

Our Reference: F036/18-19



Government of South Australia

Department for Child Protection

Freedom of Information
Customer Services Unit

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Adelaide SA 5001
DX 214

Tel 08 8226 4399
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www.childprotection.sa.gov.au

Mrs Jayne Stinson MP
PO Box 309
PLYMPTON SA 5038

Dear Mrs Stinson

Re: Freedom of Information Application

I refer to your Freedom of Information application dated 31 July 2018 and received in this office on 1 August 2018. You have requested a copy of the following:

"Since 17 March 2018, copies of any and all documents (including but not limited to physical, electronic, or written briefs, minutes, emails diary entries, meeting notes, court applications, court orders and any other correspondence) regarding applications to revoke an order granting guardianship of the child or young person to the Minister until the child or young person is 18 years of age made by the Department of Child Protection or the parents of the child or young person who is the subject of the order."

"Date Range from 17 March 2018 to 31 July 2018."

The Department for Child Protection recognises the importance of confidentiality to effectively administer child protection responsibilities. Certain information collected by the Department in the course of its child protection duties cannot be released.

Section 164 of the *Children and Young People (Safety) Act 2017 (CYPS Act)* prohibits the disclosure of personal information obtained in the course of performing functions under the *CYPS Act*. Clause 12 of the *Freedom of Information Act 1991 (FOI Act)*, which states a document is exempt if it contains matter the disclosure of which would constitute an offence against an Act.

In your application you have requested access to personal information relating to a child or young person or their families that has been obtained in the course of performing functions under the *CYPS Act*. Therefore, in accordance with the *FOI Act*, I have determined that the information you are seeking is exempt as it would be an offence to disclose this information to you.

Please be aware that in accordance with 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*.

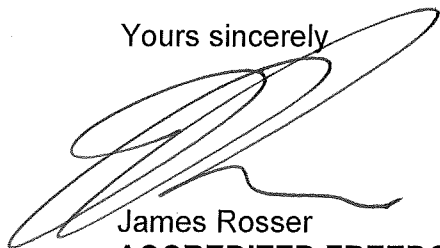
PC045 can be found at the following address: <http://www.dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>

No costs have been levied for the processing of your application.

If you have any questions regarding this determination please contact me on 8226 0622.

If you are dissatisfied with this determination you have a legal right of review and appeal (attached).

Yours sincerely

A handwritten signature in black ink, appearing to be 'James Rosser', written over the words 'Yours sincerely'.

James Rosser

ACCREDITED FREEDOM OF INFORMATION OFFICER

31 August 2018

Section 164 of the CYPS Act states (in part):

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*

Clause 12 of the FOI Act states:

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.*

FREEDOM OF INFORMATION ACT 1991
YOUR RIGHTS TO REVIEW AND APPEAL

1. INTERNAL REVIEW

If you are dissatisfied or "aggrieved" with certain decisions or "determinations" of an agency/council/university (regarding access to documents or amendment of records), under S.29 and S.38 of the *Freedom of Information Act (SA) 1991*, you can apply to the agency/council/university concerned for an internal review of its determination.

To apply for an internal review of a determination you must write a letter addressed to the Principal Officer or lodge an internal review application form with the same agency/council/university as made the determination. This also must be addressed to the Principal Officer. The application must be accompanied by the appropriate fee (if applicable). The application should be lodged within 30 days of the original determination.

The agency/council/university will undertake its internal review and advise you of its decision within 14 days of receipt of the application.

There is no right to an internal review of a determination made by a Minister or Principal Officer of an agency/council/university.

2. INVESTIGATION BY THE OMBUDSMAN/POLICE COMPLAINTS AUTHORITY

After an internal review has been completed, if you are still dissatisfied with the agency/council/university's determination, you can request an external review by the Ombudsman/Police Complaints Authority of the determination. The Ombudsman/Police Complaints Authority is empowered to investigate the conduct of any person or body in relation to a determination made by an agency/council/university under this Act. (If an application determination was made by a police officer, or the Minister responsible for the administration of the SA Police, applications for external review are made to the Police Complaints Authority. All other applications for external review should be made to the Ombudsman.)

You may also request an external review by the Ombudsman/Police Complaints Authority if you have no right to an internal review.

The application for review by the Ombudsman/Police Complaints Authority should be lodged within 30 days of the after the date of a determination.

Investigations by the Ombudsman/Police Complaints Authority are free. Further information is available from the Office of the Ombudsman or Police Complaints Authority.

3. 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 or the Police Ombudsman.

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