

## Notice of Decision and Reasons for Decision

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|------------------------|---|
| Applicant:             | 'AD9'   |
| Agency:                | Monash University   |
| Decision Date:         | 24 May 2019   |
| Exemptions considered: | Sections 30(1), 32(1), 33(1) and 35(1)(b)   |
| Citation:              | 'AD9' and Monash University ( <i>Freedom of Information</i> ) [2019] VICmr 36 (24 May 2019) |

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FREEDOM OF INFORMATION – university remission of debt applications – agency emails – meeting minutes – working documents – documents affecting legal proceedings – documents affecting personal privacy – documents containing material obtained in confidence

All references to legislation in this document are to the *Freedom of Information Act 1982 (Vic)* (**FOI Act**) unless otherwise stated.

### Notice of Decision

I have conducted a review under section 49F of the Agency's decision to refuse access to documents requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision in that I have decided to release additional information to the Applicant.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

My reasons for decision follow.

**Sven Bluemmel**  
Information Commissioner

24 May 2019

## Reasons for Decision

### Background to review

1. The Applicant made a request to the Agency for access to the following documents:

All documents between Monash staff members processing my remission of debt review application received on [date] and decided on [date]. Kindly refer to the letter attached.
2. In its decision, the Agency identified 10 documents falling within the terms of the request. It decided to refuse access to all documents in full. The Agency refused access to the document on the basis it believed the Applicant did not seek copies of edited documents with exempt information deleted in accordance with section 25.
3. On 19 February 2019, the Applicant made a review application under section 49A(1)(a),
4. During the review, the Applicant made a concession in [their] request - [the Applicant] advised this Office [they] would accept copies of edited documents with exempt information deleted. In effect, the Applicant agreed to narrow and reduce [their] request.
5. The Agency argued that I could not accept this concession. It argued that because both the request and decision dealt with unedited documents, I did not have power under sections 49F and 49P of the Act to conduct a review of what the Agency contended was an amended request.
6. I do not accept the interpretation adopted by the Agency.
7. Section 49F provides that I 'may review the decision that is the subject of the application for review' while section 49P provides that I 'must make a fresh decision on the original application'. Neither section specifically prevents me from accepting the Applicant's concessions.
8. Further, in interpreting sections 49F and 49P, I considered the objects and obligations in the FOI Act:
  - (a) Section 3(2) of the FOI Act states Parliament's intention for the Act shall be interpreted to promote the object of the FOI Act and 'facilitate and promote promptly and at the lowest reasonable cost the disclosure of information.'
  - (b) Section 3(1) makes clear the beneficial nature of the FOI Act and its object 'to extend as far as possible the right of the community to access to information'.
  - (c) Section 6H(2) of the FOI Act requires me to perform my functions, including conducting reviews, with as little formality and technicality as possible.
  - (d) Section 49H(1) requires me to conduct a review in a timely, efficient and fair manner, with as little formality and technicality as possible.
9. In my view, the process of merits review is made more timely and efficient when issues are narrowed by agreement with the party affected. Consequently, taking a purposive interpretation of sections 49F and 49P, I consider I have power to conduct a review and make a fresh decision on the basis that the Applicant concedes to receiving copies of edited documents with exempt information deleted.

### Review

10. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
11. I have examined copies of the documents subject to review.

12. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
13. I have considered all communications and submissions received from the parties, including:
  - (a) the Agency's decision on the FOI request;
  - (b) the Applicant's review application; and
  - (c) the Agency's submissions dated 14 March 2019 and 27 March 2019.

### **Review of exemptions**

14. The Agency relied on the exemptions in sections 30(1), 32(1), 33(1) and 35(1)(b) to refuse access to the documents. The Agency's decision letter sets out the reasons for its decision.

### **Section 30(1)**

15. Section 30(1) has three requirements:
  - (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister; and
  - (b) such matter must be made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government; and
  - (c) disclosure of the matter would be contrary to the public interest.
16. The exemption does not apply to purely factual material in a document.<sup>1</sup>
17. In deciding if release is contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of government information.
18. In deciding whether disclosure of the matter would be contrary to the public interest in this matter, I have taken the following into consideration:<sup>2</sup>
  - (a) the right of every person to gain access to documents under the FOI Act;
  - (b) the degree of sensitivity of the issues involved;
  - (c) the state of the decision-making process at which the communication was made;
  - (d) whether the disclosure would be likely to inhibit frankness and candour in the making of communications;
  - (e) whether disclosure would lead to confusion or unnecessary debate having regard to the possibilities discussed;
  - (f) the likelihood disclosure of the documents would inhibit the independence of officers or the making of proper and detailed research and submissions by them;

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<sup>1</sup> Section 30(3).

<sup>2</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

- (g) the likelihood disclosure would create mischief in one way or another such as a risk of mischievous interpretation; and
- (h) the significance of the document, for example whether it is or is not merely a draft document.

19. In its submission, the Agency provided the following information about the application of section 30(1) in this matter:

The following public interest grounds or factors have been relied upon by the University in relation to the documents for which this exemption has been claimed to determine that disclosure would be contrary to the public interest:

- (a) Officers of the University are entitled to hold frank and confidential consultations and provide frank, independent and confidential opinions, advice and recommendations during consideration of such student related matters. There is potential for such deliberations to be hindered if documents revealing these deliberations were to become public, particularly where you were provided with a decision and reasons for your unsuccessful application;
- (b) It is likely that disclosure would lead to confusion, unnecessary debate or a mischievous interpretation of the documents having regard to the fact that they give merely a part explanation rather than complete explanation for the taking of a particular decision;
- (c) Drafts of documents (such as a draft of a minute) ought not be released as drafts and internal documents are of their very nature likely to contain omissions or errors and may have needed further refinement;
- (d) Final decisions made ought to be judged from their face and not from preliminary deliberations which occurred along the way which might be artificially inflated and not reflect the final, formal position of the University.

20. My decision with respect to the application of section 30(1) to each document is set out in **Annexure 1**.

### **Section 32(1)**

21. Section 32(1) provides a document is an exempt document 'if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege'.

22. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:<sup>3</sup>

- (a) between the client (or the client's agent) and the client's professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice or is referable to pending or contemplated litigation; or
- (b) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
- (c) between the client (or the client's agent) and third parties that was made for the purpose of obtaining information to be submitted to the client's professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation.

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<sup>3</sup> *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also section 119 of the *Evidence Act 2008* (Vic).

23. The Agency advised that section 32(1) applies to Documents 2, 5, 6 and 10 which contain communications between Agency officers and its in-house legal advisers for the purpose of giving or obtaining legal advice, including the preparation of draft documents. The Agency advised these documents contain communications that are subject to legal professional privilege, and accordingly are exempt from disclosure under section 32(1).
24. My decision with respect to the application of section 32(1) to each document is set out in **Annexure 1**.

### **Section 33(1)**

25. A document is exempt under section 33(1) if two conditions are satisfied:
  - (a) disclosure of the document under the FOI Act would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant;<sup>4</sup> and
  - (b) such disclosure would be 'unreasonable'.
26. Information relating to a person's 'personal affairs' includes information that identifies any person, or discloses their address or location. It also includes any information from which this may be reasonably determined.<sup>5</sup>
27. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the personal interest in privacy in the particular circumstances of a matter.
28. The Agency advised it consulted with relevant Agency staff whose personal affairs information features in the documents. I have considered the views expressed by those third parties in relation to each document in **Annexure 1** below.
29. In its submission, the Agency provided the following information to support its view it would be unreasonable to disclose the personal affairs in the documents:
  - (a) It is unreasonable to disclose the names of staff holding non-executive positions.<sup>6</sup>
  - (b) Disclosure is less likely to be unreasonable where the applicant's motives are commendable; disclosure is more likely to be unreasonable where the applicant's reason for seeking access is out of some particular personal crusade, or for the purpose of embarrassing or otherwise harming the third persons concerned.<sup>7</sup>
  - (c) The absence of any public interest in disclosure of personal affairs information or where disclosure is not in the public interest.<sup>8</sup>
  - (d) The existence in s 13 of the Charter of the right of a person not to have his or her privacy, family or home arbitrarily interfered with.
  - (e) It is unreasonable to release the personal affairs information of persons who have said that they did not want their names and personal information released, as apparent by the outcome of the s 33(2B) consultations.

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<sup>4</sup> Sections 33(1) and (2).

<sup>5</sup> Section 33(9).

<sup>6</sup> *Coulson v Department of Premier & Cabinet* [2018] VCAT 229 at [124]–[127]; *Proctor v Mornington Peninsula Shire Council* [2018] VCAT 638 at [102]–[103]; *Cowen v Monash University* [2018] VCAT 694; *Smeaton & Smeaton v Victorian WorkCover Authority* [2018] VCAT 914.

<sup>7</sup> *Gunawan v Department of Education* (unreported, Victorian Civil and Administrative Tribunal, Member Davis, 15 December 1998) 18; *Proctor v Mornington Peninsula Shire Council* [2018] VCAT 638.

<sup>8</sup> *Mildenhall v Department of Planning and Development* (unreported, Administrative Appeals Tribunal, Member Preuss, 16 August 1995) at [6].

30. Information the Agency decided was exempt under section 33(1) includes Agency staff names, Agency position titles and email addresses. While I accept this information is personal affairs information, I must also determine whether it would be unreasonable to release it.
31. In summary, I have determined the personal affairs information in the documents can be released on the grounds that:
- (a) Many of the Agency staff hold relatively senior positions.
  - (b) In relation to non-executive staff, I generally agree that, consistent with decision of the Victorian Civil and Administrative Tribunal (**VCAT**) in *Coulson v Department of Premier and Cabinet*<sup>9</sup> (**Coulson decision**), whether agency staff personal affairs information is exempt under section 33(1) must be considered in the context of the particular circumstances of each matter.
  - (c) In the Coulson decision, the respondent's submission noted the fact the non-executive staff were not the decision makers in relation to the case. In relation to the document subject to this review, however, the personal affairs information relates to Agency staff who made the initial decision to refuse the Applicant's remission of debt application.
  - (d) In this matter I have decided to release the names of two Agency staff who made a decision not to approve the Applicant's remission of debt application. In my view, where a person is affected by the decision of a public officer, the affected person should be able to assure themselves the decision was properly made, and by a duly authorised person. The disclosure of these staff members' names fulfils this purpose and provides for accountability by decision makers.
  - (e) The personal affairs information is not particularly sensitive.
  - (f) Nor is the content or nature of the documents sensitive – they relate to and arise from an application of an administrative nature that was made by the Applicant to the Agency for remission of debt associated with [their] university studies.
  - (g) Work contact details for Agency staff are either publicly available, or available to staff or students working at or attending the university.
  - (h) For the most part, the third parties who were consulted did not object to the release of their personal affairs information.
  - (i) I note one of the Agency staff members advised they object to the release of their personal affairs information. However, for the reasons set out above, I consider the right of access to information under the FOI Act outweighs that staff member's personal privacy in the particular circumstances of this matter.
  - (j) While I note the Agency's submission in relation to section 13 of the *Charter of Human Rights and Responsibilities 2006* (Vic) (**Charter**), and in addition I note the obligation on public authorities to interpret provisions in Victorian legislation consistent with human rights in the Charter,<sup>10</sup> I do not consider my decision to disclose personal affairs information of Agency staff contravenes section 13 of the Charter as disclosure of the information in the documents subject to review is not of a nature that would provide for an arbitrary interference with those individuals' 'privacy, family or home' given it arises solely in the context of their professional employment.

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<sup>9</sup> Ibid.

<sup>10</sup> Section 38 of the Charter.

### **Section 35(1)(b)**

32. A document is exempt under section 35(1)(b) if two conditions are satisfied:
- (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
  - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.
33. In relation to the application of section 35(1)(b), the Agency advised that:

One of the University's functions is the assessment of remission of debt applications by students based on certain criteria. Communications between University officers in considering these applications necessarily involve discussions of sensitive and personal matters of students and their circumstances. Accordingly, confidentiality, both implied and express, applies to such communications.

Further, the University relies on such communications to be frank and fearless in order to properly exercise its functions, assist it to make informed decisions and to take appropriate action where necessary. Therefore, the University could not properly process and assess remission of debt applications if confidentiality were not guaranteed to communications relevant to that. If the documents were disclosed, there is a serious risk that such communications or their quality or nature could diminish and affect the effectiveness of the University's decision-making.

34. My decision with respect to the application of section 35(1)(b) to each document is set out in **Annexure 1**.

### **Deletion of exempt or irrelevant information**

35. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable for the agency or Minister to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
36. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'<sup>11</sup> and the effectiveness of the deletions. Where deletions would render the document meaningless they are not 'practicable' and release of the document is not required under section 25.<sup>12</sup>
37. I have considered the effect of deleting exempt and irrelevant information from the documents. In my view, it is practicable for the Agency to delete this information, because it would not require substantial time and effort, and the edited documents would retain meaning.

### **Conclusion**

38. On the information available, I am satisfied the exemptions in section 32(1) applies to two of the documents. I have decided to grant access to the remaining documents in full and in part as set out in **Annexure 1**.

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<sup>11</sup> *Mickelburgh v Victoria Police (General)* [2009] VCAT 2786 at [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

<sup>12</sup> *Honeywood v Department of Human Services* [2006] VCAT 2048 at [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140] and [155].

## **Review rights**

39. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.<sup>13</sup>
40. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>14</sup>
41. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>15</sup>
42. Information about how to apply to VCAT is available online at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au). Alternatively, VCAT may be contacted by email at [admin@vcat.vic.gov.au](mailto:admin@vcat.vic.gov.au) or by telephone on 1300 018 228.
43. The Agency is required to notify the Information Commissioner in writing as soon as practicable if either party applies to VCAT for a review of my decision.<sup>16</sup>

## ***When this decision takes effect***

44. I have decided to release documents that contain the personal affairs of two third parties.
45. The third parties will be notified of my decision and each is entitled to apply to VCAT for a review within 60 days from the date they are given notice.
46. For that reason, my decision does not take effect until that 60 day period expires, or if an application to VCAT is made, until the VCAT proceeding is concluded.

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<sup>13</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>14</sup> Section 52(5).

<sup>15</sup> Section 52(9).

<sup>16</sup> Sections 50(3F) and (3FA).

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description  | Number of Pages | Agency's Decision                          | OVIC Decision   | OVIC Comments   |
|--------------|------------------|---|-----------------|--|---|---|
| 1.           | [Date]           | <p>Email from Applicant enclosing internal review request and associated documents</p> <p>The document consists of the following information supplied by the Applicant:</p> <ul style="list-style-type: none"> <li>• covering email from [the Applicant] to the university dated [date];</li> <li>• letter from [the Applicant] to 'senior director';</li> <li>• letter from the university to [the Applicant] dated [date];</li> <li>• application for remission of debt (first three pages) disability support services – recommendations for reasonable adjustments (1 page) and a second recommendation (2 pages); and</li> <li>• picture taken of a</li> </ul> | 30              | <p>Denied in full</p> <p>Section 33(1)</p> | <p><b>Release in part</b></p> <p>Sections 33(1), 25</p> <p>The document is to be released in part with the exception of the two signatures on page four of the applications for remission of debt form, which is exempt under section 33(1) and is to be deleted from the document in accordance with section 25.</p> | <p><b>Section 33(1):</b> Document 1 comprises a number of documents. It contains the personal affairs information of the Applicant, the names and signatures of Agency staff and a third party.</p> <p>I have decided it would not be unreasonable to release a majority of this document for the following reasons:</p> <ul style="list-style-type: none"> <li>• a majority of the personal affairs information relates to the personal affairs of the Applicant;</li> <li>• while one of the Agency staff members who signed the remission of debt form objects to the release of their name, for the reasons set out above, I do not consider it would be unreasonable to release this information in the circumstances;</li> <li>• it is not unreasonable to release the name of a decision maker in the interests of transparency and accountability; and</li> <li>• other Agency staff whose names appear in the document have had direct communications with the Applicant, as such the nature of this information is not particularly sensitive or private given it features in the context of their</li> </ul> |

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description   | Number of Pages | Agency's Decision                              | OVIC Decision   | OVIC Comments   |
|--------------|------------------|--|-----------------|--|---|---|
|              |                  | <p>medical certificate</p> <ul style="list-style-type: none"> <li>• medical certificate.</li> </ul> <p>Additional documents not provided by the Applicant are:</p> <ul style="list-style-type: none"> <li>• application for remission of debt (fourth page);</li> <li>• 'account enquiry print out';</li> <li>• 'study statement'; and</li> <li>• 'salesforce.com', 'enquiry [number]' (pages 1 to 18 of 25).</li> </ul> |                 |  |   | <p>employment duties rather than their personal or private lives.</p> <p>However, I have decided it would be unreasonable to release the Agency staff member's signatures. This information does not provide any additional transparency in the Agency's decision-making processes. Therefore, I am satisfied the personal privacy of the persons, whose signatures are featured in the document, outweighs the public interest in disclosure in this instance.</p>                                 |
| 2.           | [Date]           | Email to internal lawyer providing further instructions  | 1               | Denied in full<br>Sections 30(1), 32 and 33(1) | Release in part<br>Sections 33(1), 25<br><br>The document is to be released in part with the exception of the mobile phone number, which is exempt under section 33(1) and is to be | <p><b>Section 30(1):</b> The document does not contain any substantive information. Even if it were to contain matters in the nature of advice or opinion, I am not satisfied its disclosure would be contrary to the public interest. Accordingly, the document is not exempt under section 30(1).</p> <p><b>Section 32(1):</b> There is no indication this document is a confidential communication provided in order to obtain legal advice. Accordingly, I am not satisfied the document is</p> |

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| Document No. | Date of Document | Document Description                          | Number of Pages | Agency's Decision   | OVIC Decision  | OVIC Comments  |
|--------------|------------------|---|-----------------|---|--|--|
|              |                  |   |                 |   | deleted from the document in accordance with section 25.   | <p>exempt under section 32(1).</p> <p><b>Section 33(1):</b> The document contains the personal affairs information of a number of senior Agency staff. With the exception of the mobile phone number, I am not satisfied the disclosure of the personal affairs information in the document would be unreasonable. Accordingly, I am not satisfied the document is exempt under section 33(1).</p> <p>I have decided it is unreasonable to release the mobile phone number as this information does not provide any additional transparency in the Agency's decision making. Therefore, I am satisfied the personal privacy of the persons, whose signatures are on the documents, outweighs the public interest in disclosure in this instance.</p> <p>Note the attachment to this email is a duplicate of part of Document 1 for which my reasons are set out above.</p> |
| 3.           | [Date]           | Minutes of meeting of Remission of Debt Panel | 2               | Denied in full<br><br>Sections 30(1), 33(1) 35(1)(b) and part irrelevant under 25 | <p>Release in part</p> <p>Section 25</p> <p>The document is to be released in part with the names and commentary associated with</p> | <p><b>Section 30(1):</b> The document discloses matter in the nature of opinion, advice and recommendation prepared by an Agency officer and concerns the deliberative processes of the Agency. However, I do not consider it would be contrary to the public interest to release the document for the following reasons:</p>  |

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description | Number of Pages | Agency's Decision | OVIC Decision  | OVIC Comments   |
|--------------|------------------|----------------------|-----------------|-------------------|--|---|
|              |                  |                      |                 |                   | <p>students other than the Applicant, which is irrelevant information deleted from the document in accordance with section 25.</p> | <ul style="list-style-type: none"> <li>• the document clearly sets out the information and reasons for the decision made in relation to an application made to the Agency by the Applicant. Therefore, I do not consider disclosure is likely to cause confusion or unnecessary debate;</li> <li>• it does not appear to be a draft document, rather it appears to be in its final form;</li> <li>• I do not consider disclosure of the document would inhibit the frank exchange of views given the nature of the document and that Agency staff are required to provide their professional advice in such matters; and</li> <li>• the public interest weighs in favour of disclosure of such information as it provides additional transparency of the Agency's decision making.</li> </ul> <p><b>Section 33(1):</b> I note the names of the relevant attendees were consulted and of those who responded, they did not object to the release of their names. I also note all staff who attended appear to be senior Agency staff. Therefore, I am not satisfied it would be unreasonable to release the names of the attendees</p> <p><b>Section 35(1)(b):</b> I am not persuaded that the</p> |

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description                                    | Number of Pages | Agency's Decision                     | OVIC Decision   | OVIC Comments  |
|--------------|------------------|---|-----------------|---------------------------------------|---|--|
|              |                  |   |                 |                                       |   | <p>document contains any information communicated to the Agency in confidence. In any case, I am not satisfied disclosure of any such information would be reasonably likely to impair the Agency's ability to obtain similar information in the future, where the discussion of such information is required in the normal course of their decision-making duties.</p> <p><b>Section 25:</b> The information in the documents that relates to two other students is irrelevant to the request and is to be deleted from the document prior to release.</p>                      |
| 4.           | [Date]           | Internal email forwarding email received from Applicant | 1               | Denied in full<br>Section 33(1)       | <b>Release in full</b><br>The document is to be released in full. | <p><b>Section 33(1):</b> The document includes two emails between the Applicant and the Agency. It is not unreasonable to release information already in possession of the Applicant. A third email contains no substantive or particularly sensitive information.</p> <p>The Agency staff names in the document are either those of senior staff or the relevant staff do not object to release of their personal affairs information. Accordingly, I am not satisfied release of the information would be unreasonable and the document is not exempt under section 33(1).</p> |
| 5.           | [Date]           | Internal email discussing draft decision letter         | 1               | Denied in full<br>Sections 30(1), 32, | <b>Refuse in full</b>   | <b>Section 32(1):</b> I accept this email chain and the attachment amounts to confidential communications between Agency staff and its   |

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|--------------|------------------|--|-----------------|---|--|---|
|              |                  |  |                 | 33(1), 35(1)(b)                                       | Section 32(1)  | legal advisers, and it was created for the dominant purpose of obtaining legal advice. Accordingly, I am satisfied the document is exempt under section 32(1).  |
| 6.           | [Date]           | Minutes of meeting of Remission of Debt Panel                                  | 1               | Denied in full<br>Sections 30(1), 32, 33(1), 35(1)(b) | Release in full<br>The document is to be released in full.   | The document is similar to Document 3 and is not exempt under sections 30(1), 33(1) or 35(1)(b) for similar reasons.<br><br><b>Section 32(1):</b> I note the document includes advice from the Agency's 'Office of General Counsel'. However, it appears this advice only notes the Applicant is engaged in court proceedings. I do not consider the information is legally privileged as it does not meet any of the requirements set out in paragraphs 21 and 22 above. Accordingly, I am not satisfied the document is exempt under section 32(1). |
| 7.           | [Date]           | Email comprising draft minutes of meeting of Remission of Debt Panel of [date] | 1               | Denied in full<br>Sections 30(1), 33(1), 35(1)(b)     | Release in part<br>Sections 33(1), 25<br>The document is to be released in part with the exception of the mobile phone number, which is exempt under section 33(1) and is to be deleted from the | The document contains similar information as Document 3, although it is communicated in an email. Accordingly, I am not satisfied it is exempt under sections 30(1), 33(1) or 35(1)(b) for similar reasons.<br><br><b>Section 33(1):</b> The mobile phone number is exempt under section 33(1) for the same reasons as set out in Document 2.   |

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| Document No. | Date of Document | Document Description  | Number of Pages | Agency's Decision                        | OVIC Decision  | OVIC Comments  |
|--------------|------------------|---|-----------------|--|--|--|
|              |                  |   |                 |  | document in accordance with section 25.  |  |
| 8.           | [Date]           | Email relating to draft minutes of meeting of Remission of Debt Panel of [date] | 1               | Denied in full<br>30(1), 33(1), 35(1)(b) | <b>Release in part</b><br>Sections 33(1), 25<br><br>The document is to be released in part with the exception of the mobile phone number which is exempt under section 33(1) and is to be deleted from the document in accordance with section 25 along with information the Agency has determined is irrelevant to the Applicant's request. | <p><b>Section 30(1):</b> The document does not contain any substantive or sensitive information. In any case, even if it were to contain matters in the nature of advice or opinion, I do not consider disclosure would be contrary to the public interest.</p> <p><b>Section 33(1):</b> The document contains the personal affairs information of an Agency staff member. [The Agency staff member's] details are not exempt as [they are] a senior staff member and I do not consider disclosure of the information to be unreasonable. However, the mobile phone number is exempt for similar reasons set out in Document 2.</p> <p><b>Section 35(1)(b):</b> Similar to my consideration of section 30(1), I am not persuaded that disclosure would be reasonably likely to impair the ability of the Agency to obtain similar information in the future.</p> <p><b>Section 25:</b> I agree with the Agency's decision the first email on the page is irrelevant to the Applicant's request.</p> <p>Note – the attachment to the email is the same as Document 3 and is assessed above.</p> |

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description                                       | Number of Pages | Agency's Decision                                 | OVIC Decision  | OVIC Comments   |
|--------------|------------------|--|-----------------|---|--|---|
| 9.           | [Date]           | Email recommending form of words for draft decision letter | 4               | Denied in full<br>Sections 30(1), 33(1), 35(1)(b) | <p><b>Release in part</b><br/>Sections 33(1), 25</p> <p>The covering email is to be released in part with the exception of the mobile phone number, which is exempt under section 33(1) and is to be deleted from the document in accordance with section 25.</p> <p>The letter is not relevant to the Applicant's request and is to be deleted from the document in accordance with section 25.</p> | <p><b>Section 30(1):</b> The document is an email with an attached letter sent to another student.</p> <p>The email contains opinion and advice prepared by an Agency officer as part of the deliberative purposes of the Agency.</p> <p>However, I am not satisfied its disclosure would be contrary to the public interest where it does not reveal any substantive information. Accordingly, I am not satisfied it is exempt under section 30(1).</p> <p>In relation to the attachment, I have decided the majority of this document it is exempt under section 33(1). However, the two paragraphs referred to in the email (being the two paragraphs below the course codes) are not exempt as they simply describe the Agency's policy relevant to this matter. I consider it is practicable for this information to be released in accordance with section 25.</p> <p><b>Section 33(1):</b> I note Agency staff names are either of senior staff or the relevant staff do not object to their names being released. Accordingly, with the exception of the mobile phone number, I am not satisfied it would be unreasonable to release this information, for similar reasons set out in Document 2.</p> <p>As noted above, the majority of the attached</p> |

Annexure 1 – Schedule of Documents

| Document No. | Date of Document | Document Description  | Number of Pages | Agency's Decision                             | OVIC Decision                   | OVIC Comments  |
|--------------|------------------|---|-----------------|---|---------------------------------|--|
|              |                  |   |                 |   |                                 | letter contains information of a person other than the Applicant. Accordingly, I consider this document is not relevant to the Applicant's request and it is practicable for the Agency for provide an edited copy of Document 9 deleting this letter in accordance with section 25. |
| 10.          | [Date]           | Internal email between internal lawyers in relation to legislative requirements | 4               | Denied in full<br>Sections 30(1),32,<br>33(1) | Refuse in full<br>Section 32(1) | <b>Section 32:</b> The document is a confidential communication between the Agency and its legal advisers. I am satisfied it was made for the dominant purpose of providing legal advice to the Agency. Accordingly, I am satisfied it is exempt under section 32(1).                |