



**Government  
of South Australia**

**Minister for Child Protection**

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Ms Jayne Stinson MP  
Member for Badcoe  
PO Box 309  
PLYMPTON SA 5038

Email: [badcoe@parliament.sa.gov.au](mailto:badcoe@parliament.sa.gov.au)

Dear Ms Stinson

I refer to your Freedom of Information application to the Office of the Minister for Child Protection made under the Freedom of Information Act 1991 (FOI Act), received on 3 April 2019. Your application sought access to:

*“Since 17 March 2018, copies of any and all documents (including but no limited to physical, electronic, written briefs, minutes, emails, diary entries, meeting notes, audio and video recordings, text messages and any other correspondence) about cases of meningococcal, otherwise known as bacterial meningitis, diagnosed in children or young people in residential or commercial care or any other form of state care.”*

A search was conducted for documents held by the Office of the Minister for Child Protection and *two* documents were identified as falling within the scope of your request.

I have determined to partially release both documents.

**Document 1 – Email from Brette Schumann to Mikala Ballard (Re: Advice on Question) – 18 December 2018**

This document is partially exempt under Clause 12 of the FOI Act as the exempt component may identify a child under Guardianship.

**Clause 12**

*12—Documents the subject of secrecy provisions*

*(1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.*

*(2) A document is not an exempt document by virtue of this clause unless disclosure of the matter contained in the document, to the person by or on whose behalf an application for access to the document is made, would constitute such an offence*

As the Children and Young Persons (Safety) Act 2017 (CYPS Act) states at Clause 164

**Clause 164 - Confidentiality**

*(1) Subject to this Act, a person engaged or formerly engaged in the administration, operation or enforcement of this Act must not disclose personal information obtained (whether by that person or otherwise) in the course of performing functions or exercising powers under this Act except—*

*(a) as required or authorised by or under this Act or any other Act or law; or*

*(b) with the consent of the person to whom the information relates; or*

*(c) in connection with the administration or enforcement of this or any other Act; or*

*(d) for the purposes of referring the matter to a law enforcement agency, or a person or agency exercising official duties under an Act relating to the care or protection of children and young people; or*

*(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or*

*(f) if the disclosure is reasonably necessary for the protection of the lawful interests of that person. Maximum penalty: \$10 000.*

*(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.*

*(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—*

*(a) the person to whom the information was disclosed; or*

*(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure. Maximum penalty: \$10 000.*

*(4) The regulations may make further provision in respect of the disclosure of information obtained in the course of the administration of this Act.*

If the information I have determined to be exempt from release, was released, it is my opinion that this would be unlawful release of information under this clause of the CYPS Act.

**Document 2 – Email from Chantelle Read to Fiona Ward (re: update as requested by Minister) 11 January 2019**

This document is partially exempt under Clause 12 of the FOI Act, as this information includes detailed medical information, which would be in contravention of both Clause 6 of the FOI Act, and Clause 12 of the FOI Act.

**Clause 6 - Documents affecting personal affairs**

*(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*

*(2) A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) the truth of which has not been established by judicial process and the disclosure of which would be unreasonable.*

*(3) A document is not an exempt document by virtue of subclause (1) or (2) merely because it contains information concerning the person by or on whose behalf an application for access to the document is made.*

*(3a) A document is an exempt document if it contains matter-*

*(a) consisting of information concerning a person who is presently under the age of 18 years or suffering from mental illness, impairment or infirmity or concerning such a person's family or circumstances, or information of any kind furnished by a person who was under that age or suffering from mental illness, impairment or infirmity when the information was furnished; and*

*(b) the disclosure of which would be unreasonable having regard to the need to protect that person's welfare.*

As this information is detailed medical information this would be exempt under Clause 6 (1) and (3a).

In addition, this information would be exempt under Clause 12:

**Clause 12**

*12—Documents the subject of secrecy provisions*

*(1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.*

*(2) A document is not an exempt document by virtue of this clause unless disclosure of the matter contained in the document, to the person by or on whose*

*behalf an application for access to the document is made, would constitute such an offence*

As the Children and Young Persons (Safety) Act 2017 (CYPS Act) states at Clause 164:

**Clause 164 - Confidentiality**

*(1) Subject to this Act, a person engaged or formerly engaged in the administration, operation or enforcement of this Act must not disclose personal information obtained (whether by that person or otherwise) in the course of performing functions or exercising powers under this Act except—*

*(a) as required or authorised by or under this Act or any other Act or law; or*

*(b) with the consent of the person to whom the information relates; or*

*(c) in connection with the administration or enforcement of this or any other Act; or*

*(d) for the purposes of referring the matter to a law enforcement agency, or a person or agency exercising official duties under an Act relating to the care or protection of children and young people; or*

*(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or*

*(f) if the disclosure is reasonably necessary for the protection of the lawful interests of that person. Maximum penalty: \$10 000.*

*(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.*

*(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—*

*(a) the person to whom the information was disclosed; or*

*(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure. Maximum penalty: \$10 000.*

*(4) The regulations may make further provision in respect of the disclosure of information obtained in the course of the administration of this Act.*

If the information I have determined to be exempt from release, was released, it is my opinion that this would be unlawful release of information under this clause of the CYPS Act.

Please be aware that in accordance with Department of the Premier and Cabinet Circular PC045, Disclosure Logs for Non-Personal Information Released through Freedom of Information, this agency is required to publish a log of all non-personal information released under the FOI Act.

There are no costs levied for the processing of your application.

If you have any questions regarding this determination, please contact me on telephone (08) 8303 2023.

If you are dissatisfied with this determination, you can seek an Internal Review by writing to the Hon Rachel Sanderson MP, Minister for Child Protection as the Principal Officer. Your request should be sent within 30 days of receipt of this letter.

I have also enclosed a copy of your rights to review and appeal this determination, which explains your review options.

Yours sincerely



Damian Leach  
**Accredited Freedom of Information Officer**  
**Office of the Minister for Child Protection**

6 15/12/2019

**Ballard, Mikala (DCP)**

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**From:** Schumann, Brette (DCP)  
**Sent:** Tuesday, 18 December 2018 1:01 PM  
**To:** Ballard, Mikala (DCP)  
**Subject:** Re: Advice on Question  
**Attachments:** image001.png; ATT00001.htm; 04. QWN - HoA - MENINGOCOCCAL DISEASE - Pg 4381.docx; ATT00002.htm

Hi Mikala,

given the line of questioning that this QON was part of, coupled with the related newspaper article, **Clause 12** the Department advises that it would not be appropriate to respond to this question as it may identify a young person in care.

Kind regards,

Brette

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**From:** Diprose, Samuel (DCP)  
**Sent:** Friday, 7 December 2018 9:52 AM  
**To:** Schumann, Brette (DCP)  
**Cc:** Mansell, Katie (DCP); Ballard, Mikala (DCP)  
**Subject:** Advice on Question

Hi Brette,

Please see the attached Hansard excerpt of a question asked without notice during yesterday's sitting.

Can you please provide advice to the OMCP as to whether it would be appropriate for the Minister to respond to this question?

I understand Mikala will raise this with you directly at your 11am meeting.

Kind regards,

**Sam Diprose**  
Senior Business Support Officer

Parliamentary Officer

**Office of the Minister for Child Protection**

Level 12 North, 1 King William Street, Adelaide SA 5000  
t (08) 8303 2962 e [samuel.diprose@sa.gov.au](mailto:samuel.diprose@sa.gov.au) w [www.childprotection.sa.gov.au](http://www.childprotection.sa.gov.au)

**Pratt, Penny (DCP)**

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**From:** Reed, Chantelle (DCP)  
**Sent:** Friday, 11 January 2019 8:36 AM  
**To:** Ward, Fiona (DCP)  
**Cc:** Pratt, Penny (DCP); Taylor, Cathy (DCP)  
**Subject:** RE: update as requested by the Minister Clause 12

Hi Fiona,

Appreciate the update.

Thank you  
Chantelle

**From:** Ward, Fiona (DCP) <Fiona.Ward@sa.gov.au>  
**Sent:** Thursday, 10 January 2019 6:12 PM  
**To:** Reed, Chantelle (DCP) <Chantelle.Reed3@sa.gov.au>  
**Cc:** Pratt, Penny (DCP) <Penny.Pratt@sa.gov.au>; Taylor, Cathy (DCP) <Cathy.Taylor4@sa.gov.au>  
**Subject:** update as requested by the Minister Clause 12

Clause 6, Clause 12



# FOI FACT SHEET

## Your Rights to Review and Appeal

South Australian *Freedom of Information Act 1991*

Please read the information in this fact sheet before completing the attached application form

### INTERNAL REVIEW

If you are unhappy with a determination made by an agency (includes South Australian State Government Agency, Local Government Council or University) under the *Freedom of Information Act 1991* (FOI Act) in relation to:

- a freedom of information (FOI) application for access to a document, or
- an FOI application for amendment to your personal records

in most cases, you are entitled to apply for an Internal Review of that determination.

### Request an Internal Review

An Internal Review must be lodged within 30 calendar days of you receiving advice of a determination that you are unhappy with.

Applications must be made in writing in accordance with Section 29 or Section 38 of the FOI Act or using the attached *FOI Application Form for Internal Review of a Determination* (Internal Review Form).

An Internal Review application must be made to the Principal Officer of the agency that made the determination you are seeking to have reviewed.

### How much does an Internal Review cost?

There is an application fee of **\$35.00** that must be paid when you lodge your Internal Review application if your review request is for access to documents.

There is no application fee for an Internal Review of an FOI application for amendment to your personal records.

Agencies generally accept payment by cash, money order or cheque. If you would like to pay by credit card you will need to ask the agency if they are able to accept credit card payments.

If, as a result of an Internal Review an agency changes or reverses a determination so that access to a document is, or will be, given, the agency will refund the Internal Review application fee paid by the applicant, where applicable.

### What if I have a concession card or can't afford to pay?

If you are the holder of a current concession card or if you can satisfy the agency that the payment of the application fee would cause financial hardship, the agency must waive or remit (reduce or refund) it.

If you are a concession cardholder you will need to provide evidence e.g. attach a copy of your concession card when you make the application. Alternatively you will need to give written reasons as to why the payment of a fee would cause you financial hardship.

### How long does an Internal Review take?

You will be advised of the outcome of your Internal Review application within 14 calendar days of it being received by the agency.

If the agency does not deal with your Internal Review application within 14 calendar days (or you remain unhappy with the outcome of the Internal Review) you are entitled to an External Review

by the Ombudsman SA. Alternatively you may apply for a review by the South Australian Civil and Administrative Tribunal (SACAT). See the External Review section below.

### ***When can't I apply for an Internal Review?***

If the original application determination was made by the Principal Officer of an agency rather than another accredited FOI Officer within the agency, you cannot apply for an Internal Review. However, you can apply for an External Review by the Ombudsman SA or apply for a review by SACAT.

## **EXTERNAL REVIEW**

After an Internal Review has been completed, or where you are unable to apply for an Internal Review, and you are unhappy with the determination, you have the right to apply for an External Review. All applications for External Review should be made to the Ombudsman SA.

### ***How long will an External Review take and how much will it cost?***

If you wish to make an application for an External Review you must do so within 30 calendar days after being notified of the determination. However, the Ombudsman SA can extend this time limit at their discretion. There is no fee or charge for External Reviews undertaken by the Ombudsman.

#### Contact Details:

**Ombudsman SA**

**Phone:** 8226 8699

**Toll Free:** 1800 182 150 (within SA)

**Email:** [ombudsman@ombudsman.sa.gov.au](mailto:ombudsman@ombudsman.sa.gov.au)

## **REVIEW BY SACAT**

You have a right to apply for a review by SACAT if you are unhappy with:

- a determination not subject to Internal Review
- an Internal Review determination, or
- the outcome of a review by the Ombudsman SA.

You must exercise your right of review with SACAT within 30 calendar days after being advised of the above types of determinations or the results of a review.

Any costs will be determined by SACAT, where applicable.

For more information contact SACAT.

#### Contact Details:

**South Australian Civil and Administrative Tribunal (SACAT)**

**Phone:** 1800 723 767

**Email:** [sacat@sacat.sa.gov.au](mailto:sacat@sacat.sa.gov.au)