victim of a sexual offence.</p> <p>Allegations (made by a third party) that another person was abused</p> <ul style="list-style-type: none"> • Exempt under s.33 and s.38 – see above <p><i>NB always consult with Team Leader prior to releasing information of this type</i></p>	
Name of perpetrator	<p>Need to consider personal information of alleged perpetrator.</p> <p>However, may be considered reasonable to release where -</p> <ul style="list-style-type: none"> - applicant is making the allegations of the abuse - conviction is recorded <p><i>NB always consult prior to releasing information of this type</i></p>	S33(1)

OTHER FWs/Friends**SECTION**

Names of other FWs	<p>Exempt the surnames of other former wards unless they are siblings of the applicant.</p> <p>May be circumstances in which it is considered reasonable - e.g. if the applicant and other ward lived together as flatmates</p>	S33(1)
Names of Friends and partners of the applicant	<p>Usually leave in the surname of friends and partners depending on the amount of personal information about that person or if they were a FW themselves.</p>	

NIL DOCS**SECTION**

Where ID has not been provided	<p>Can inform verbally of nil docs response, but if they want confirmation in writing we require ID.</p> <p>If no ID provided, section 25A(5) decision letter sent.</p>	
REPORTER/NOTIFIER DETAILS		
	Reporter/notifier details	

- First mentioned in Social Welfare Act 1970 – but no secrecy provisions
- Children and Young Person's Act 1989 first Act to prohibit release of identity of notifier

So – Section 38 (Secrecy Provisions) doesn't apply as there were no secrecy provisions at the time. However, still need to consider whether any of the following apply:

s.33(1) – information relating to personal affairs

s. 31(1)(c) – confidential source of information in relation to enforcing/ administering the law

s.35(1)(b) – information provided in confidence **and** release would impair ability to obtain similar information in future

Main consideration – implications of release, i.e. we want people to feel able to report concerns confidentially

Who is a reporter/notifier?

- Initial report that leads to investigation
- Reports from professionals (e.g. school, health nurses) that you would expect to be obtained as part of enquiries are not notifications but:
- you might still exempt information under 33(1), 31(1)(c) or 35(1)(b) – particularly if information is very detailed or provided in confidence