

Public Access Agency Reference Group Meeting

Date: Monday, 26 August 2019

Time: 2:03 – 4:08pm

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

Participants

Joanne Kummrow, Public Access Deputy Commissioner, OVIC (Chair)	Lisa Scholes, Department of Health and Human Services
Ianina Belski, Assistant Commissioner Public Access Reviews	Melinda Robinson, Department of Justice and Community Safety
Tyrrell Davidson, Acting Assistant Commissioner Public Access Resolution	Monica Barnes, Country Fire Authority (by telephone)
Annan Boag, Assistant Commissioner Privacy and Assurance	Robin Davey, Victoria Police
Diana Battaglia, Alfred Health	Sally-Anne McKinney, Eastern Health
Fiona Hunt, Monash University	Samantha Oliver, City of Melbourne
Jane Feeney, Department of Education and Training	Serena Hildenbrand, VicRoads
	Penny Eastman, Secretariat, OVIC

Agenda Items

1. Welcome

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

Apologies

- Lauren Reader, Jude Hunter, Cameron Montgomery

Previous meeting minutes

- All attendees confirmed the minutes of 27 May 2019.
- Action items – Nil.

Agency updates

Members briefly discussed the current resourcing, workloads and other pressure points for their individual agencies in processing FOI applications. OVIC noted it seeks to increase engagement with agencies to identify ways OVIC can further assist via new factsheets, guidance or formal training.

2. OVIC Update

- Annual report
 - The Public Access Deputy Commissioner noted OVIC is compiling its 2018/19 Annual Report. The Annual Report survey opened on 1 July and closed on 20 July. Thank you to all who completed the survey. It is anticipated the final report will be tabled in Parliament shortly.
 - Members discussed their FOI data from the 2018/19 financial year, noting some trends.
- 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 its target of having fewer than 250 open review matters by 30 June 2019, getting down to 244 reviews; and reduced complaints to 94. As at the morning of the meeting, OVIC has 79 complaints and 246 reviews.
- The Public Access Deputy Commissioner noted the Public Access team has been focusing on aged files and that OVIC receives, on average, 13 new reviews per week.

3. Stakeholder engagement

- Stakeholder engagement survey update
 - The Public Access Deputy Commissioner spoke to the stakeholder engagement survey, noting that to measure and assess the effectiveness of our activities a survey was developed and will be deployed across Victorian Public Sector agencies to seek their views on OVIC's work in relation to FOI, privacy and information security.
 - The survey will likely be deployed later this month and agencies will be asked to complete the section which applies to the area with which they have most frequent interaction. A representative sample from all levels and roles – staff member, manager and executives will be collected across government to ensure a representative data set.
 - Survey results will be gathered in aggregated form to enhance communication, help OVIC set strategic priorities and inform the design of future engagement activities to drive innovation.
 - For more information contact contact Simone Martin, Senior Manager, Communication and Education on simone.martin@ovic.vic.gov.au or 8684 7585.
- Information Access Series Seminars
 - The Public Access Deputy Commissioner noted that on 26 June 2019, OVIC held a seminar on 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. In addition, on 29 July 2019, OVIC looked at sections 34(1) and 34(4) of the FOI Act and provided guidance to agencies on how to better understand these provisions.
 - The Public Access Deputy Commissioner noted there is more information about the seminars on OVIC's website, including copies of the presentation slides and videos of the presentations.
 - Members discussed ideas for seminars or training such as administrative law for FOI officers who are not legal practitioners, further training in best practice client management and negotiating positive outcomes, and a general seminar or factsheet on fair decision making.
 - The Public Access Deputy Commissioner highlighted plans to hold a separate health sector forum which would focus on key issues in this sector and identify further opportunities for training and guidance, particularly in regard to requests for amendments to health record and the release of personal affairs information.
- Association of Information Access Commissioners meeting
 - The Public Access Deputy Commissioner noted the next Association of Information Access Commissioners meeting will take place on 28 and 29 August 2019, in Queensland. OVIC will report on its work over the past six months including the development of the Professional Standards and the publication of notices of decisions project.
 - On 28 August 2019, the Office of the Information Commissioner Queensland will host the annual Solomon Lecture to celebrate International Right to Know Day. The lecture is titled Accountability in the Age of the Artificial and will be [livestreamed](#).

- Right to Know Day 2019
 - The Public Access Deputy Commissioner noted OVIC will host a public forum to recognise International Right to Know Day. The public forum will take the form of a panel discussion on the topic of Community Expectations and FOI – are they at odds? The event will take place on Tuesday, 24 September 2019 from 12:00 to 1:30pm. For more information, and to register, please visit OVIC’s [website](#).

4. Education and Training

- Online FOI module
 - The Public Access Deputy Commissioner noted OVIC is developing a new online FOI module on processing an FOI request. This module is still being developed and will include the obligations under the Professional Standards.
- FOI consumer videos
 - The Public Access Deputy Commissioner provided an update on the videos, noting they are progressing, with one in the final stages and drafts of the second and third videos complete.
- Training
 - The Public Access Deputy Commissioner noted OVIC continues to offer free, regular, FOI training to agencies on 1) Administering the FOI Act, 2) Core exemptions in the FOI Act, and 3) Advanced exemptions. To register, please visit OVIC’s [website](#). The Public Access Deputy Commissioner encouraged attendees to provide feedback on the training and to let OVIC know if staff who have registered cannot attend.

5. Professional Standards

- The Public Access Deputy Commissioner spoke to the Professional Standards project, noting the draft Professional Standards were available for public consultation for six weeks during March and April. Following this consultation, all submissions received were reviewed and considered. The standards were then amended based on the feedback received during the consultation period.
- The proposed Professional Standards are published on OVIC’s [website](#), and are proposed to be finalised in accordance with Part IB of the FOI Act. Before these standards take effect, they must be published in the Government Gazette and laid before each House of Parliament. OVIC will provide further updates via the Professional Standards webpage when this is complete. OVIC anticipates the Professional Standards will commence in late 2019, however a date is not yet set.
- The Public Access Deputy Commissioner noted OVIC is updating existing FOI guidance and creating new guidance for agencies and applicants, which incorporate the obligations under the Professional Standards. OVIC will be publishing draft guidance for public consultation for a couple of weeks on OVIC’s website and inviting feedback. More information will be communicated.
- The Public Access Deputy Commissioner noted that in addition to the guidance refresh, OVIC is also updating templates for agencies to use in processing FOI requests. OVIC will consult with Reference Group members on draft templates.
- One member queried why the rationale section from the draft Professional Standards for consultation had been removed from the proposed professional standards. The Public Access Deputy Commissioner explained this information was included for consultative purposes. Members agreed that this information will assist agencies. OVIC took this question on notice.

Note: following the meeting, it was confirmed OVIC will publish a factsheet on understanding the rationale behind the professional standards.

- One member asked about online payments for FOI applications. The Public Access Deputy Commissioner noted OVIC considered this point further following public consultation on the draft Professional Standards, noting the capacity of all agencies, particularly smaller ones, to facilitate online payment options in the near term being limited.
- The Public Access Deputy Commissioner noted OVIC is planning information sessions for the Professional Standards, to be held in October 2019. The information sessions will discuss the Professional Standards in more detail and provide time for questions from stakeholders. The event will be livestreamed. The Public Access Deputy Commissioner encouraged agency staff to participate and attend these sessions where possible.

Note: following the meeting, it was confirmed OVIC will host information sessions on the Professional Standards on 8 October and 17 October 2019. The sessions will take place from 1:30 – 2:45pm, at 121 Exhibition Street. To register to attend, please visit OVIC's [website](#).

6. OVIC investigations program and regulatory action policy

- The Assistant Commissioner – Privacy and Assurance gave an overview of OVIC's Investigations team's role, and spoke to OVIC's [regulatory action policy](#) and a compliance tool it is looking into.
- OVIC's Investigations and Assurance team conducts investigations, audits, and reviews. These can be in response to particular, significant, potential breaches of the legislation OVIC administers (for example, the recent [myki investigation](#)). OVIC can also use its powers to look at administrative practices and highlight examples of good practice, areas for improvement, and lessons for other agencies to drive improvement (for example, the [examination of local government privacy policies](#)).
- OVIC intends to develop a self-assessment tool for agencies to use to support their implementation of the Professional Standards. Similar tools are used in other jurisdictions including Queensland and New South Wales.
- OVIC would like to meet with a few agencies to learn more about their internal processes and practices, and benchmark these against the new Professional Standards. OVIC will report on this benchmarking exercise, and use the results to develop the self-assessment tool. We will be writing to some agencies to invite them to take part in this. If you would like to be involved please contact OVIC.

7. Notice of Decision publication project

- The Assistant Commissioner – Public Access Reviews noted publication of de-identified decisions went live on 1 July 2019. In the first week of publication, OVIC published 30 decisions and as at the morning of 26 August 2019, OVIC published 67 decisions on its website. Decisions are also published on [AustLII](#) on a dedicated page.
- The Assistant Commissioner – Public Access Reviews noted OVIC does not publish decisions until at least five business days after the decision has been provided to the relevant parties. Feedback has been positive and OVIC staff have referred both applicants and agencies to de-identified decisions to highlight similar decisions and help facilitate early resolution where possible.
- OVIC encourages feedback on the publication of decisions, as well as on the search functionality on OVIC's website including key words, exemptions and agency names.
- Reference Group members provided positive feedback on the quality of the de-identification undertaken prior to publication. Members expressed their initial concerns about the publication of decisions had been addressed well through the consultation phase and no concerns were raised about the implementation of this project.

- Question taken on notice about whether OVIC can provide information on key topics searched and which decisions have received the most ‘hits’.

8. Electronic documents project

- The Acting Assistant Commissioner – Public Access Resolution noted the Resolve upgrade project has finished, which focused on increasing and improving reporting capability and processes to assist with timeliness and early resolution initiatives.
- The Acting Assistant Commissioner noted electronic storage of documents is a goal for OVIC and a project is currently underway to develop a suitable solution for use by OVIC and agencies which meets security and privacy standards.
- Members discussed the electronic storage of documents project, expressing general support.
- One member noted it may be useful to have an agreed redaction software package so OVIC could provide marked up versions of documents with redactions to demonstrate OVIC’s review decision. The Public Access Deputy Commissioner took this on notice.

9. Submission to the OAIC on personal information

- The Public Access Deputy Commissioner spoke to a submission it made to the Office of the Australian Information Commissioner (**OAIC**) in relation to its [discussion paper](#) on the disclosure of public servants’ names and contact details. The discussion paper aims to provide greater awareness regarding the disclosure of public servants’ names and contact details and to explore agency concerns and practices. The OAIC will use this information to consider whether their FOI guidelines are sufficient for agencies and ministers in the current information access landscape.
- The Public Access Deputy Commissioner noted OVIC’s submission discusses the differences between the Commonwealth and Victorian provisions relating to personal information, the approach of Victorian agencies and VCAT in relation to disclosing public servants’ names and contact details, and the approach by OVIC in relation to disclosing this information. The submission will be published on OVIC’s website, once the OAIC’s consultation process concludes.
- Members discussed OVIC’s views regarding releasing personal affairs information in the context of VCAT decisions. The Public Access Deputy Commissioner noted the exemption in section 33 of the FOI Act needs to be assessed on a case by case basis, rather than applying a blanket rule. The Deputy Commissioner highlighted the importance of agencies noting particular sensitivities or concerns in their written submissions to OVIC on a review, so that OVIC may consider those concerns during the review.

10. Other business

- One member asked if OVIC case managers could provide their direct numbers in correspondence to agencies instead of the enquiries line. Other members agreed this would be helpful. OVIC took this request on notice.

11. Meeting close at 4:08pm

- The next meeting will take place on Monday, 25 November 2019 from 2 – 4:30pm at 121 Exhibition Street, Melbourne.