

## Public Access Agency Reference Group Meeting

**Date:** Monday, 27 May 2019

**Time:** 2:00 – 4:30pm

**Location:** Training Rooms 1 and 2, Level 34, 121 Exhibition Street

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### Participants

Joanne Kummrow, Public Access Deputy  
Commissioner, OVIC (Chair)

Ianina Belski, Assistant Commissioner Public  
Access Reviews

Paul Pittorino, Acting Assistant Commissioner  
Public Access Resolution

Cameron Montgomery, City of Ballarat

Chris O'Donnell, VicRoads

Lauren Reader, Macedon Ranges Shire Council

Lisa Scholes, Department of Health and Human  
Services

Melinda Robinson, Department of Justice and  
Community Safety

Monica Barnes, Country Fire Authority

Robin Davey, Victoria Police

Susannah Whitty, Eastern Health

Simone Martin, Senior Manager,  
Communications and Education

Dean Bardell-Williams, Graphic and Digital  
Designer

Sarah Crossman, Secretariat, OVIC

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### 1. Welcome

- The Public Access Deputy Commissioner welcomed everyone to the meeting.

### Apologies

- Chelvi Arunagiri, Jude Hunter, Richard Long, Jane Feeney

### Previous meeting minutes

- All attendees confirmed the minutes of 25 March 2019.

### 2. OVIC update

- Appointment of the Public Access Deputy Commissioner
  - The Public Access Deputy Commissioner noted she has been appointed by the Governor of Victoria as the Public Access Deputy Commissioner for a five year term commencing on 14 May 2019. OVIC has published a [media release](#) on the appointment for more information.
- Information Access Series seminars
  - On 30 April 2019, OVIC provided an update on the Notice of Decision Publication Project and guidance on assisting and engaging with FOI applicants under section 17 of the FOI Act.
  - On 22 May 2019, OVIC provided a seminar on working with OVIC and demystifying OVIC's processes and procedures.
  - The Public Access Deputy Commissioner noted these seminars are continually updated to reflect current practices and processes.
  - The next seminar is Wednesday, 26 June 2019, which will cover making fresh decisions under section 49M of the FOI Act and handling a request for amendment of records under section 39 of the FOI Act.

- For more information on the Information Access Series seminars, including how to register and how to view previous presentations, please visit OVIC's website.
- Other stakeholder engagement activities
  - On 22 May 2019, OVIC hosted staff from the Department of Premier and Cabinet's FOI team and Cabinet team, who provided short presentations on their respective teams. This session provided useful context to the Department's operating environment and the context in which documents are created.
  - The Public Access Deputy Commissioner noted a useful resource raised in that session is the Cabinet Handbook, which is available [online](#).
  - Agencies are welcome to talk to OVIC about providing similar presentations.
- OVIC's case management system update
  - The Public Access Deputy Commissioner noted the upgrade to OVIC's case management system is progressing and is due to be completed by the end of June 2019. The aim of the upgrade is to improve internal case management practices, to ensure OVIC's business practices are efficient and to better capture data for reporting purposes.
- Electronic documents update
  - The Assistant Commissioner – Public Access Reviews noted this project is ongoing. Linked to the upgrade to OVIC's case management system, this initiative is part of an office-wide digitisation, which includes having agencies provide OVIC with electronic copies of documents. In addition, OVIC is looking at redaction and editing software as it envisages that in some cases OVIC may mark up agency documents using redaction software.
  - Members discussed it would be useful to know whether there are size limits for uploading documents and which type of software OVIC will use so that agencies can match systems where practicable.
- OVIC operational update
  - The Assistant Commissioner – Public Access Reviews provided an OVIC operational report on review and complaint figures, noting:
    - the Public Access Team achieved their target of having fewer than 275 open review matters by 31 March 2019;
    - the Public Access Team is aiming to have the number of open review matters reduced to 250 by 30 June 2019 and open complaints reduced to 75 or less; and
    - as at 27 May 2019, OVIC has 120 open complaints and 255 open reviews.

### 3. OVIC Annual Report

- The Public Access Deputy Commissioner noted OVIC has started work on the FOI Annual Report and that the FOI Annual Report survey will be sent out as usual on 1 July 2019 with a deadline of 19 July 2019. The questions in the survey have not changed and any change to the survey questions will be communicated well in advance of the subsequent annual report to allow time for agencies to start collecting the relevant data.

### 4. OVIC Strategic Plan

- The Public Access Deputy Commissioner noted OVIC's [strategic plan](#) was recently published on OVIC's website. The three year strategic plan provides a roadmap for OVIC as it seeks to embed in the Victorian public sector a culture that promotes fair access to information while ensuring its proper use and protection.

## 5. Freedom of Information Regulations 2019

- The Public Access Deputy Commissioner noted earlier this year, the Department of Premier and Cabinet prepared [Freedom of Information Regulations 2019](#). As part of the process of preparing and finalising the 2019 regulations, DPC published draft regulations and a Regulatory Impact Statement on [Engage Victoria](#) for public consultation. Some key changes to the regulations include prescribing additional bodies as being subject to the FOI Act and exempting three statutory office holders from the FOI Act.

## 6. Open Government Partnership survey

- The Public Access Deputy Commissioner noted the Open Government Partnership Australia published its second National Action Plan for 2018 to 2020 (**NAP2**). Under NAP2, the Information and Privacy Commissioner NSW conducted citizen surveys via Information Commissioners/Ombudspersons in different Australian jurisdictions – including OVIC.
- The aim of the surveys is to measure citizen’s awareness of the right to access government information, and their experiences and outcomes in exercising that right. The surveys are intended to inform activities to promote and support the right to access government information.
- The aim will be to publish these results, along with the other jurisdictions, on the OGP website. At this time, OVIC will also publish the Victorian results on the OVIC website.
- The Public Access Deputy Commissioner noted OVIC will participate in the survey next year, and the years following, to track results and note any trends.
- For more information about the survey generally, the IPC NSW published a [media release](#) on 11 March 2019. In addition, you can find more information about NAP2 on the [OGP website](#).

## 7. Professional standards

- The Public Access Deputy Commissioner thanked everyone for reviewing the draft professional standards and providing submissions. She noted OVIC received 42 submissions in total – the majority of which came from agencies subject to the FOI Act.
- The Public Access Deputy Commissioner noted the Policy team is reviewing these submissions. Then, the draft standards will be reviewed and likely amended based on the submissions received. OVIC will publish submissions where the respondent has consented. In addition, the Policy team will publish a summary feedback document, which will collate the main themes expressed in submissions and outline OVIC’s responses.
- The Public Access Deputy Commissioner noted the Policy Team is also in the process of updating existing, and creating new, FOI guidance and template documents, which will incorporate the obligations under the professional standards.
- The guidance topics include:
  - proactive/informal release
  - how to make a request/Receiving a request
  - fees and charges
  - timeframes and extensions of time
  - conducting a thorough and diligent search
  - third party consultation
  - writing decision letters
  - guide to section 25A(1)
  - guide for principal officers
  - reviews and complaints

- Part II statements
- The template document topics include:
  - letters regarding receiving a request
  - decision letters
  - third party consultation letters
  - extensions of time
  - section 25A(6) notice
  - access charges deposit notice
  - providing access outside the FOI Act
  - internal search request
  - search checklist
  - processing a request checklist
  - transferring a request under section 18
- Members discussed other potential areas for guidance that would be useful. For example, one member suggested it would be helpful to have a guide on making fresh decisions under the FOI Act, particularly in light of OVIC's use of preliminary views.
  - For other suggestions on guidance or template documents, please email OVIC at [policyteam@ovic.vic.gov.au](mailto:policyteam@ovic.vic.gov.au).

## 8. Notice of decision publication update

- The Assistant Commissioner – Public Access Reviews provided an update on the project, noting:
  - Publication on the OVIC website and AustLII website will commence from 1 July 2019. AustLII is a free online database of Australian legal information from the Commonwealth, States and Territories.
  - Frequently Asked Questions for both agencies and applicants are on the OVIC website.
  - Samples of de-identified decisions have been shared with some agencies to seek feedback. If you have received a sample decision, OVIC encourages you to consider discussing this with counterparts in other agencies.
  - OVIC may remove document dates from some published decisions due to the potential to re-identify individuals. If this occurs, the agency will still receive a copy of the decision with the dates included so it can interpret OVIC's decision.
- The Public Access Deputy Commissioner noted members' concerns regarding OVIC's position that it will not remove published decisions that are overturned at VCAT. The Public Access Deputy Commissioner noted that OVIC still sees educative value in keeping the decision published as each decision is context specific. Further, reviews before OVIC can be quite different to those before VCAT as the issues in dispute may be narrowed by the time it gets to hearing at VCAT and VCAT can hear evidence on a review.

## 9. Stakeholder engagement survey

- OVIC's Senior Manager, Communications & Education advised OVIC is delivering a short, confidential, online survey to the Victorian public sector to seek feedback on how OVIC is doing and to ensure OVIC is targeting its activities at the right levels. The survey will take 10 minutes to complete and OVIC is looking to have a range of different staff participate in the survey. OVIC encourages agencies to complete the survey as the results will inform OVIC's work for the next 12 months.

**Note:** following the meeting, it was confirmed the survey will be sent to participants in July 2019.

## **10. Public Access consumer videos**

- OVIC is developing three short videos aimed at the public. They include: how to make an FOI request, how to apply for a review and how to make a complaint. OVIC intends these videos will be useful resources for agencies to use and provide to members of the public they interact with.
- OVIC's Graphic and Digital Designer provided some visual examples of what the videos will look like.
- OVIC can provide the videos to agencies directly, once finalised, so agencies may upload them on their website if they wish.

## **11. Feedback on OVIC's education and training activities and events**

- The Public Access Deputy Commissioner noted OVIC's free all day FOI training is regularly updated and is currently undergoing a refresh. The Public Access Deputy Commissioner also noted other OVIC education and training activities and events include the Information Access Series seminars, FOI case notes, free online FOI modules and the consumer videos.
- Members discussed other ways OVIC could engage with agencies, in addition to these activities.

## **12. Other business**

- One member discussed third party consultation and notification when the matter is under review by OVIC. They noted when they consult with third parties on an FOI request, they have their own consultation process they follow. This process includes letting the relevant third party know whether the agency is going to release their information. During an OVIC review, OVIC tends to notify third parties once a decision is made, rather than consult during the review. The member noted some third parties are confused about OVIC's role, what OVIC's decision means and why their information is now being released despite what the agency told them.
- The Public Access Deputy Commissioner noted if a decision is reviewed at OVIC, OVIC generally does not undertake consultation because it relies on the consultation conducted by the agency. As such, OVIC encourages agencies to provide as much information as possible about consultation undertaken by the agency so OVIC can consider that information when making a decision. OVIC will, however, notify third parties if their information is directed to be released and it is practicable to do so.
- The Acting Assistant Commissioner – Public Access Resolution noted OVIC dedicates time speaking with third parties to help them understand the role of OVIC and why they are receiving a notice that their information will be released. OVIC also has an FAQs resource it provides to third parties to help address their concerns. Agencies are welcome to direct concerned third parties to OVIC, and someone at OVIC can discuss the matter with them further.

## **13. Close – 4:03pm**

- The next meeting will be held on Monday, 26 August 2019 from 2 – 4:30pm at 121 Exhibition Street, Melbourne.