

# Department for Education, Children and Young People

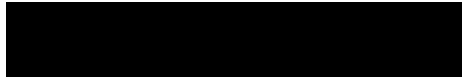
LEGAL SERVICES

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File no: FOL/25/230104  
Your ref:

27 November 2025



Dear 

## **RIGHT TO INFORMATION ACT 2009 APPLICATION FOR ASSESSED DISCLOSURE RTI 076-2025/26 WORKING IT OUT AND GROWING UP PROGRAM**

I refer to your *Right to Information Act 2009* (the Act) Application for Assessed Disclosure received by the Department for Education, Children and Young People (the Department) on 1 September 2025 and accepted on 15 September 2025.

I confirm that I hold a delegation from the Secretary of the Department to make decisions under the Act.

Information relevant to your request has been assessed in accordance with the Act. I have determined to release the requested information in part. My reasons for this decision are outlined in the attached Statement of Reasons.

If you would like to discuss this decision further please contact Legal Services, Department for Education, Children and Young People by telephone 6165 6156 or by email at [rti.pip@decyp.tas.gov.au](mailto:rti.pip@decyp.tas.gov.au).

If you would like an internal review of this decision, such a request is to be made within 20 working days of receipt of this decision to the Secretary, Department for Education, Children and Young People:

Email: [officeofthesecretary@decyp.tas.gov.au](mailto:officeofthesecretary@decyp.tas.gov.au)

Post: GPO Box 169, Hobart TAS 7001

Yours sincerely

A handwritten signature in blue ink that reads "Roxana Jones".

Roxana Jones  
RIGHT TO INFORMATION DELEGATE

*RIGHT TO INFORMATION ACT 2009*

STATEMENT OF REASONS FOR DECISION RTI 076–2025/26: [REDACTED]

## 1. Background

I refer to your *Right to Information Act 2009* (the Act) Application for Assessed Disclosure received by the Department for Education, Children and Young People (the Department) on 1 September 2025 seeking the following:

1. *All written funding agreements between DECYP & Working It Out (WIO) between 1/1/2023 to 1/09/2025*
2. *Training materials for the Supporting Sexuality, Sex and Gender Diversity in HPE program between 1/1/2023 to 1/09/2025*
3. *WIO materials received by school nurses to support LGBTIQ+ outcomes between 1/1/2023 to 1/09/2025*
4. *All written corporate correspondence between Family Planning Tasmania and DECYP that references or is related to the Growing Up Program that was authored or received by DECYP between 1 January 2024 to 1 September 2025*
5. *All Ministerial correspondence responding to complaints regarding LGBTIQ+ inclusion in schools between 1/1/2023 to 1/09/2025.*

## 2. Authority to make decision

I hold a delegation from the Secretary, Department for Education, Children and Young People, granted under section 24 of the Act.

## 3. Basis for the decision

The information requested has been assessed in accordance with the *Right to Information Act 2009*. This decision is made pursuant to section 22 of the Act.

## 4. Material upon which findings are based

This decision is based on information held by the following Department's business units:

- Schools and Early Years;
- Development and Support; and
- Strategy and Performance.

While all reasonable attempts to gather information within the scope of your request have been made the Department is a large department, therefore if you feel there is any information that may have been overlooked please advise me of the details in writing.

## 5. Decision and reasons

I have determined to release the requested information in part, with some information exempt under the following section of the Act:

- section 36 – Personal information of a person; and
- section 37 – information relating to business affairs of third party.

Where information is exempt I have noted on the Schedule of Documents which section of the Act has been applied to exempt information from disclosure. Where information is exempt in part I have redacted the exempt information and clearly labelled it as such. Where any information is not within the scope of your request this information has been redacted and clearly labelled as information irrelevant to the request. Information that is out of scope of the application has not been assessed under the Act.

Regarding item 4 of your application, no information was located as the Department does not own or fund the Growing Up Program at a corporate level.

### **Section 36 – Personal information of person**

Information is exempt on the basis that it is personal information of a person.

Personal information is defined under section 5 of the Act 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;*

*(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.*

Section 36(1) provides that information is exempt if its disclosure under the Act would involve the disclosure of the personal information of a person other than the person making an application for assessed disclosure.

An important detail of the definition of personal information is that an individual's identity is 'reasonably ascertainable'. Therefore, personal information of a person could be used on its own, or with other information, to identify, contact, or locate a single person, or to identify an individual in context and this is why I have exempted some personal information.

Names, addresses and phone numbers have been identified as exempt pursuant to section 36.

Section 36 is subject to the public interest test. Schedule I of the Act includes matters to be considered when assessing if disclosure of particular information would be contrary to the public interest, but is not limited to those matters. I find of particular relevance:

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

I find 'harm' to be the main factor in assessing whether it is in the public interest to release or disclose information.

I find the release of the information does not aid understanding of the material and may divulge personal contact details of a person other than yourself.

As advised in previous published decisions of the Ombudsman<sup>1</sup>, I do consider that there are some different considerations regarding direct telephone and mobile numbers of public officers. Direct telephone

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<sup>1</sup> See Suzanne Pattinson and Department of Education (August 2022), Simon Cameron and the Department of Primary Industries, Parks, Water and Environment (January 2022), Camille Bianchi and Department of the Health (November 2021) and Clive Stott and Hydro Tasmania (February 2021), available at [www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions](http://www.ombudsman.tas.gov.au/right-to-information/reasons-for-decisions).

numbers are often not provided to the public, to ensure that calls are received through established channels. Mobile phones may be used for personal use in addition to work functions and are not necessarily appropriate to release.

On balance I find that it would be contrary to the public interest to release the information and consequently that it qualifies as exempt information under section 36 of the Act.

### **Section 37 – Information relating to business affairs of third party**

Section 37 provides:

- (1) *Information is exempt information if its disclosure under this Act would disclose information related to business affairs acquired by a public authority or Minister from a person or organisation other than the person making an application under section 13 (the "third party") and –*
- (a) *the information relates to trade secrets; or*
  - (b) *the disclosure of the information under this Act would be likely to expose the third party to competitive disadvantage.*

This section provides that information is exempt if its disclosure would be ...*likely to expose the third party to competitive disadvantage*. The context of the phrase is dependent upon the impact of the emphasis upon *likely* which means a real or not remote chance or possibility, rather than more probable than not. The application of *expose* rests on the ordinary meaning of to ...*lay open to something...; [to] subject to risk*.<sup>2</sup>

The broad sense of *competition* is that it relates to any situation of conflict or rivalry. Therefore, for any ...information to be exempt, its disclosure needs to be likely to expose the undertaking or agency not to *any* disadvantage, but a disadvantage which relates to or is characterised by competition.

A competitive disadvantage will not necessarily be something which, in strict terms, impacts on an actual ability to compete, and the level of competition. What the concept entails is something which puts one entity at a disadvantage in relation to a matter which affects its profit making capacity relative to its competitive rivals.

As advised on 3 November 2025, the Department was obliged to consult a third party pursuant to s37(2) of the Act.

When the third party was consulted, concern was expressed about the release of the information they were consulted on advising the information was commercial in confidence. They also expressed concern regarding its potential release saying they would “prefer that **no information** be released (sic) basis the information would likely be used/misused to cause harm to transgender and gender diverse young people and their families”.

For these reasons it is my view that the disclosure of the information acquired would expose the third party to a competitive disadvantage.

I have decided that some of the information relating to the business affairs concerning the third party is exempt.

### **Public interest test**

Section 37 of the Act belongs to a class of exemptions to which s33 applies.

Section 33 states that:

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<sup>2</sup> *New Shorter Oxford English Dictionary* 1993

*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.*

Section 33(2) requires that the matters specified in Schedule 1 must be considered in deciding if the disclosure of the information is contrary to the public interest.

I find that the matters specified in the following subclauses weigh in favour of disclosure:

- (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.*

I accept that the gender diversity information in general is of interest and in particular to LGBTIQ students and parents in a school context. In considering, the matters in subclauses (a) – (c) of Schedule 1 to the Act there may be merit in disclosing the information.

Conversely, the matters specified in subclauses (h), (m), (n), (s) and (w) are relevant and weigh against disclosure. Those matters are:

- (h) whether the disclosure would promote or hinder equity and fair treatment of persons or corporations in their dealings with government;*
- (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;*
- (s) whether the disclosure would harm the business or financial interests of a public authority or any other person or organisation;*
- (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;*

In my view the release of such information, would likely expose that party to competitive disadvantage. Setting aside the consideration of competitive disadvantage, when coming to apply the public interest test my view is that it is difficult to discount that the disclosure of the information still has the potential to harm the interests of the company.

In assessing public interest considerations under the Act, it is important to appreciate that the test is whether disclosure is *in* the public interest, not *of* interest to the public. While the information contained in the documents may be of interest to the public, it is not necessarily in the public interest for the information to be disclosed.

Consideration of whether disclosure is in the public interest is a balancing exercise. Essentially, the consideration of this depends on the particular facts of the matter and the context in which it is being considered.

Should the information provided by the third party be released to the general public, it may lead to potential misuse of the information and more broadly cause harm to young LGBTIQ people and their families.

I have concluded that, on balance, not to disclose some of the information.

My decision on this application takes account of the public interest factors both in favour and against disclosure of the information. I confirm that I have not considered any matters, which are irrelevant in deciding if disclosure is contrary to the public interest pursuant to Schedule 2 of the Act.

## 6. Review and complaint

If you would like to discuss this decision further please contact Legal Services, Department for Education, Children and Young People by telephone 6165 6156 or by email at [rti.pip@decyp.tas.gov.au](mailto:rti.pip@decyp.tas.gov.au).

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Yours sincerely



Roxana Jones  
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Date: 27 November 2025