

Information outside the scope of the FOI Act

The applicant requested information from the Department of Health and Human Services (the Department) under the *Freedom of Information Act 1991* (the FOI Act) for information in relation to a notification of risk to his children that had been made to the Department.

The Department located 26 pages of information responsive to the request and claimed that all were exempt from release under s 16 (7) of the *Children, Young Persons and their Families Act 1997* (the CYP & F Act). This section provides that the FOI Act does not apply to the identity of a *notifier* or to any information that may lead to the identification of a *notifier*. A *notifier* is a person who *believes, suspects or knows that a child has been or is being abused or neglected or that there is a reasonable likelihood of a child being killed or abused or neglected*.

The applicant applied under s 48 of the FOI Act for a review of the Department's decision.

It was determined that s 16 (7) of the CYP & F Act applied to most of the information responsive to the request and that this information was therefore outside the reach of the FOI Act. In relation to the information not covered by s 16 (7), some of it was able to be released to the applicant as information relating to his personal affairs.

In relation to the balance of the information, it was determined that s 33 of the FOI Act (information obtained in confidence) applied, as the information contained details of communications with the Department by people concerned for the welfare of the applicant's children which, in view of the nature of the communications, the Ombudsman was satisfied had occurred in confidence. The Ombudsman was further satisfied that the disclosure of this information would be contrary to the public interest because it would be reasonably likely to impair the ability of the Department to obtain similar information in the future. The Ombudsman was of the opinion that disclosure of such information under the FOI Act would be reasonably likely to deter some people from either coming forward or assisting the Department in such circumstances. The end result of that would be the weakening of the ability of the Department to protect children at risk, and this would unquestionably be contrary to the public interest.