

23 April 2026

[Addressee Name]

Dear ['GG4'],

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

Agency:	Department of Families, Fairness and Housing
Agency decision:	Refuse access under section 25A(5) of the <i>Freedom of Information Act 1982</i> (Vic)
OVIC review decision:	Same decision as the Agency's decision
Information requested:	Child Protection documents
Citation:	'GG4' and Department of Families, Fairness and Housing (<i>Freedom of Information</i>) [2026] VICmr 3 (23 April 2026)

FREEDOM OF INFORMATION – Child Protection documents – all documents would be exempt in full – no obligation to provide edited copies of documents

Thank you for your request for review of a decision made by the Department of Families, Fairness and Housing (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 23 April 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 the date you receive this Notice of Decision 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:

...all documents held by the Department of Families, Fairness and Housing that relate to me and/or my children, including documents in which I am mentioned, described, assessed, characterised, or discussed,

whether directly or indirectly.

My children are: [names provided]

Without limiting the scope of this request, it includes:

1. All Child Protection records, case files, notes, assessments, and reports that refer to me and/or my children.
2. All complaints, notifications, referrals, or reports made about me and/or my children, including those made by third parties.
3. All internal correspondence, emails, file notes, supervision notes, handover notes, and escalation records that discuss or reference me and/or my children.
4. Any risk assessments, summaries, professional opinions, or characterisations expressed about me and/or my children.
5. Any documents that attribute responsibility, causation, or blame to me in relation to Child Protection concerns, investigations, or decisions involving my children.
6. Any records connected to investigations, interventions, or case management involving my children in which I am referenced.
7. Any documents created in connection with court proceedings, briefings, or reports that refer to me and/or my children.

This request includes all relevant documents created or received at any time, including historical records.

On [date], the Agency refused access to documents you requested under section 25A(5) of the FOI Act in conjunction with sections 31(1)(a), 31(1)(c), 33(1), 35(1)(b) and 38 of the FOI Act. It considered all documents you requested would be exempt in full, should they exist, 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 of your review application

On [date], OVIC staff provided you with their initial assessment that OVIC would make the same decision on your request as the Agency. They advised you that OVIC had previously considered similar requests to yours and in those matters, OVIC upheld the Agency's decision that all the requested Child Protection documents, should they exist, would be exempt in full. OVIC staff provided you with links to access copies of those decisions published on OVIC's website. OVIC staff asked if you wanted to withdraw your review application or whether you still required a formal decision.

On [date], you advised OVIC that you wanted a formal decision and you considered that section 25A(5) of the FOI Act had not been properly applied.

Reasons for decision

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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 all Child Protection related records concerning your children.

The documents you have requested would relate to any report/s and subsequent actions taken by the Child Protection area of the Agency with respect to any child safety and wellbeing concerns about your children.

The following exemptions under the FOI Act would apply to information within documents you have requested, should any documents exist:

- Section 31(1)(a) – this section provides information can't be released if it would, or would be reasonably likely to prejudice, in a particular instance:
 - the investigation of a breach or possible breach of the law or
 - the enforcement of proper administration of the law. In this case, the enforcement and administration of the *Children, Youth and Families Act 2005* (Vic) (**CYF Act**).

The documents you have requested access to would include information that would prejudice how the Agency investigates matters where it is alleged that a child is at risk.

- Section 31(1)(c) – this section provides that information can't be released if it would, or would be reasonably likely to disclose, or enable a person to ascertain the identity of a confidential source of information, and the confidential source has provided information in the context of the enforcement or administration of the law. In this case, the enforcement and administration of the CYF Act.

You have asked for documents relating to any reports or referrals to Child Protection. As such,

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

² *Ibid*, [38].

should those documents exist, they would disclose the identity of a confidential source of information, who would have provided information to the Agency in confidence, and that information would have been provided to the Agency in relation its enforcement and administration of the CYF Act.

- Section 33(1) – this section provides that information can't be released if it identifies another person and it would be unreasonable to release that information in the circumstances. The documents you have requested, should any exist, would identify other people, including anyone who raised concerns or provided information to the Agency's Child Protection area. The documents would also include information about your children, other people in their lives and Child Protection staff. While it is likely that it would not be unreasonable to disclose all information that identifies other people, it would be unreasonable to disclose information that identifies people who provided information to Child Protection for these reasons:
 - they would have provided information with an expectation that their identity would remain confidential
 - it would have been expected that the information they provided, and their identity, would only be used for the purposes of the investigation into concerns about a child or children in need of protection
 - there is no broader public interest in disclosing the information to you
 - it would impact their privacy and
 - they would likely object to it being disclosed.
- Section 35(1)(b) – this section provides that information can't be released if it was communicated to the Agency in confidence and releasing it would impair the Agency from obtaining similar information in the future. It is likely that the documents you have requested would contain information that the Agency obtained from external sources where confidentiality would have been expected. If the Agency cannot guarantee confidentiality, people will not provide information to them in the future, and this would impact the Agency's ability to perform its important functions.
- Section 38 – this section provides that information can't be released if it is prohibited under another Act. In this case, the Agency relied on sections 191(1) and 209(1) of the CYF Act.

Sections 191(1) and 209(1) of the CYF Act prohibit the disclosure of the identity of any person who has made a report regarding a child who they believe needs protection. The role of Child Protection is important and is strictly regulated under the CYF Act. For example, the CYF Act prohibits the disclosure of the name of any person who raises concerns about the welfare or safety of a child (known as a 'notifier'), and any information that could identify a notifier, except in certain limited circumstances.

These restrictions on the release of Child Protection information allow for notifications made to the Agency and any related investigation to remain confidential. This supports the welfare

and safety of both the children and notifiers involved. These restrictions apply to all persons, including a person who has been involved with Child Protection or a parent or guardian of a child seeking access to Child Protection documents.

For these reasons, I am satisfied it is 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.

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 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, should any exist, are obviously exempt and there is no obligation to provide edited documents.

If you make a more specific request to the Agency for documents you believe may exist, for example, written documents between you and Child Protection staff in relation to your children, then the Agency may be able to process that request. This will depend on whether it is objectively apparent from the words of your new request that all the requested documents are not all exempt.

If there are specific documents you are seeking, it would be useful to contact the FOI team at the Agency before making your request, as they can provide you with some assistance in wording your request.

Your VCAT 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.

³ Ibid, [50].

⁴ Ibid.

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Yours sincerely

Penny Eastman

Public Access Deputy Commissioner

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