

20 May 2026

'GJ8'

Copy provided to the Department of Health

By email only

Dear 'GJ8',

Notice of Decision under section 49P of the *Freedom of Information Act 1982* (Vic)

Agency:	Department of Health
Agency decision:	Refuse access under section 25A(5) of the <i>Freedom of Information Act 1982</i> (Vic)
OVIC review decision:	Same decision as Agency
Information requested:	Electronic health information system documents
Citation:	'GJ8' and Department of Health (<i>Freedom of Information</i>) [2026] VICmr 32 (20 May 2026)

FREEDOM OF INFORMATION – electronic health information system documents – Client Management Interface/Operational Data Store (CMI/ODS) – all documents would be exempt in full – secrecy provision – *Mental Health and Wellbeing Act 2022* (Vic)

Thank you for your request for review of a decision made by the Department of Health (the Agency) to refuse you access to information you requested under the *Freedom of Information Act 1982* (Vic) (the FOI Act).

I have conducted a review of the decision made by the Agency and made a fresh decision on 20 May 2026 under section 49P of the FOI Act.

I have made the same decision as the Agency. This letter sets out my decision and the reasons for it.



If you disagree with my decision, you have 60 days from today to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a further review. Details about applying to VCAT are at the end of this letter.

Background

You made a request to the Agency for access to:

Complete metadata audit/export for my CMI statewide identifier, including but not limited to:

All access and edits to my CMI record(s), with time, date, and user identifiers.

Full edit history for the diagnosis field(s), especially relating to [health information].

Records of all users (including medical coders, registrars, and administrators) who have accessed or altered my file.

Copies of all correspondence received, including anonymous or signed submissions, relating to [health information].

A current certified copy of my complete CMI/ODS record, including all entries, amendments, and registration forms, so as to identify anomalies and facilitate legal review.

On [date], the Agency refused access to documents you requested under section 25A(5) of the FOI Act in conjunction with section 38 of the FOI Act and section 736 of the *Mental Health and Wellbeing Act 2022* (Vic) (**MHW Act**). It considered all documents you requested would be exempt in full, and edited copies of the documents could not be provided to you.

On [date], you sought a review of the Agency's decision.

Attempted informal resolution

On [date], OVIC staff provided you with their initial assessment that an OVIC decision maker would likely make the same decision on your request as the Agency. OVIC staff asked you to confirm if you still wanted a decision from OVIC.

You advised that you would like OVIC to provide a formal reply. Accordingly, I have continued with the review of the Agency's decision.

Reasons for decision

I confirm I have conducted a review of the Agency's decision on your request. I have considered all information before me, including your correspondence sent to OVIC during this review.

Section 25A(5) of the FOI Act applies if the following 2 elements are satisfied:

1. It is apparent on the face of the request that all documents sought would be exempt from release.
2. The agency cannot provide access to an edited copy of the documents, or the applicant does not want to receive an edited copy of the documents.

Would all the documents you requested be exempt from release based on the terms of your request?

It must be objectively apparent from the words of your request for documents that all requested documents are exempt by their nature under one or more exemption under the FOI Act.¹

I cannot 'go behind the description of the documents in the request'.²

You are seeking access to information relating to you from the Client Management Interface (**CMI**) / Operational Data Store (**ODS**). CMI/ODS is a public health client information management system managed by the Agency. The CMI is the local client information management system used by each public mental health service. The ODS is a state-wide database that receives and sends data from/to all local CMI databases across the state.

Section 38 of the FOI Act provides that information can't be released if it is prohibited under another Act. Three conditions must be satisfied for section 38 to apply:

1. there is an enactment in force
2. the secrecy provision applies specifically to the kind of information contained in the document
3. the provision prohibits persons referred to in the enactment from disclosing the information.

The MHW Act is an enactment in force, which satisfies the first condition of section 38 of the FOI Act.

Section 736 of the MHW Act prohibits the use or disclosure of health information from the electronic health information system unless authorised. You have requested information from the electronic health system, being the CMI/ODS. Therefore, it applies to the kind of information you have requested, which satisfies the second condition of section 38 of the FOI Act.

Section 736 of the MHW Act prohibits persons referred to in the MHW Act from disclosing health information in the electronic health information system, which satisfies the third condition of section 38 of the FOI Act.

I am not satisfied that there is an exception in the MWH Act that would allow the Agency to disclose information to you even if it is about you and you consent to it being disclosed.

For these reasons, I am satisfied it is objectively apparent from the words of your request that all requested documents would be exempt under the FOI Act in conjunction with section 736 of the MHW Act.

Would the Agency be able to provide edited documents to you with exempt information deleted?

It must be objectively apparent from the nature of the documents, as described in the request, that it would not be practicable to provide an edited copy of any of the documents, under section 25 of the FOI Act.³ If it is practicable to provide an edited copy of one document out of multiple documents

¹ *Knight v Corrections Victoria* [2010] VSC 338, [38]-[39].

² *Ibid*, [38].

³ *Ibid*, [50].

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falling within a request, I cannot rely on section 25A(5) to refuse your request.⁴

In my view, the documents you have requested would not retain their meaning after exempt information is deleted. Therefore, the Agency would not be required to provide you with edited copies of the documents you requested, should any documents exist.

What this means

I am satisfied that the Agency is not required to process your request because section 25A(5) of the FOI Act applies. I am satisfied that all documents you have requested are obviously exempt and there is no obligation to provide edited documents.

I note that in its decision, the Agency advises that the CMI/ODS does not contain [particular information] and that these are likely available from your treatment hospital/health service.

As I have made my decision, your review with OVIC is now closed.

Your review rights

If you are not satisfied with my decision, you can apply to VCAT for it to be reviewed. If you wish to do this, you must make a review application to VCAT within 60 days from the date you are given notice of my decision.

Information about how to make an application to VCAT is available at www.vcat.vic.gov.au.

VCAT can also be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.

Yours sincerely

Penny Eastman

Public Access Deputy Commissioner

⁴ Ibid.