



OMBUDSMAN TASMANIA DECISION

Right to Information Act Review

Case Reference: R2505-006

Names of Parties: R and Department of Police, Fire and Emergency Management

Reasons for decision: s48(3)

Provisions considered: s30, s35, s36, s39

Background

- 1 On 24 July 2024, R was issued with a Police Family Violence Order (PFVO) by Tasmania Police.
- 2 On 11 February 2025, R, through their legal representative, made an application for assessed disclosure to the Department of Police, Fire and Emergency Management (the Department) under s13 of the *Right to Information Act 2009* (Tas) (the Act). The application sought:

Any information, including FVMS [Family Violence Management System] reports, relevant to the making of PFVO number 145448.2.
- 3 On 27 February 2025, Sergeant Lee Taylor, a delegate for the Department under the Act, released a decision on the application. Sergeant Taylor identified relevant information contained on the Tasmania Police Family Violence Management System (FVMS). Sergeant Taylor released a relevant FVMS report to R, with some information redacted as exempt under:
 - sections 30(1)(d) and (e) – information relating to the enforcement of the law;
 - Section 35(1) – internal deliberative information;
 - section 36(1) – personal information; and
 - section 39(1) – information obtained in confidence.
- 4 On 25 March 2025, R's legal representative wrote to the Department requesting an internal review of Sergeant Taylor's decision.
- 5 On 18 April 2025, Inspector Craig Fox from the Department wrote to R notifying them that the internal review had been completed pursuant to s43 of the Act and that the Department's original decision was reaffirmed.

- 6 On 9 May 2025, R made an application for external review to my office. This was accepted under s44 of the Act.

Issues for Determination

- 7 I must determine whether the information is eligible for exemption under 30(1)(d), 30(1)(e), 35, 36 or 39 of the Act.
- 8 As ss35, 36, and 39 are contained in Division 2 of Part 3 of the Act, my assessment of these exemptions is subject to the public interest test as outlined in s33. If I determine information is prima facie exempt from disclosure under these provisions, 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

- 9 Copies of ss30, 33, 35, 36, and 39, and Schedule 1 of the Act are included at Attachment 1.

Submissions

Applicant

- 10 I provided R and their legal representative the opportunity to provide submissions in support of their application for external review. They were not required to do so and no submissions were received.

Department

- 11 The Department was not required to provide any submissions in response to this external review beyond the reasoning of its decisions. Extracts of the initial decision, upheld in the internal review decision, are set out below.
- 12 In respect of ss30(1)(d) and (e) – information relating to enforcement of the law, Sergeant Taylor said the following:

The information assessed includes information provided in confidence to Tasmania Police by a third party, who reasonably expected that it would not be disclosed due to the risk of reprisal, harassment and or the continuation and fear of further incidents.

If this information were to be disclosed to your client or others, it may be reasonably likely to affect the physical, emotional and or psychological safety and wellbeing of that third party once the disclosure is known to them and may precipitate breaches of current Family Violence Orders.

Therefore, an exemption pursuant to Section 30(1)(d) of the Act has been applied to this information.

The information assessed relates to:

- *A reported incident of family violence;*
- *Investigation notes and lines of enquiry; and*
- *Information regarded as intelligence holdings on a police data base such as weapons and firearm holdings, safety audits and risk assessment.*

The information assessed is classified as intelligence, in that it is information of a sensitive and confidential nature that has been collected, analysed, and subsequently developed into a product to assist Tasmania Police in its business of law enforcement and for the protection of victims of family violence. This information assists officers in their critical thinking when assessing and planning for law enforcement events.

Therefore, an exemption pursuant to Section 30(1)(e) of the Act has been applied to some of this information.

Exemptions applied pursuant to Section 30 of the Act are not subject to the public interest test at Schedule 1.

- 13 In respect of s35(1) – internal deliberative information, Sergeant Taylor set out:

The information assessed includes personal opinions and internal deliberations of Tasmania Police Officers. The aforementioned information would disclose the internal thinking process of a public authority and contains non-factual opinions and deliberations of Tasmania Police Officers. The absolute accuracy cannot be substantiated and would reasonably be likely to compromise future internal avenues of enquiry.

I am satisfied that this information is prima facie exempt pursuant to section 35(1)(a) of the Act, subject to the public interest test at Schedule 1.

- 14 Regarding s36(1) – personal information of a person, Sergeant Taylor relied on a previous decision of my office¹ and concluded:

Information provided by a third party in relation to family violence, particularly that provided by a victim, must be protected given the sensitivity and privacy surrounding the subject and may cause considerable concern if released without consent.

Section 36(2) of the Act directs that I consult with third parties' whose information is held by Tasmania Police and where it is my belief that the party may be reasonably concerned about the release of that information.

¹ *B and Tasmania Police* (2012)

As you did not specify a request for third party consultation in your application, I have chosen not to consult with third parties' whose information is contained within the disclosed report.

I am aware your client knows the personal details of third parties involved, however, I have exempted these details from the disclosed information due the nature of the allegations and sensitivity of the information. This is not to hide that information, but simply to ensure that third party information, including identities, are not inadvertently disclosed to the 'world at large'.

- 15 Regarding s39(1) – information obtained in confidence, Sergeant Taylor also relied on a previous decision of my office² and concluded:

The assessed FVMS report includes information provided confidentially by a third party to Tasmania Police.

Tasmania Police relies on information provided from members of the public in its business of law enforcement. When members of the public report incidents to Tasmania Police, often the information is provided in confidence, in the belief that the source of the information will not be released to a third party.

...

[To release the information] may likely affect the physical, emotional and or psychological safety and wellbeing of that third party and would be reasonably likely to reduce future supply of similar information.

- 16 In respect of the public interest test, Sergeant Taylor reasoned as follows:

I consider the following matter in Schedule 1 of the Act (the public interest test) to favour disclosure of the exempt information:

- (a) *the general public need for government information to be accessible.*

Disclosure of information by this department would promote your clients' individual interests and reinforce their legal right to information.

Conversely, I consider the following matters in Schedule 1 of the Act to favour non-disclosure of the exempt information:

- (m) *whether the disclosure would promote or harm the interest of an individual or group of individuals;*

² SNF and Tasmania Police (2015)

I am satisfied that it would be contrary to the public interest to disclose the names, personal details and information provided in confidence by third parties' and provided for the purpose of police investigations.

This information would not be expected to be disclosed for another purpose, without consent, due to the risk of reprisal, harassment or discrimination and harm the individuals [sic] personal interests.

- (n) *whether the disclosure would prejudice the ability to obtain similar information in the future.*

I am satisfied that it would be contrary to the public interest to disclose the aforementioned information as it is third parties' personal information, that is private, and was provided to Tasmania Police in confidence under circumstances that it would not be reasonably expected to be disclosed without consent.

There is a public expectation that information obtained in confidence would not be disclosed, and its release would be likely to harm the ability to obtain similar information in the future, therefore hindering the investigation process. Further to this, if the information were released:

- It would be reasonably likely to discourage victims of, and/or other parties' of family violence from reporting their information to Tasmania Police;*
- Persons who report their family violence information to Tasmania Police would not reasonably expect their information to be used or disclosed for any reason other than the investigation and subsequent court proceedings; and*
- It would be reasonably likely to hinder Tasmania Police in its business of preventing, detecting and/or investigating family violence.*

I consider the remaining matters in Schedule 1 of the Act to be non-relevant to your application.

On balance, I am satisfied that it would be contrary to the public interest to disclose the exempt information.

Analysis

- 17 The information relevant to this external review is a six page report from the Department's Family Violence Management System (FVMS).

Section 30 – information relating to enforcement of the law

Section 30(1)(d)

- 18 For information to be exempt under s30(1)(d), I must be satisfied that the disclosure of the information would, or would be reasonably likely to, endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person.
- 19 Section 30 is not usually subject to the public interest test, unless one of the matters in s30(2) is applicable. However, having reviewed the information in question, I agree with the Department that none of these matters are relevant in this review.
- 20 The Department has claimed that information is exempt under s30(1)(d) on pages 3, 5, and 6 of the FVMS report. It simultaneously relied on other exemptions in relation to the same information, which will be addressed later in this decision.

Page 3

- 21 Having reviewed the unredacted information on page 3, I am satisfied that disclosing the final 5 paragraphs would be reasonably likely to endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person. This information is exempt under s30(1)(d) and is not required to be released to R.

Page 5

- 22 With the exception of the first sentence and the first six words of the third sentence, I am satisfied that disclosing the relevant information on page 5 would be reasonably likely to endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person. This information is exempt under s30(1)(d) and is not required to be released to R.

Page 6

- 23 I have reviewed the unredacted information on page 6 and I am satisfied that disclosing some information in paragraph 2 would be reasonably likely to endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person.
- 24 Specifically, the following information is exempt under s30(1)(d):
 - The second to the fifth words of the first sentence;
 - First word of the fourth sentence;
 - Entirety of the eighth and tenth sentences; and

- The first seven words of the ninth sentence.

Section 30(1)(e)

- 25 For information to be exempt under s30(1)(e), I must be satisfied that the disclosure of the information would, or would be reasonably likely to, disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public.
- 26 I must also consider whether the information includes any of the matters listed in s30(2) and, if so, whether it would be contrary to the public interest to release it.
- 27 The Department has relied on this exemption on page 4 to redact information under the headings *Other weapons* and *Risk assessment* on the FMVS report.
- 28 Having reviewed the unredacted information, I am satisfied that it consists of information gathered, collated or created for intelligence and that it is not information to which ss30(2)(a)–(f) applies. I agree with the Department that it is exempt pursuant to s30(1)(e) of the Act and it is not required to be released to R.

Section 35 – internal deliberative information

- 29 The Department has claimed some information is exempt pursuant to s35 of the Act. For information to be exempt from disclosure under s35, I must be satisfied that it consists of:
 - an opinion, advice, or recommendation prepared by an officer of a public authority (s 35(1)(a)); or
 - a record of consultations or deliberations between officers of public authorities (s 35(1)(b)); or
 - a record of consultations or deliberations between officers of public authorities and Ministers (s 35(1)(c)).
- 30 Once the requirements of one of those subsections is met, I must then be further satisfied the information was prepared or recorded in the course of, or for the purpose of, the deliberative processes related to the official business of the Department.
- 31 Section 35(1) of the Act does not apply to the following:
 - purely factual information (s 35(2)); or
 - a final decision, order or ruling given in the exercise of an adjudicative function, or a reason which explains such a decision, order or ruling (s 35(3)); or
 - information which is older than 10 years (s 35(4)).

- 32 As to the meaning of ‘purely factual information’ in s35(2), I refer to *Re Waterford and Treasurer of the Commonwealth of Australia (No 1)*³ where the Commonwealth Administrative Appeals Tribunal (AAT) observed that the word ‘purely’ in this context has the sense of ‘simply’ or ‘merely’ and that the material must be ‘factual’ in quite unambiguous terms.
- 33 The meaning of the phrase ‘in the course of, or for the purpose of, the deliberative processes’ has also been considered by the AAT. In *Re Waterford and Department of Treasury (No 2)*,⁴ it adopted the view that these are an agency’s thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.
- 34 The Department relies on s35(1) to exempt information on page 5 under the heading *Validating supervisor notes* and to 10 words on page 6.
- 35 I note that the information consists of the opinions of two separate Tasmania Police officers in respect of the issuing of a non-contact PFVO against R. On this basis, I am satisfied that it is prima facie exempt under s35(1)(a) of the Act as the opinions of these officers of the Department were expressed in the course of a deliberative process related to the Department’s official business. I am also satisfied that ss35(2), 35(3), and 35(4) do not apply.

Section 33 – public interest test

- 36 I now turn to my assessment of whether it would be contrary to the public interest to release the information I have found to be prima facie exempt under s35. I consider the following matters from Schedule 1 to be relevant and weigh in favour of disclosure:

- (a) the general public need for government information to be accessible;*
- (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;*
- (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; and*

³ [1984] AATA 518 at [14].

⁴ [1984] AATA 67 at [58].

(j) whether the disclosure would promote or harm the administration of justice, including affording procedural fairness and the enforcement of the law.

- 37 I consider there to be some benefit in disclosing the information in terms of informing R and adding context to the decision taken by the Department, as well as enhancing scrutiny of government decision making or administrative processes.
- 38 However, I consider this to be of relatively low weight overall. The information consists of two part sentences which do not communicate a finalised position but express early thoughts of police officers during an investigation. Transparency and accountability of government processes are key reasons for the Act existing and for information to be disclosed. However, the Act also recognises that some information should be exempt from disclosure, and the purpose of section 35 is to ensure the integrity of early deliberative processes in decision making. Ensuring the effectiveness of police processes and the investigation of crime is integral to a functional justice system.
- 39 I consider that the routine disclosure of the opinions of public officers, formed in the early stages of an investigation, may cause harm to the effective functioning of the law enforcement process. Such disclosure may lead to an unwillingness among officers to make or document initial assessments or suspicions during investigations as these are often based on limited evidence and may prove unfounded following further investigation. Provided proper procedural fairness occurs during any subsequent law enforcement action and that this is balanced with appropriate transparency, I consider that matter (j) ultimately weighs against disclosure in this instance due to the public interest in ensuring effective investigation of potential breaches of the law.
- 40 I find it would be contrary to the public interest to release the information I have determined to be prima facie exempt and it is therefore exempt under section 35.

Section 36 – personal information of a person

- 41 Information is exempt under s36 of the Act if its release would involve the disclosure of the personal information of a person other than the person making the application for assessed disclosure. Section 5(1) 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 or opinion; and*
- (b) who is alive or has not been dead for more than 25 years.*
- 42 Information which relates to the person making the assessed disclosure application cannot be exempt under s36, except when that information

would also reveal information about another person (such as that person's opinion or complaint about the applicant).

- 43 The Department has relied on s36(1) to exempt information on pages 1-6 of the FVMS report.
- 44 The information on pages 1, 2, the second redaction on page 3 and anywhere else this information appears in the FVMS report, is clearly personal information as it contains the names, dates of birth, addresses, and contact details of third parties. As such, I am satisfied that this information is prima facie exempt from disclosure pursuant to s36(1) of the Act.
- 45 I am also satisfied the remainder of the redacted information claimed to be exempt under s36 contains information provided by the victim in this matter which is either akin to a statement made by that person or reveals personal information about them. In either instance, I agree that this constitutes personal information which is prima facie exempt.
- 46 The second last sentence on page 5 has been claimed to be exempt under s39 as information provided in confidence. I consider this information is of the same character as other information claimed to be exempt under s36 and is also prima facie exempt under this section, as it reveals personal information about a third party.

Section 33 – public interest test

- 47 Section 36 is subject to the public interest test set out in s33 of the Act. It is therefore necessary for me to assess whether it would be contrary to the public interest to release information I have found to be prima facie exempt pursuant to this section. In making this assessment, I must have regard to all relevant matters including those set out in Schedule 1 of the Act. I have not considered any of the irrelevant considerations set out in Schedule 2 of the Act.
- 48 In respect of the final redaction on page 6 relating to the name of a police officer, I consider the first six words are not exempt information pursuant to s36(1). It has been my consistent position, as well as standard Australian practice, that the personal information of officers and employees of public authorities which relate to the performance of their regular duties (such as their name, position information and work contact details) is not exempt from release unless there are specific and unusual circumstances which justify such an exemption. I do not consider there to be specific and unusual circumstances in respect of this information.
- 49 In relation to the remainder of the information, I make the following assessment.

- 50 Schedule 1 matter (a) – *the general public need for government information to be accessible* – is effectively a restatement of the object of the Act and will always be relevant and weigh in favour of disclosure.
- 51 Schedule 1 matter (c) – *whether the disclosure would inform a person about the reasons for a decision* – was not considered in the Department's original decision or internal review decision but I consider it to be relevant. Disclosure of the information would inform R about the reasons for the non-contact PFVO being made, so this matter weighs in favour of disclosure.
- 52 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 also not considered in the Department's original decision or internal review decision but I consider it to be relevant. I consider that disclosure may promote the administration of justice in favour of R by affording procedural fairness in respect of the reasoning behind an order made against them. However, disclosure may also harm the administration of justice and enforcement of the law by revealing confidential information and personal information of third parties who may be vulnerable or who may be required to provide evidence in the future, particularly in the context of alleged family violence. Overall, I consider these opposing considerations are weighted equally so make this factor neutral in this assessment.
- 53 Schedule 1 matter (m) – *whether the disclosure would promote or harm the interests of an individual or group of individuals* – applies both in respect of R's interests and those of other parties. I consider this matter weighs against the disclosure of the information exempted under s36 throughout the document, as it would harm the interests of other individuals by risking their privacy and security.
- 54 Schedule 1 matter (n) – *whether the disclosure would prejudice the ability to obtain similar information in the future* – applies to the information because it was obtained in the course of a family violence complaint. Disclosure of third-party information, particularly in the context of family violence matters generally, would be likely to discourage future complainants or witnesses to disclose information to police. This matter weighs significantly against disclosure.
- 55 Overall, I find that the majority of the relevant information is exempt under s36 and should not be released to R. However, there is some additional information which is known to R or it would not be contrary to the public interest to release to them.
- 56 The following information is not exempt under s36 and should be released to R:

(a) Page 3 under the heading *Incident details*

- (i) Words 9–13 of the second sentence of the second paragraph;
 - (ii) Paragraph 3, except for the name;
 - (iii) First 13 words of the first sentence of paragraph 4;
 - (iv) First and last sentences of paragraph 5;
 - (v) Entirety of paragraph 6 except for words 5–18 and 28.
 - (vi) Entirety of paragraph 7 except for the first two words.
- (b) Page 4:
 - (i) Words 4–18 of the final sentence under the heading *Police action taken*;
 - (ii) Information under the heading *Incident address*.
- (c) Page 5:
 - (i) First sentence of paragraph 4 under the *Notes* section;
 - (ii) First six words of the first sentence of paragraph 5 under the *Notes* section.
- (d) Page 6 paragraph 2:
 - (i) All of the first sentence, except for the final two words;
 - (ii) All of the second sentence, except for words 12-13;
 - (iii) All of the third sentence except for words 1–3 and 14;
 - (iv) All of sentences four, five, six and seven.

Section 39 – information obtained in confidence

- 57 Information is prima facie exempt pursuant to s39(1) if its disclosure would divulge information communicated in confidence by or on behalf of a person or government to a public authority or Minister, and –
- (a) *the information would be exempt information if it were generated by a public authority or Minister; or*
 - (b) *the disclosure of the information would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future.*
- 58 The Department relied on s39(1)(b) to exempt information on pages 3, 4, 5, and 6. As all of this information was overlapping with information I have assessed under s36, I do not consider it necessary to consider it again under s39. The relevant considerations regarding exemption and the public interest test as almost identical and my conclusions remain the same.

Preliminary Conclusion

59 Accordingly, for the reasons set out above, I determine that:

- exemptions claimed pursuant to ss30(1)(d), 35, 36 and 39 are varied; and
- exemptions claimed pursuant to s30(1)(e) are affirmed.

Conclusion

60 As the preliminary decision was adverse to the Department, on 14 May 2026 it was made available pursuant to s48(1)(a) of the Act to seek its input before finalisation. On 1 June 2026, the Department confirmed that it did not wish to provide such input.

61 On 4 June 2026, the preliminary decision was also made available to R to seek their input, in accordance with s48(1)(b) of the Act. R advised us on 25 June 2026, they also did not wish to provide input.

62 Accordingly, for the reasons set out above, I determine that:

- exemptions claimed pursuant to ss30(1)(d), 35, 36 and 39 are varied; and
- exemptions claimed pursuant to s30(1)(e) are affirmed.

63 I apologise to the parties for the delay in finalising this decision.

Dated: 26 June 2026



Dr Grant Davies
OMBUDSMAN

Attachment 1

Relevant Legislation

30. Information relating to enforcement of the law

- (1) Information is exempt information if its disclosure under this Act would, or would be reasonably likely to –
 - (a) prejudice –
 - (i) the investigation of a breach or possible breach of the law; or
 - (ii) the enforcement or proper administration of the law in a particular instance; or
 - (iii) the fair trial of a person; or
 - (iv) the impartial adjudication of a particular case; or
 - (b) 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; or
 - (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (d) endanger the life or physical, emotional or psychological safety of a person, or increase the likelihood of harassment or discrimination of a person; or
 - (e) disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public; or
 - (f) hinder, delay or prejudice an investigation of a breach or possible breach of the law which is not yet complete.
- (2) Subsection (1) includes information that –
 - (a) reveals that the scope of a law enforcement investigation has exceeded a limit imposed by law; or
 - (b) reveals the use of an illegal method or procedure for preventing, detecting or investigating, or dealing with a matter arising out of, a breach or evasion of the law; or

- (c) contains a general outline of the structure of a program adopted by a public authority for investigating breaches of or enforcing or administering the law; or
- (d) is a report on the degree of success achieved in a program adopted by a public authority for investigating breaches of or enforcing or administering the law; or
- (e) is a report prepared in the course of a routine law enforcement inspection or investigation by a public authority with the function of enforcing and regulating compliance with a particular law other than the criminal law if the inspection or investigation is complete; or
- (f) is a report on a law enforcement investigation, if the substance of the report has been disclosed to the person or the body that is the subject of the investigation –

if it is contrary to the public interest that the information should be given under this Act.

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

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.

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.

39. Information obtained in confidence

- (1) Information is exempt information if its disclosure under this Act would divulge information communicated in confidence by or on behalf of a person or government to a public authority or Minister, and –
- (a) the information would be exempt information if it were generated by a public authority or Minister; or
 - (b) the disclosure of the information would be reasonably likely to impair the ability of a public authority or Minister to obtain similar information in the future.
- (2) Subsection (1) does not include information that –
- (a) was acquired by a public authority or a Minister from a business, commercial or financial undertaking; and
 - (b) relates to trade secrets or other matters of a business, commercial or financial nature; and
 - (c) was provided to a public authority or Minister pursuant to a requirement of any law.

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.

SCHEDULE 2 - Matters Irrelevant to Assessment of Public Interest

1. The following matters are irrelevant when assessing if disclosure of particular information would be contrary to the public interest:
 - (a) the seniority of the person who is involved in preparing the document or who is the subject of the document;
 - (b) that disclosure would confuse the public or that there is a possibility that the public might not readily understand any tentative quality of the information;
 - (c) that disclosure would cause a loss of confidence in the government;
 - (d) that disclosure might cause the applicant to misinterpret or misunderstand the information contained in the document because of an omission from the document or for any other reason.