

Notice of Decision and Reasons for Decision

Applicant:	'AQ3'
Agency:	Health Complaints Commissioner
Decision Date:	24 October 2019
Exemptions considered:	Sections 30(1), 33(1), 35(1)(b) and 38 of the <i>Freedom of Information Act 1982</i> (Vic) and sections 151(1) and 152(1) of the <i>Health Complaints Act 2016</i> (Vic)
Citation	'AQ3' and <i>Health Complaints Commissioner (Freedom of Information)</i> [2019] VICmr 147 (24 October 2019)

FREEDOM OF INFORMATION – Health Complaints Commissioner – complaint resolution process – complaint made under the *Health Complaints Act 2016* (Vic) – prohibition on disclosure of complaint handling and conciliation documents – secrecy provision

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:

- (a) the majority of documents subject to review are exempt under section 38 of the FOI Act in conjunction with sections 151(1) and 152(1) of the HC Act; and
- (b) to release additional information in certain documents to the Applicant. Where I am satisfied it is practicable to delete exempt information from these documents, I have granted partial access to those documents.

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

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

24 October 2019

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency for access to certain documents. Following consultation with the Agency, the Applicant clarified the initial request to the following:

Copies of all documents relevant to my complaint against the Royal Women's Hospital (**RWH**) and the Royal Melbourne Hospital (**RMH**), including:

- Copies of any internal correspondence within the Health Complaints Commissioner (**HCC**);
- Correspondence between the HCC and RWH and RMH;
- Correspondence between the HCC and the legal representative/s and insurers of the RWH and RMH;
- Correspondence between the HCC and [named individual] (the doctor who conducted the independent assessment);
- Correspondence between the HCC and the Health Minister's office; and
- Correspondence between the HCC and any other government department/s or person/s.

2. In its decision, the Agency identified 201 documents falling within the terms of the Applicant's request. It decided to:

- (a) release 101 documents in full;
- (b) release 66 documents in part; and
- (c) refuse access to 34 documents in full.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. On [date], the Applicant informed OVIC they do not seek review of the Agency's decision to delete personal affairs information such as names and contact details.
5. On [date], the Applicant advised OVIC which documents they sought be reviewed. The Schedule of Documents in **Annexure 1** lists the documents within the scope of my review.
6. I have examined copies of the documents subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties, including:
 - (a) the Agency's decision on the FOI request;
 - (b) information provided with the Applicant's review application;
 - (c) the Agency's submissions, provided by its legal representative, dated [date] and [date]; and

(d) correspondence between OVIC staff, the Applicant and the Agency, through its legal representative.

9. In undertaking my review, I have had regard to the object of the FOI Act, which is to create a general right of access to information in the possession of the Government or other public bodies, limited only by exceptions and exemptions necessary to protect essential public interests, privacy and business affairs.

Review of exemptions

10. The Agency relied on the exemptions under sections 30(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.

11. In undertaking a review under section 49F, section 49P requires that I must make a 'fresh decision'. My review does not involve determining whether the Agency's original decision is correct, but rather requires that my fresh decision is the 'correct or preferable decision'.¹ This involves ensuring my decision is correctly made under the FOI Act and any other relevant applicable law in force at the time of making my fresh decision.

Health Complaints Act 2016

12. Having reviewed the documents and relevant provisions in the *Health Complaints Act 2016* (Vic) (the **HC Act**), I am satisfied the majority of documents subject to review are exempt under section 38 of the FOI Act in conjunction with sections 151(1) and 152(1) of the HC Act.

13. The Applicant made a complaint to the Agency prior to the commencement of the HC Act. At that time, their complaint was managed under the *Health Services (Conciliation and Review) Act 1987* (Vic) (**HSCR Act**) until the repeal of that Act and the commencement of the HC Act. No confidentiality provisions of the nature of sections 151(1) and 152(1) existed in the HSCR Act.

14. While the transitional provisions in the HC Act require the Agency to manage complaints made and received prior to the commencement of the HC Act under the HSCR Act, other provisions in the HC Act that govern the Agency and its staff, including sections 151(1) and 152(1) of the HC Act, do apply. This means at the time of my decision, for the purpose of section 38 of the FOI Act, sections 151(1) and 152(1) of the HC Act are relevant confidentiality provisions with which the Agency is required to comply.

15. Section 1 of the HC Act provides the main purposes of that Act include:

- (a) to provide for a complaints process and other processes about health service provision and related matters; and
- (b) to establish the office of Health Complaints Commissioner.

16. Section 151 of the HC Act provides:

- (1) The Commissioner or a member of the staff of the Commissioner must not disclose any information gained by that person in the course of a complaint resolution process, except as authorised under this section.

Penalty: 60 penalty units.

- (2) Despite subsection (1), the Commissioner is authorised and may disclose information to which subsection (1) applies if –

¹ *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at 591.

- (a) the Commissioner reasonably believes that the disclosure is necessary for or in connection with the administration of this Act; or
- (b) the disclosure is for the purpose of any legal proceedings arising out of this Act; or
- (c) the disclosure is made with the written authority of the Secretary, and the Secretary reasonably believes it is in the public interest to do so; or
- (d) the disclosure is made with the written authority of the person to whom the information relates; or
- (e) the disclosure is to the Australian Health Practitioner Regulation Agency or a relevant National Board and is made for the purpose of section 148; or
- (f) the Commissioner reasonably believes that the disclosure is necessary to avoid a serious and imminent risk to –
 - i. the life, health, safety or welfare of a person; or
 - ii. the health, safety or welfare of the public.

17. Section 3 of the HC Act defines ‘complaint resolution process’ as a process by which the Commissioner may seek an agreed resolution of a complaint.

18. Section 152 of the HC Act provides:

(1) Each of the following persons must not disclose outside a conciliation any information gained by the person in the conciliation, other than information as to the terms of or about an undertaking given in the conciliation—

- (a) the Commissioner;
- (b) any member of the staff of the Commissioner.

Penalty: 60 penalty units.

(2) Despite subsection (1), a person listed in subsection (1) is authorised and may disclose information to which subsection (1) applies if—

- (a) the disclosure is made with the written authority of the person to whom the information relates; or
- (b) the disclosure is made with the written authority of the Secretary, and the Secretary reasonably believes it is in the public interest to do so; or
- (c) the disclosure is made by a member of the staff of the Commissioner to the Commissioner or an Assistant Commissioner for the purposes of the Commissioner's functions under Part 3; or
- (d) the Commissioner reasonably believes that the disclosure is necessary to avoid a serious and imminent risk to—
 - (i) the life, health, safety or welfare of a person; or
 - (ii) the health, safety or welfare of the public.

19. I am satisfied the documents disclose information given to Agency officers in carry out functions under the HC Act during the conduct of a complaint resolution process and conciliation of the Applicant’s complaint.

Section 38

20. For the reasons set out below, I also consider the application of the exemption under section 38 of the FOI Act, noting the Agency does not rely on this exemption.
21. For a document to be exempt under section 38, three conditions must be satisfied:
 - (a) there must be an enactment in force;
 - (b) that applies specifically to the kind of information contained in the document; and
 - (c) the enactment must prohibit persons referred to in the enactment from disclosing that specific kind of information (either absolutely or subject to exceptions or qualifications).
22. It is necessary to consider the application of section 38 before the other exemptions relied on by the Agency. Sections 151(1) and 152(1) were enacted by Parliament to prohibit disclosure of information given to Agency officers during a complaint resolution process or conciliation of a complaint made under the HC Act to provide for the Agency's proper administration of the HC Act. Notably, an Agency officer's non-compliance with sections 151(1) and 152(1) of the HC Act are subject to a penalty.
23. For section 38 of the FOI Act to apply in conjunction with an enactment, in this case sections 151(1) and 152(1) of the HC Act, the enactment must be formulated with such precision that it specifies the actual information prohibited from disclosure.
24. I am satisfied sections 151(1) and 152(1) of the HC Act apply in conjunction with section 38 of the FOI Act for the following reasons:
 - (a) the HC Act is 'an enactment in force' for the purposes of section 38;
 - (b) sections 151(1) and 152(1) of the HC Act specifically refer to information in the documents subject to review. Namely, information obtained in the course of a complaint resolution process or information gained by Agency officers during conciliation of the Applicant's complaint, which was made under the HC Act; and
 - (c) sections 151(1) and 152(1) of the HC Act prohibit Agency officers disclosing such information.
25. I am also satisfied the exceptions to the prohibition under sections 151(2) and 152(2) of the HC Act do not apply in this circumstance.
26. Accordingly, I have determined certain information in the documents is exempt under section 38 of the FOI Act in conjunction with sections 151(1) and 152(1) of the HC Act, as detailed in the **Annexure 1**. Where I have decided a document is exempt under section 38, I have not considered the application of other exemptions relied on by the Agency in relation to the same document.

Section 30(1)

27. 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;
 - (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.
28. The exemption does not apply to purely factual material in a document.²
29. The term 'officer of an Agency' is defined in section 5(1). It includes a member of the agency, a member of the agency's staff, and any person employed by or for the agency, whether that person is one to whom the provisions of the *Public Administration Act 2004* (Vic) apply or not.
30. In deciding if disclosure of the documents would be 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 information.
31. In their application for review, the Applicant informed OVIC they seek access to the documents because they are concerned the Agency passed on their confidential information to a party to the complaint. The Applicant also questioned the integrity of the Agency's processes as they are of the view information they provided to the Agency was omitted and misrepresented.
32. The Agency submitted:
- (a) there is a strong public interest in protecting the effective exercise of the Agency's statutory role in managing complaints and facilitating conciliations;
 - (b) disclosure of the document would be a departure from the Agency's confidentiality obligations which would undermine its statutory regime;
 - (c) disclosure of tentative or preliminary opinions or consultation between officers would be contrary to the public interest where it was subsequently overtaken by other events; and
 - (d) disclosure of internal deliberations would cause officers to be 'less frank and candid' in making written records of their deliberations.
33. In deciding whether disclosure of the documents would be contrary to the public interest, I have given weight to the following relevant factors:³
- (a) the right of every person to seek access to documents under the FOI Act;
 - (b) the degree of sensitivity of the issues involved;
 - (c) the status of policy development or the stage of a decision or a process being undertaken at the time the communications were made;
 - (d) whether disclosure of the documents would be likely to inhibit communications between agency officers, essential for the agency to make an informed and well-considered decision or participate fully and properly in a process in accordance with the agency's functions and other statutory obligations;
 - (e) the public interest in the community being better informed about the way in which the agency carries out its functions, including its deliberative, consultative and decision making processes and whether the underlying issues require greater public scrutiny.
34. The Schedule of Documents in **Annexure 1** details my decision in relation to section 30(1).

² Section 30(3).

³ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

Section 33(1)

35. 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;⁴ and
 - (b) such disclosure would be 'unreasonable'.
36. 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.⁵
37. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the personal interest in protecting the privacy of an individual in the circumstances of a matter.
38. I note the Agency's submission that, even if names were removed, other information in the context in which it appears may be sufficient for the Applicant to identify other individuals.
39. In the circumstances, I am satisfied it would not be unreasonable to release the remaining personal affairs information in the documents for the following reasons:
- (a) I acknowledge the Agency generally deals with matters of a personal and sensitive nature. However, I consider the personal affairs information in the documents is procedural and administrative in nature. As such, I do not consider the information is particularly sensitive;
 - (b) the exclusion of the names and contact details from the scope of this review reduces the sensitive nature of the information in the documents;
 - (c) I consider there is a public interest in the disclosure of the administrative documents as it demonstrates the Agency follows due process in the management of complaints, including in this particular case involving the Applicant; and
 - (d) while certain individuals objected to disclosure of their personal affairs information, these objections are only one factor in my overall considerations of whether release of the relevant personal affairs information would be unreasonable in the circumstances.
40. In light of the above factors, I have determined the remaining personal affairs information in the documents is not exempt under section 33(1).
41. The Schedule of Documents in **Annexure 1** details my decision in relation to section 33(1).

Section 35(1)(b)

42. 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.

⁴ Sections 33(1) and (2).

⁵ Section 33(9).

43. Whether information communicated by an individual was communicated in confidence is a question of fact.⁶ When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.⁷ Confidentiality can be express or implied from the circumstances of a matter.⁸
44. The public interest test with respect to section 35(1)(b) is narrow, in that it is directed toward the impact the release of a document would have on an agency's ability to obtain similar information in the future. The provision does not permit me to have regard to other matters, such as any public interest in favour of release, or the extent to which an applicant's personal interest in the documents would be served by being granted access to the documents.

45. On [date], the Agency, through its legal representative, submitted:

The [Agency] is bound by obligations of strict confidentiality under [sections 20(15) and 32] of the *Health Services (Conciliation and Review) Act 1987 (HSCR Act)* as it applied at the time the complaint was made.⁹

...

The [Agency] provides expressly stated assurances of confidentiality to parties when parties communicate with the [Agency] in relation to a complaint.

46. The Agency also consulted under section 35(1A) with various individuals and organisations that provided information to the Agency in the course of carrying out its complaint handling functions.
47. On [date], the Agency received the following response from the legal representative of an organisation with which the Agency consulted in relation to the application of section 35(1)(b):

We consider that the [section] 35(1)(b) exemption applies as:

- (a) sections 43 and 152 of the *Health Complaints Act 2016 (Vic)* state that the complaints conciliation process is to remain confidential and that the HCC is not to disclose any information gained in a conciliation;
- (b) information was provided by this office to the HCC on the understanding that such information would remain confidential at all times;
- (c) disclosure would severely impede the ability of our client and health organisations generally to openly participate in the conciliation process, as they would understandably avoid providing information if there is a possibility it may be used for purposes outside of the conciliation process; and
- (d) such a scenario would be contrary to the public interest, as it would impair the ability of the HCC to obtain information for the purposes of conciliation and prevent it from functioning effectively as a complaints resolution office.

48. On [date], the Agency, through its legal representative, submitted:

The [Agency] has the statutory role of facilitating the resolution of complaints under the *Health Complaints Act 2016*. It is important, to the effective exercise of [the Agency's] statutory role, that a party involved in a dispute can communicate fully and frankly with the [Agency] without their discussions, advices or thought processes being exposed to the other party or to the world at large by

⁶ *Ryder v Booth* [1985] VR 869 at [883]; *XYZ v Victoria Police* [2010] VCAT 255 at [264].

⁷ *XYZ v Victoria Police (General)* [2010] VCAT 255 at [265].

⁸ *Ibid.*

⁹ The Agency advised, while the HSCR Act was superseded by the *Health Complaints Act 2016 (Vic)*, its obligations under the HSCR Act continue to apply by operation of section 14(2)(e) of the *Interpretation of Legislation Act 1984 (Vic)*.

way of disclosure under the [FOI Act]. The [Agency] relies on information provided by health service providers, their insurers and legal representatives for it to effectively conciliate between parties. It is very important for the [Agency's] functions that parties to a complaint are honest, frank and candid in providing all potentially important information to the [Agency]. The quality and quantity of information provided directly affects the ability of the [Agency] to make proper decisions in accordance with its functions.

49. The Schedule of Documents in **Annexure 1** details my decision in relation to section 35(1)(b).

Deletion of exempt or irrelevant information

50. 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.

51. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁰ 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 25.¹¹

52. Having review[ed] the documents, with the exception of Documents 8-10, 135, 142 and 148, I am not satisfied it would be practicable to edited exempt information from the documents. Where I am satisfied it is practicable to delete exempt information from certain documents, I have granted partial access to those documents.

Conclusion

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

54. However, as explained above, where a provision operates to prohibit agency officers from disclosing information provided to the agency in the course of it carrying out its statutory functions, it is necessary to first consider the agency's confidentiality obligations under its own legislation, particularly where a breach of those obligations is subject to a penalty under the legislation.

55. Having conducted a review the documents and relevant provisions in the HC Act, I consider the majority of documents subject to review, with the exception of Documents 8-10, 135, 142 and 148 are exempt under section 38 of the FOI Act in conjunction with sections 151(1) and 152(1) of the HC Act.

56. Where I am satisfied it is practicable to delete exempt information from certain documents, I have granted partial access to those documents.

57. The Schedule of Documents in **Annexure 1** details my decision in relation to each document.

Review rights

58. 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.¹²

¹⁰ *Mickelborough 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].

¹¹ *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].

¹² The Applicant in section 50(1)(b) and the Agency in section 50(3D).

59. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹³
60. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁴
61. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
62. 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.¹⁵

When this decision takes effect

63. I have decided to release documents that contain information provided in confidence by or on behalf of a third party.
64. The relevant third party will be notified of my decision and is entitled to apply to VCAT for a review within 60 days from the date they are given notice.
65. My decision does not take effect until the relevant review period (stated above) expires. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

¹³ Section 52(5).

¹⁴ Section 52(9).

¹⁵ Sections 50(3F) and (3FA).

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
8	[Date]	File Note	1	<p>Refused in full</p> <p>Sections 30(1), 33(1)</p>	<p>Release in part</p> <p>Section 25</p> <p>The content of the document is not exempt under sections 30(1) or 33(1) and it is to be released to the Applicant in part. The names and contact details are irrelevant to the request and are to be deleted in accordance with section 25.</p>	<p>Section 38: I note the document does not directly relate to the complaint resolution process, rather, it refers to communications with another government agency. It is therefore not exempt under section 38.</p> <p>Section 30(1): The document is a file note documenting a discussion between an Agency officer and an officer of another government department. In my view it is mainly factual and therefore not exempt by way of section 30(3). However even if it were to disclose matter in the nature of opinion, advice or recommendation that took place for the deliberative purposes of the Agency, I do not consider it would be contrary to the public interest to release it for the following reasons:</p> <ul style="list-style-type: none"> • it is not sensitive, rather it is administrative in nature; • the sharing of such information is likely known to the applicant; • given the administrative nature of the information it is unlikely its disclosure would have any impact on the sharing of such information between the two agencies in the future. <p>Section 33(1): On [date], the Applicant advised they do not seek a review of the Agency's decision to exempt personal affairs information in the</p>

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>documents, such as names and contact details. I consider the remaining personal affairs information in the document is administrative in nature and its disclosure would not be unreasonable in the circumstances. Accordingly, I am not satisfied this information is exempt under section 33(1).</p> <p>Section 25: I am satisfied it is practicable to delete personal affairs information that is irrelevant or not exempt in accordance with section 25.</p>
9	[Date]	File Note	1	<p>Refused in full</p> <p>Sections 30(1), 33(1)</p>	<p>Release in part</p> <p>Section 25</p> <p>The content of the document is not exempt under sections 30(1), 33(1) or 35(1)(b) and it is to be released to the Applicant in part. The names and contact details are irrelevant to the request and are to be deleted in accordance with section 25.</p>	<p>Section 38: I note the document does not directly relate to the complaint resolution process, rather, it refers to communications with another government agency. It is therefore not exempt under section 38.</p> <p>Section 30(1): See comments for Document 8 above.</p> <p>Section 33(1): See comments for Document 8 above.</p> <p>Section 35(1)(b): I have considered whether the information has been provided to the agency in confidence and whether its disclosure would be contrary to the public interest because it would impair the agency from obtaining such information in the future. In my view the document does not contain sufficient detail for its disclosure to have such an affect. It is therefore not exempt under section 35(1)(b).</p>

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						Section 25: See comments for Document 8 above.
10	[Date]	File Note	1	Refused in full Sections 30(1), 33(1)	Release in part Section 25 The content of the document is not exempt under sections 30(1), 33(1) or 35(1)(b) and it is to be released to the Applicant in part. The names and contact details are irrelevant to the request and are to be deleted in accordance with section 25.	The document is similar in content to Document 9 and is not exempt for similar reasons.
11	[Date]	File Note	1	Refused in full Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: The document was prepared by an Agency officer in relation to the complaint resolution or conciliation process concerning the Applicant's complaint. I am satisfied the document is exempt under section 38 of the FOI Act in conjunction with sections 151(1) and 152(1) of the HC Act for the reasons set out above.
21	[Date]	File Note	1	Refused in full Sections 33(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
24	[Date]	File Note	1	Refused in full Sections 33(1),	Refuse in full Section 38	Section 38: See comments for Document 11.

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				35(1)(b)		
25	[Date]	File Note	1	Refused in full Sections 33(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
27	[Date]	File Note	1	Released in part Sections 33(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
29	[Date]	File Note	1	Refused in full Sections 33(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
30	[Date]	File Note	2	Refused in full Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
38	[Date]	File Note	1	Released in part Sections 30(1), 33(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
40	[Date]	File Note	2	Released in part Section 30(1)	Release in part Sections 38, 25 The document is to be released to the Applicant in part. The	Section 38: On [date], the Agency agreed to release information it exempted in the document to the Applicant. However, for the reasons set out above, I have decided it is exempt from release under

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					<p>information exempted on page 2 is to be deleted in accordance with section 38.</p> <p>The names are irrelevant to the request and are to be deleted in accordance with section 25.</p>	<p>section 38.</p> <p>I note that part of the document has been released to the Applicant that relates to the documentation of a conversation they had with a member of Agency staff. I consider that, given [it is the Applicant's] FOI request, [they are] taken to have consented to the release of this information.</p> <p>Section 25: See comments for Document 8.</p>
45	[Date]	File Note	1	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refuse in full</p> <p>Section 38</p>	Section 38: See comments for Document 11.
46	[Date]	File Note	1	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refuse in full</p> <p>Section 38</p>	Section 38: See comments for Document 11.
47	[Date]	File Note	1	<p>Refused in full</p> <p>Section 33(1)</p>	<p>Refuse in full</p> <p>Section 38</p>	Section 38: See comments for Document 11.
49	[Date]	File Note	1	<p>Refused in full</p> <p>Section 30(1)</p>	<p>Refuse in full</p> <p>Section 38</p>	Section 38: See comments for Document 11.
91	[Date]	Request for independent medical opinion	3	<p>Refused in full</p> <p>Section 30(1)</p>	<p>Refuse in full</p> <p>Section 38</p>	Section 38: See comments for Document 11.

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
92	[Date]	Response to request for independent medical opinion	4	Refused in full Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
107	[Date]	Email	3	Released in part Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
124	[Date]	Letter	1	Refused in full Section 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
126	[Date]	File Note	2	Refused in full Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
127	[Date]	File Note	1	Refused in full Section 30(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
128	[Date]	File Note	1	Refused in full Section 30(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
129	[Date]	File Note	1	Refused in full	Refuse in full	Section 38: See comments for Document 11.

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 30(1), 33(1)	Section 38	
130	[Date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
135	[Date]	Letter	1	Refused in full Sections 33(1), 35(1)(b)	Release in part Section 25 The content of the document is not exempt under sections 35(1)(b) and 33(1) and it is to be released in part. The names are irrelevant to the request and are to be deleted in accordance with section 25.	Section 35(1)(b): This document contains correspondence to the Agency from another government agency. I acknowledge the sensitive and confidential nature of the communications between the two agencies. However, in the circumstances of this case, I am of the view this document discusses matters of an administrative nature. I also note the Applicant would be aware of the contents of this letter. Further, I am not satisfied disclosure of this information would impair the Agency's ability to receive similar information in the future where the provision of that information is mandated by law. Therefore, I do not consider this information is exempt under section 35(1)(b). Section 33(1): See comments for Document 8. Section 25: See comments for Document 8.
136	[Date]	File Note	1	Refused in full Sections 30(1),	Refuse in full Section 38	Section 38: See comments for Document 11.

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				35(1)(b)		
137	[Date]	File Note	2	Refused in full Sections 30(1), 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
142	[Date]	Letter	1	Refused in full Section 33(1)	Release in part Section 25 The content of the document is not exempt under sections 35(1)(b) and 33(1) and it is to be released to the Applicant in part. The names are irrelevant to the request and are to be deleted in accordance with section 25.	Section 33(1): See comments for Document 8. I also note the Applicant would be aware of the contents of this letter. Section 25: See comments for Document 8.
148	[Date]	Letter	1	Refused in full Section 33(1)	Release in part Section 25 I have determined the document is not exempt under section 33(1) and it is to be released to the Applicant in part. The names are irrelevant to the request and are to be deleted in accordance with section 25.	This document is a duplicate of Document 142. See comments for Document 142.

Annexure 1 – Schedule of Documents

Doc No.	Date of Document	Document Description	No. of Pages	Agency's Decision	OVIC Decision	OVIC Comments
177	[Date]	Letter	3	Refused in full Section 35(1)(b)	Refuse in full Section 38	Section 38: See comments for Document 11.
286	[Date]	Email	1	Refused in full Section 30(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
290	[Date]	File Note	1	Released in part Sections 30(1), 33(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
293	[Date]	File Note	1	Refused in full Sections 30(1), 33(1)	Refuse in full Section 38	Section 38: See comments for Document 11.
294	[Date]	File Note	1	Refused in full Sections 30(1), 33(1)	Refuse in full Section 38	Section 38: See comments for Document 11.