

**Right to Information Decision**  
**Right to Information No 2015/1**

**Applicant:** Ms Rebecca White  
Tasmanian Labor Party

**Date of Application:** 18 August 2015

**Information Requested**

- I A copy of all information dated between 27 July 2015 and 18 August 2015, held by your office, or received by your office from the Office of the Secretary and the Office of the Deputy Secretary of the Department of Health and Human Services relating specifically to the unassessed notifications to Child Protection in the North West Region.

**Application Fee**

The prescribed application fee was waived in accordance with Section 16(2)(b) – the applicant is a Member of Parliament acting in connection with his or her official duty.

**Decision and Statement of Reasons**

A search of Ministerial office records has been carried out and a decision and reasons in respect of the request is set out below.

I have not included in scope, information created by the applicant or media organisations.

I have fully exempted documents under Section 27 and Section 35 of the *Right to Information Act 2009* which provide as follows:

**27. Internal briefing information of a Minister**

- (1) Information is exempt information if it consists of –
- (a) an opinion, advice or a recommendation prepared by an officer of a public authority or a Minister; or
  - (b) a record of consultations or deliberations between officers of public authorities and Ministers –  
in the course of, or for the purpose of, providing a Minister with a briefing in connection with the official business of a public authority, a Minister or the Government and in connection with the Minister's parliamentary duty.
- (2) Subsection (1) ceases to apply after the end of the period of 10 years commencing on the date of the creation of the information referred to in that subsection.

- (3) *Subsection (1)* does not include information solely because it –
- (a) was submitted to a Minister for the purposes of a briefing; or
  - (b) is proposed to be submitted to a Minister for the purposes of a briefing – if the information was not brought into existence for submission to a Minister for the purposes of a briefing.
- (4) *Subsection (1)* does not include purely factual information unless its disclosure would reveal the nature or content of the opinion, advice, recommendation, consultation or deliberations of the briefing.
- (5) Nothing in this section prevents a Minister from voluntarily disclosing information that is otherwise exempt information.

### **35. Internal deliberative information**

- (1) Information is exempt information if it consists of –
- (a) an opinion, advice or recommendation prepared by an officer of a public authority; or
  - (b) a record of consultations or deliberations between officers of public authorities; or
  - (c) a record of consultations or deliberations between officers of public authorities and Ministers – in the course of, or for the purpose of, the deliberative processes related to the official business of a public authority, of a Minister or of the Government.
- (2) *Subsection (1)* does not include purely factual information.
- (3) *Subsection (1)* does not include –
- (a) a final decision, order or ruling given in the exercise of an adjudicative function; or
  - (b) a reason which explains such a decision, order or ruling.
- (4) *Subsection (1)* ceases to apply after 10 years from the date of the creation of the information referred to in that subsection.

The material exempt under section 27 is not subject to the public interest test in section 33. This includes material prepared by Ministers' offices, and consultations between the Department and the Minister. Section 27 does provide for voluntary disclosure, and as I consider this information to be of interest to the applicant, I can state that the Minister's staff were initially notified via email by the Department of Health and Human Services on 12 August 2015.

The material exempt due to section 35 is subject to the public interest test. In assessing those documents I considered it was contrary to the public interest test to disclose those documents. I carefully considered all factors in relation to public interest on this topic, including relevant factors from Schedule 1, and none of the irrelevant factors in Schedule 2 of the Act.

I considered that releasing the information exempt under Section 35 in full would support the factors in Schedule 1 which favour disclosure.

However I consider that the key to the consideration of weighing the public interest factors for a full release of material subject to section 35 is the subsequent release of the findings of the Report into

North West Child Protection Services, released on the 27 August 2015. This addressed the public interest factors of contributing to a debate on a matter of public interest and informing persons of the reasons and context for decisions.

The contents of this report included comprehensive documentation of the issue, and its circumstances and the investigation carried out by the Department and its findings, and satisfies the public interest test in this matter.

In addition to relying on the Report mentioned above, the following factors of the public interest test were considered to, on balance, weigh against disclosure of information:

Schedule 1(1)(j)	I considered the disclosure would harm the administration of justice, including affording procedural fairness and the enforcement of the law
Schedule 1(1)(m)	I considered the disclosure would harm the interests of an individual or group of individuals.
Schedule 1(1)(n)	I considered the disclosure would prejudice the ability to obtain similar information in the future, given the importance of full 'internal deliberative' advice by Departmental officers subject to appropriate exemption or disclosure under the Act.
Schedule 1(1)(p)	I considered the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff.

I therefore concluded that the information should be exempted as indicated.

### **Decision Made by**

This decision was made by Suzie Jacobson, Chief of Staff, a delegated Right to Information officer of the Minister for Human Services, appointed by an instrument of delegation in accordance with Section 24 of the *Right to Information Act 2009*.

### **Review Rights**

Under Section 45 of the Act the Applicant may apply to the Ombudsman for an external review of this decision. To seek an external review, you must apply in writing to the Ombudsman, GPO Box 960, Hobart, 7001 within 20 working days from being informed of the result of this review.

## Schedule of Documents

I have located 127 pages relating to your request. A Schedule of Documents is listed below.

RIF Released in Full  
 PE Partially Exempt  
 FE Fully Exempt

Please note 3 emails were classed as being Out of Scope

Description	Date of Document	Decision	Reason/s
1 email – between CYS and Minister’s Office	12 August 2015	FE	Section 27(1)(a) – Internal Briefing information of a Minister.
1 email – between CYS and Minister’s Office	13 August 2015	FE	Section 27(1)(a) – Internal Briefing information of a Minister.
41 emails – 3 attached documents communications between CYS, other DHHS staff, Government Communications Office and ministerial staff	17 August 2015	FE	Section 27(1)(a) - Internal Briefing information of a Minister. Section 35(1)(c)- Internal Deliberative Information (3 emails)
30 emails –communications between CYS, other DHHS staff, Government Communications Office and ministerial staff –one document	18 August 2015	FE	Section 27(1)(a) – Internal Briefing information of a Minister