

OMBUDSMAN TASMANIA
DECISION



Right to Information Act Review

Case Reference: R2508-022

Names of Parties: Rosemary Schneider and Department of Health

Reasons for decision: s48(3)

Provisions considered: s36

Background

- 1 Dr Rosemary Schneider is a medical specialist who was previously employed by the Tasmanian Health Service but also worked in private practice. She had been subject to professional misconduct complaints during her career.
- 2 On 8 January 2025, the Department of Health (the Department) received an application for assessed disclosure under s13 of the *Right to Information Act 2009* (Tas) (the Act) from a member of the community (the original applicant).
- 3 The relevant part of the application sought:
 1. *What was the nature of the six complaints for professional misconduct made against Dr Schneider?*
 2. *What or how did Dr Schneider respond to the complaints about professional misconduct and what was her justification for her behaviour?*
- 4 A search of records in the possession of the Department identified eight pages of information containing five documents relevant to the application.
- 5 The Department decided disclosure of the information may reasonably be expected to be of concern to Dr Schneider and so, in accordance with s36(2) of the Act, emailed her on 23 June 2025 requesting she provide her view as to whether the information should be provided to the original applicant.
- 6 On 23 June 2025, Dr Schneider replied to the Department, relevantly setting out:

I have no particular comments or concerns about disclosure of the information for myself. If this resulted in some publicity I would be concerned for the potentially

traumatic effects of reminders on the patient who was the original complainant against me – assuming that person isn't in some way involved in this, which I think very unlikely.

- 7 On 30 June 2025, Mr Joshua Toselli, a delegate under the Act for the Department, issued a decision. Mr Toselli determined to release the five documents in whole or in part and applied s36 (personal information) to exempt some information which identified:
 - direct contact details of staff;
 - information which may allow members of the public to infer the identity of any complainant; and
 - personal health circumstances of two private individuals.
- 8 On 14 July 2025, Dr Schneider, through her legal representative, objected to the release of the remaining information and sought internal review of Mr Toselli's decision. On 25 July 2025, Mr Peter Boyles, another delegate under the Act for the Department, affirmed the original decision.
- 9 On 19 August 2025, Dr Schneider, through her legal representative, sought external review of the decision to release the information. Her application was accepted pursuant to s44(1) of the Act.
- 10 Efforts were made by my office to resolve the matter without a formal decision but we were ultimately unsuccessful. Further submissions were provided in January 2026 by Dr Schneider's legal representatives regarding why Dr Schneider considered information proposed to be released by the Department was exempt under s36 as personal information. A copy of a suppression order issued in previous court proceedings regarding Dr Schneider and some related documents were also provided.

Issues for Determination

- 11 I must determine whether the information the Department is proposing to release is exempt under s36 or any other relevant section of the Act.
- 12 As s36 is within Division 2 of Part 3 of the Act, my assessment is subject to the public interest test in s33. This means that, should I determine the information is prima facie exempt from disclosure under s36, I must then determine whether it would be contrary to the public interest to release it. In making this determination, I must have regard to all relevant matters including those contained in Schedule 1 of the Act.

Relevant legislation

- 13 I include copies of ss33 and 36 and Schedule 1 of the Act at Attachment 1.

Submissions

Applicant

- 14 To accompany her application for external review, Dr Schneider provided submissions through her legal representative, dated 20 August 2025. Relevant extracts of these submissions are set out below.
- 15 In relation to the Department's decision, Dr Schneider submitted:

In the Primary Decision, Mr Toselli stated that the names of state service employees acting in the course of their duties are not normally considered exempt, unless "specific or unusual circumstances" exist... He determined that Dr Schneider was a state service employee acting in the course of her duties and therefore decided that personal information pertaining to her did not constitute exempt information for the purpose of section 36(1). Accordingly, Mr Toselli did not apply the public interest test contained in section 33 to information in the five documents pertaining to Dr Schneider.

- 16 The submission then addressed reasons why the information should be exempt under s36:

2.1 ...

(b) b. ...the information pertained to complaints regarding alleged or actual conduct that occurred in a private capacity although the proceedings by the Medical Council occurred whilst Dr Schneider was a state service employee. The nature of the complaints was never made public... [T]here was a suppression order imposed by the Medical Complaints Tribunal for the proceedings, which has not been lifted to our knowledge.

...

3.2 ... if the Department of Health has a copy of the suppression order ... it is a significant factor that ought weigh against the release of personal information pertaining to the complaints the subject of the Medical Complaints Tribunal being disclosed to [the Original Applicant].

3.3 In the alternative, even if it is established that the suppression order no longer has legal force, we submit that the fact that it was made at the time ought to weigh against the public interest being in favour of the release of the documents.

3.4 Furthermore, we submit that a further relevant consideration ... is the damage to Dr Schneider's professional reputation, her personal wellbeing, which we submit is likely to occur if documents pertaining to these historical complaints are released. The information proposed to be released is twenty-one years old and therefore the relevance and benefit of its release needs to be considered against the ongoing harm that disclosure may cause Dr Schneider.

- 17 On 23 January 2026, Dr Schneider made further detailed submissions through her legal representative after obtaining a copy of the relevant suppression order. These referred to documents, including a notice issued on behalf of the Medical Council of Tasmania (the Medical Council) dated 21 April 2005 setting out a decision of the Medical Complaints Tribunal (the Tribunal) from 7 September 2004 and a media release from the Medical Council dated 31 January 2006.

- 18 Dr Schneider's submissions included:

7. On 31 January 2006, in accordance with their powers under section 54(5) of the MPR Act, the Medical Council of Tasmania issued a media release informing the public that Dr Schneider had been found guilty of professional misconduct on 7 September 2004 and setting out the Medical Complaints Tribunal's Orders, which included that Dr Schneider was reprimanded (Order 1), to be subject to a period of mentoring for a period of 5 years (Order 2), to undertake training (Order 3), to participate in a peer review process recommended by the Medical Council during the mentoring period (Order 4), to undertake a period of treatment with a Psychiatrist for up to 5 years (Order 5), to refrain from engaging in private practice for up to 5 years (Order 6), to refrain from making home visits to patients for a period of up to 5 years (Order 7), to pay the costs of the Medical Council of Tasmania within 6 months (Order 8) and an order prohibiting the reporting or disclosure of any of the proceedings before the Medical Complaints Tribunal other than in accordance with section 54(5) of the MPR Act (Order 9). Notably, at the conclusion of the media release, it is stated that "the Tribunal's amended order does not extend to the disclosure or publication of the reasons for this decision. On that basis no further comment can be provided other than what has been provided in this media release." Order 9 was not time limited; its wording was such that it would apply in perpetuity until being revoked by the Medical Complaints Tribunal or until such time as the enabling legislation was revoked or rescinded.

19 The submission further identified specific passages in Documents 1, 2 and 4 which the Department had determined to release but which were considered by Dr Schneider to violate the terms of the order of the Tribunal. Objections to the release in full of Documents 3 and 5 were withdrawn.

20 Dr Schneider noted that the Tribunal's orders were made pursuant to the now repealed *Medical Practitioners Registration Act 1996*, however also noted a transitional provision in the new *Health Practitioner Regulation National Law*, where s292 relevantly provides:

(1) *This section applies if –*

(a) *under a corresponding prior Act of a participating jurisdiction, an adjudication body had, at the end of a proceeding before the adjudication body about a health practitioner's practice or conduct, ordered the health practitioner to do, or refrain from doing, something; and*

(b) *immediately before the participation day, the order was still in force.*

(2) *From the participation day, the order continues in force as is it had been made under this Law.*

21 Dr Schneider then addressed the application of this provision, relevantly:

The Medical complaints Tribunal Order ... was made at the end of a proceeding about Dr Schneider's conduct and included orders requiring Dr Schneider to do things and to refrain from doing things, which included disclosing any of the proceedings before the Medical Complaints Tribunal on 6 and 7 September 2004. It remained in force on 29 July 2010. It is captured by section 292 of the National Law and continues in force as if it had been made under the National Law pursuant to section 292(2).

22 Dr Schneider then continued with a *supplementary submission* regarding the application of the public interest test, including:

... it is inaccurate in that the Department does propose to release specific details of the complaints. Dr Schneider submits that the application of the suppression order is a factor that weighs heavily in favour of not releasing the information in question contained in Documents 1, 2 and 4. Even if the Ombudsman was not satisfied that the suppression order remains in force on the basis that, during the transition from one legislative regime to another, an explicit provision was not inserted ensuring that the

order continued to have legal force, as opposed to it no longer having legal force because it was rescinded by the relevant Tribunal or by virtue of a time limit having been placed on its operation, there remains a strong argument that the fact that it was made and never rescinded or revoked through a conscious action of the relevant Tribunal but rather by an oversight of the legislature when passing legislation transitioning from the old state regulatory framework to a national framework weighs heavily in the public interest of the information that the suppression order was in place to protect not being released...

Secondly, clause 1(j) of Schedule 1 requires the decision-maker to consider: "whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law". If it is accepted that the suppression order remains in force, then a decision to release without redactions documents containing information that is protected by the suppression order would harm the administration of justice including the enforcement of the law because it would facilitate a breach of the law and would undermine the administration of justice by wilfully ignoring an active suppression order...

Thirdly, further relevant consideration pursuant to clause 1(m) of Schedule 1 is the damage to Dr Schneider's professional reputation, her personal wellbeing, which we submit is likely to occur if documents pertaining to these historical complaints are released. The information that has been identified in Documents 1, 2 and 4, that is proposed to be released is twenty-one years old, has never been public knowledge with disclosure prohibited by a suppression order and therefore the relevance and benefit of its release needs to be considered against the ongoing harm that disclosure may cause Dr Schneider. The documents would have no limitations placed on their use. They could be posted online. They could be published on the front page of the newspaper...

- 23 Finally, the submissions addressed Dr Schneider's initial response when consulted by the Department:

... Dr Schneider instructs at the time she didn't understand her rights with respect to opposing the disclosure and had not had the benefit of legal advice. Additionally, and most significantly, subsequent to her initial response to the Department of Health on 23 June 2025, she became aware of a post ... on the Right to Information Website dated 7

November 2024 seeking document/information from the Department of Health regarding the Tribunal proceedings in 2024... the fact that this request was from a different person ... caused her concern that some major action against her was planned... Additionally, the length of time since the complaints in question is not a positive factor; in fact, it may result in new publicity regarding a disciplinary matter that concluded 20 years ago. All parties considered it closed. It does not involve government decision making. It concerns a decision by a Tribunal that is now defunct following proceedings brought by a regulator that has been replaced by the National scheme. There is no utility in releasing information regarding the complaints.

Department

- 24 The Department was not required to provide specific submissions for this external review, as it had provided reasons in its decisions.
- 25 In its notification decision, the Department considered the application of s36 to three separate categories of information, relevantly:

... The Ombudsman has determined that the release of direct contact information of staff, such as their personal mobile numbers, is not in the public interest. While these details may be dated, this does not mean that they are no longer in use. This release would cause enough concern and distress to those staff to warrant the exemption because those details are not ordinarily released to the public, and their personal contact information should be afforded a level of privacy. The public authority has appropriate contact methods open to the public and is entitled to ask that members of the public use those contact points instead of directly contacting staff.

I also consider the information to be exempt where that information may allow members of the public to infer the identity of any complainant. The circumstances of any complainant being in a regional area, and being known to specific health practices makes the ascertainment of their identity much more likely. Additionally, the details of the complaints were heard confidentially in the confines of the Tribunal. They have not been put into the public domain in the last two decades by the person or persons to whom they relate, despite numerous examples of media coverage. I am satisfied that any information that may in any way identify them, or infer their identity, would be of significant concern to them and should be exempted under section 36 of the Act.

The other two complaints include the personal health circumstances of two private individuals. I am satisfied that the information outlines the circumstances of their personal health and that it would be of concern to them if it were to be released...

- 26 As part of the internal review decision, the Department considered:

The redactions, as applied by Mr Toselli, to release of information such as the personal contact details of staff I agree with. The basis for such redaction is warranted in these circumstances as they outweigh the utility to the applicant knowing these details where appropriate contact points are made available to the public to contact those persons named, when considered by the potential deleterious affects [sic] the release of such personal contact details may cause to those people...

The redactions to release information concerning identified details or attributes (including health information) of complainants is warranted where those complainants may wish to remain anonymous, again weighed against the public interest in the release of that information.

Having reviewed the balance of the information proposed to be released by Mr Toselli's original decision, and considered matters relevant to (but not limited by) Schedule 2 [sic] of the Act (where potentially exempted), I have decided that the balance of the information to be released to [the Original Applicant] as an assessed disclosure is consistent with the Act.

Analysis

Preliminary issue – suppression order

- 27 Dr Schneider provided my office with a copy of a notice issued by the Medical Council on 21 April 2005 and a media release dated 31 January 2006. Both documents set out the nine orders made by the Tribunal on 7 September 2004 in relation to Dr Schneider's matter, with the second indicating a minor amendment to Order 9 which is not relevant to this external review.
- 28 Order 1 set out the Tribunal's determination, Orders 2-8 set out matters Dr Schneider was required to do or refrain from doing for a maximum period of five years and Order 9 was a general prohibition on disclosing any of the proceedings before the Tribunal, with some minor exemptions unrelated to this external review.

- 29 Dr Schneider's submission of 23 January 2026 relevantly indicated her view that Order 9 would apply *until such time as the enabling legislation was revoked or rescinded*. This occurred on 30 July 2010 when the *Medical Practitioners Registration Act 1996* was repealed.
- 30 Dr Schneider further submits the transitional provision in s292 of the *Health Practitioner Regulation National Law* was enlivened because she had been ordered not to disclose any of the proceedings before the Tribunal. Orders 2-8 ordered Dr Schneider *to do, or refrain from doing, something* and had all expired prior to 30 July 2010. Order 9 differed in that it was not directed to the practitioner but was instead a general prohibition on disclosing any of the proceedings before the Tribunal on 6-7 September 2004.
- 31 Ultimately, it is not necessary for me to determine whether Order 9 continued to operate after the repeal of the enabling legislation. The majority of the information the Department proposes to release is general in nature and does not disclose the proceedings before the Tribunal on the relevant dates. I accept that the making of Order 9 at the conclusion of the proceedings is a relevant factor and I will consider the matter during my application of the public interest test.

Section 36 – Personal information of person

- 32 The Department provided my office with an eight page PDF document containing the unredacted information relevant to the application. For convenience and ease of reference I will refer to the Department's page numbering in this document during my analysis.
- 33 Dr Schneider has claimed information proposed to be released is exempt under s36 of the Act. For information to be exempt under this section, I must be satisfied its release would reveal the identity of a person other than the person seeking the information, or the information would lead to that person's identity being reasonably ascertainable.
- 34 Section 5 of the Act defines personal information as:
- Any information or opinion in any recorded format about an individual –*
- (a) *whose identity is apparent or is reasonably ascertainable from the information of opinion; and*
- (b) *who is alive or who has not been dead for more than 25 years.*
- 35 As Dr Schneider was named in the original application for assessed disclosure, which sought information specific to her, I am satisfied the information identified by the Department as being relevant to the application will reveal her identity. Dr Schneider is clearly alive, so I consider the information is prima facie exempt under s36 of the Act.

- 36 There was other information found to be exempt by the Department under s36, but this review only relates to the information which is proposed to be released.

Section 33 – Public interest test

- 37 That the relevant information may be considered personal information and therefore prima facie exempt does not preclude it from being released if to do so would not be contrary to the public interest.
- 38 Dr Schneider did not pursue her initial submission that the Department had decided to release information because it had determined she was a public officer performing their regular duties. I shall therefore confine my analysis to the relatively small amount of personal information which she has identified and claimed to be exempt under s36.
- 39 Schedule 1 matter (a) – *the general need for government information to be accessible* – was not identified by Dr Schneider as relevant. However, it is essentially a re-statement of the objects of the Act and as such will generally be relevant and weigh in favour of disclosure.
- 40 Schedule 1 matter (b) – *whether the disclosure would contribute to or hinder debate on a matter of public interest* – was not identified by Dr Schneider as relevant. However, how complaints concerning government medical professionals are dealt with is clearly a matter of public interest and I consider this weighs in favour of disclosure.
- 41 Schedule 1 matter (j) – *whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law* – was identified by Dr Schneider as relevant and weighing against disclosure. I agree that the making of a suppression order at the conclusion of a hearing is a relevant factor and does weigh against disclosure. Despite this, the weight I assign to this matter is significantly reduced by the passage of time, that the order was made by what Dr Schneider acknowledges is *a Tribunal that is now defunct* and also by the Tribunal's reasons for making the order, which are discussed below.
- 42 Schedule 1 matter (m) – *whether the disclosure would promote or harm the interests of an individual or group of individuals* – was identified by Dr Schneider as relevant and weighing against disclosure of the nominated information. She emphasised the risk of harm to the relevant complainants and I agree this is a relevant matter weighing against disclosure. However, this was considered by the Department and almost all relevant information was redacted to try to prevent such harm from occurring. This reduces the weight of this matter regarding the small amount of information remaining under consideration.
- 43 I also accept the information which the Department proposes to release could harm Dr Schneider's interests and cause some damage to her

reputation. However, I consider the age of the complaints and the public reporting of one of them at the time means any reputational damage is likely to have already eventuated. I consider this should also be balanced against the interests of the original applicant who seeks information about complaints made against Dr Schneider.

- 44 On 15 January 2026, D Schneider provided my office with a copy of an order of the Supreme Court of Tasmania in the matter of *Medical Council of Tasmania v Medical Complaints Tribunal*¹ which quashed the original suppression order and returned the matter to the Tribunal for further consideration. In that decision, Evans J summarised the Tribunal's reasons for making the order:

2 The Tribunal made the order sought and, in summary, said that the compelling grounds for doing so were its satisfaction that there was a risk that inaccurate and sensationalist publicity of the proceedings would have an adverse effect on the delivery of services of the nature of those provided by the practitioner in a significant area of Tasmania and have most undesirable consequences on some members of the public. The Tribunal said it was significant that the order made applied only to the reporting and disclosure of the proceedings and was not an order for a closed or secret hearing.

- 45 It is clear the concern of the Tribunal at the time the order was made was not for the protection of the practitioner, but for those in the community needing specialised medical care as well as some members of the public, which I understand to be a reference to the effect of publicity upon vulnerable complainants.
- 46 As part of my assessment of the public interest test, I have considered information which is in the public domain. This includes a media report from 2005 provided to my office by Dr Schneider² which identifies her, her area of practice and her position at that time within the public sector. It also notes the relevant complaint did not relate to Dr Schneider's public practice.
- 47 I also take into account a media release from the Medical Council dated 31 January 2006 which names Dr Schneider and sets out the orders made by the Tribunal. Order 3 specifically identifies the subject of one of the training programs the doctor was required to undertake (boundary violations), giving an indication of the nature of the complaint.

¹ [2005] TASSC 24

² *Strict conditions placed on psychiatrist guilty of misconduct* (22 December 2005), ABC News, www.abc.net.au/news/2005-12-22/strict-conditions-placed-on-psychiatrist-guilty-of/766392.

- 48 I do not accept Dr Schneider's contention that because this information relates to a 20-year-old disciplinary matter that all parties considered to be closed, there is *no utility in releasing information regarding the complaints*. The public interest test requires me to determine if release of the information would be contrary to the public interest and I consider the age and finalised nature of the matter are factors weighing in favour of release, as no current investigation or proceeding can be prejudiced.
- 49 I acknowledge Dr Schneider's concern that some legal action against her may have been planned. However, I am not persuaded that hypothetical future legal action against Dr Schneider constitutes sufficient harm to her interests to override the Original Applicant's legally enforceable right to information as set out in s7 of the Act.
- 50 The application of the public interest test involves a consideration of competing factors, where not all factors have equal weight when applied to the specific issue in question. Overall, after considering all relevant matters, I have determined a small amount of additional information which the Department proposed to release is exempt under s36. That additional information consists of:
- on page 1, the first sentence of the second paragraph;
 - on page 2, the second dot point; and
 - on page 6, the remainder of the final sentence of the fourth substantive paragraph, after the words, *For example...*
- 51 The remainder of the information which the Department proposes to release is not exempt, as its disclosure would not be contrary to the public interest.

Preliminary Conclusion

- 52 In accordance with the reasons set out above, I determine some further information is exempt under s36.

Response to the Preliminary Conclusion

- 53 As the above preliminary conclusion was adverse to the Department, it was made available to it on 28 May 2026 pursuant to s48(1)(a) of the Act to seek its input before finalisation.
- 54 On 30 June 2026, Mr Joshua Toselli, Senior Legal Advisor at the Department, confirmed the Department did not intend to make any submissions in response to the preliminary decision.
- 55 On 28 May 2026, the preliminary decision was also provided to Dr Schneider pursuant to s48(1)(b) of the Act to seek her input prior to finalisation.
- 56 On 7 July 2026, Dr Schneider made further lengthy submissions through her legal representative in relation to information she contends is also

exempt under s36 of the Act. Brief relevant extracts from these submissions are set out below.

57 In relation to Schedule 1 matters (a) and (b), Dr Schneider submitted:

... The information that Dr Schneider objects to release of is not government information; it is information about her personal, professional life that was the subject of proceedings unrelated to the government. It was information provided to the government because at the time of the proceedings, Dr Schneider was a government employee. The conduct did not occur while she was a government employee...

... the proceeding in question had nothing to do with a complaint concerning a government medical professional. The complaint concerned the private professional conduct of a medical professional at a time when that medical professional did not work in a government role... The fact that Dr Schneider was found guilty of misconduct 20 years ago is not a matter of public interest nor is there any current debate...

58 In relation to the suppression order, Dr Schneider submitted:

7.1 *The Ombudsman has not made a positive finding that the Suppression Order is no longer in force. Dr Schneider submits that it does remain in force. Information concerning the complaints is information that falls within the purview of the Suppression Order...*

7.2 *The Tribunal is only defunct because the legislature of Tasmania along with the legislatures of the rest of Australia, made a policy decision to implement a national health regulator, which involved new legislation and setting up new tribunals to hear and determine misconduct proceedings. The fact that the Tribunal is now defunct is an irrelevant consideration to this issue.*

7.3 *Paragraph 45 involves an interpretive leap by the Ombudsman that ignores the wording of the Suppression Order in favour of a summary by a Supreme Court justice of the reasons. The Ombudsman does not have the Tribunal's reasons for making the Order. If the Tribunal had intended for the Suppression Order to operate to protect only the patients in question, it would have worded the*

Order in such a way. This is common practice for Tribunal's [sic] in health practitioner matters.

7.4 *The Ombudsman's proposed finding at paragraph 48 is misconceived. The order made was a final Suppression Order. The Tribunal making the Order made it knowing that there was to be no future investigation or proceeding into the matters falling within the purview of the Suppression Order. The making of the Suppression Order is the single most important factor.*

59 Dr Schneider went on to identify some sentences I had determined were not exempt and in relation to them, submitted that although the *...fact of the professional misconduct finding and the sanctions were publicly reported*, the *...nature of the complaints has never been public information as a result of the Suppression Order*. She then submitted that *...release of information regarding the nature of the complaints has significant potential to actively harm [her] reputation*.

Further analysis

60 I have carefully considered the entirety of Dr Schneider's submissions. I have also re-examined the information proposed for release and my assessment of the public interest test.

61 I am not convinced by Dr Schneider's assertion that the relevant information is not government information. The complaint which went before the Tribunal did not concern Dr Schneider's public practice, however it came to light during her period of government employment. The documents in question were generated at a senior level within government during this time. The documents are unquestionably government information and Schedule 1 matter (a) is therefore a relevant factor to be considered in the context of the public interest.

62 Dr Schneider's assertion that a finding of misconduct 20 years ago *is not a matter of public interest* misunderstands the relevant test for disclosure in s33(1) of the Act, which provides that information is only exempt if its disclosure is contrary to the public interest.

63 I again conclude it is not necessary for me to determine whether the suppression order continues to operate. The fact it was made at the time is relevant for consideration in undertaking the public interest test. I note at paragraph 21 in her submissions of 23 January 2026, Dr Schneider acknowledged that order may no longer operate and also indicated it would remain relevant in assessing the public interest factors.

64 Dr Schneider's reference to the 'nature of the complaints' is not reflected in the wording of the suppression order, which prohibits *the reporting or disclosure of any of the proceedings before the Medical Complaints*

Tribunal on 6 and 7 September 2004... I consider the information I have found not to be exempt does not disclose the proceedings before the Tribunal on those dates.

- 65 I again note that Order 3 of the Tribunal identifies that Dr Schneider must undertake training in relation to issues of boundary violations. This was included in a media release and already identifies what Dr Schneider considers the 'nature of the complaints.'
- 66 The Tribunal's reasoning behind the suppression order has not to my knowledge been published, nor has it been provided to me, however that reasoning was summarised by Justice Peter Evans of the Supreme Court of Tasmania, as set out above. I consider Justice Evans to be an authoritative source and his summary of the Tribunal's reasoning to be relevant to my assessment of the public interest test.
- 67 After careful consideration, I am not persuaded my determinations should be altered following Dr Schneider's submissions. Some additional information is exempt under s36 but the remainder should be provided to the original applicant.

Conclusion

- 68 For the reasons set out above, I determine some further information is exempt under s36 of the Act.

Dated: 28 July 2026



Dr Grant Davies
OMBUDSMAN

Attachment A – Relevant Legislation

Section 36 - Personal information of person

(1) Information is exempt information if its disclosure under this Act would involve the disclosure of the personal information of a person other than the person making an application under section 13.

(2) If –

(a) an application is made for information under this Act; and

(b) the information was provided to a public authority or Minister by a third party; and

(c) the principal officer or Minister decides that disclosure of the information concerned may be reasonably expected to be of concern to the third party –

the principal officer or Minister is to, if practicable and before deciding whether the disclosure of the information under this Act should occur, by notice in writing to the third party –

(d) notify that person that the public authority or Minister has received an application for the information; and

(e) state the nature of the information that has been applied for; and

(f) request that, within 15 working days from the date of the notice, the person provide his or her view as to whether the information should be provided.

(3) If a public authority or Minister, after receipt of a person's view referred to in subsection (2)(f), decides to provide the information, the public authority or Minister must, by notice in writing given to that person, notify that person of the decision.

(4) A notice under subsection (3) is to –

(a) state the nature of the information to be provided; and

(b) if the decision was made on behalf of a public authority or Minister, state the name and designation of the person who made the decision; and

(c) inform the person to whom the notice is addressed of –

(i) that person's right to apply for a review of the decision; and

(ii) the authority to which the application for review can be made; and

(iii) the time within which the application must be made.

(5) A public authority or Minister must not provide the information referred to in a notice given to a person under subsection (3) –

(a) until 10 working days have elapsed after the date of notification of that person; or

(b) if during those 10 working days the person applies under section 43 for a review of the decision, until that review determines that the information should be provided; or

(c) until 20 working days after notification of an adverse decision under section 43; or

(d) if during those 20 working days the person applies for a review of the decision under section 44, until that review determines that the information should be provided; or

(e) if the information is information to which a decision referred to in section 45(1A) relates –

(i) during 20 working days after the notification of the decision; or

(ii) where the person applies for a review of the decision under section 45(1A) – until that review determines the information should be provided.

Section 33 - Public interest test

(1) In this Division, information is exempt information if the principal officer of the public authority or Minister considers, after taking into account all relevant matters, that it is contrary to the public interest to disclose the information.

(2) The matters which must be considered in deciding if the disclosure of the information is contrary to the public interest are specified in Schedule 1 but are not limited to those matters.

(3) The matters specified in Schedule 2 are matters that are irrelevant in deciding if the disclosure of the information is contrary to the public interest.

SCHEDULE 1 - Matters Relevant to Assessment of Public Interest

1. The following matters are the matters to be considered when assessing if disclosure of particular information would be contrary to the public interest:

- (a) the general public need for government information to be accessible;
- (b) whether the disclosure would contribute to or hinder debate on a matter of public interest;
- (c) whether the disclosure would inform a person about the reasons for a decision;
- (d) whether the disclosure would provide the contextual information to aid in the understanding of government decisions;
- (e) whether the disclosure would inform the public about the rules and practices of government in dealing with the public;
- (f) whether the disclosure would enhance scrutiny of government decision-making processes and thereby improve accountability and participation;
- (g) whether the disclosure would enhance scrutiny of government administrative processes;
- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with government;
- (i) whether the disclosure would promote or harm public health or safety or both public health and safety;
- (j) whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law;
- (k) whether the disclosure would promote or harm the economic development of the State;
- (l) whether the disclosure would promote or harm the environment and or ecology of the State;
- (m) whether the disclosure would promote or harm the interests of an individual or group of individuals;
- (n) whether the disclosure would prejudice the ability to obtain similar information in the future;

- (o) whether the disclosure would prejudice the objects of, or effectiveness of a method or procedure of, tests, examinations, assessments or audits conducted by or for a public authority;
- (p) whether the disclosure would have a substantial adverse effect on the management or performance assessment by a public authority of the public authority's staff;
- (q) whether the disclosure would have a substantial adverse effect on the industrial relations of a public authority;
- (r) whether the disclosure would be contrary to the security or good order of a prison or detention facility;
- (s) whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation;
- (t) whether the applicant is resident in Australia;
- (u) whether the information is wrong or inaccurate;
- (v) whether the information is extraneous or additional information provided by an external party that was not required to be provided;
- (w) whether the information is information related to the business affairs of a person which if released would cause harm to the competitive position of that person;
- (x) whether the information is information related to the business affairs of a person which is generally available to the competitors of that person;
- (y) whether the information is information related to the business affairs of a person, other than a public authority, which if it were information of a public authority would be exempt information.