

Notice of Decision and Reasons for Decision

Applicant:	'AS5'
Agency:	Mercy Hospitals Victoria Ltd
Decision date:	18 November 2019
Exemptions considered:	Sections 33(1), 35(1)(b)
Citation:	'AS5' and Mercy Hospitals Victoria Ltd (<i>Freedom of Information</i>) [2019] VICmr 168 (18 November 2019)

FREEDOM OF INFORMATION – medical records – personal affairs information – unreasonable disclosure – information obtained by third parties in confidence – disclosure contrary to the public interest

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 is the same as the Agency's decision in that I have decided to release the documents in part.

In this course for the review the Agency advised it had exempted three documents in error. These are to be released to the Applicant in full with the Agency's consent.

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

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner
18 November 2019

Reasons for Decision

Background to review

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

I request all files, 'documents', 'record', and all 'document of an agency or document of the agency' and anything that relates in relation to the above named person, [the Applicant], at any and all times admitted to the [Mercy Hospitals Victoria Ltd] in October [year] to [year]: And admitted in [year]: And -

All files of when the above named person, [the Applicant], has been admitted to the [Mercy Hospitals Victoria Ltd] either on [their] own free will or not of [their] own free will: Including any and all times of all matters and events that has followed before or afterwards: Request all the files in its entirety, including all names involved, departments, authorities, police officers, etc, for legal reasons and compensation, to clear my name...

2. In its decision, dated 8 July 2019, the Agency identified 36 documents, comprising 66 pages, falling within the terms of the Applicant's request. The Agency granted access to all documents in part.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. The Agency advised during the review, that Documents 27, 29 and 31 were redacted in error. These documents will be released in full and therefore are not subject to review.
5. Accordingly, my review relates to 33 documents to which the Agency refused access in full or in part.
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, dated 8 July 2019;
 - (b) the Applicant's submission, dated 15 September 2019, and information provided with the Applicant's review application;
 - (c) the Agency's submission, dated 9 August 2019; and
 - (d) all communication between OVIC and the Agency and Applicant.
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 relies on the exemptions in sections 33(1) and 35(1)(b) to refuse access to the documents in part.
11. The Agency's decision letter sets out the reasons for its decision.

Section 33(1)

12. 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;¹ and
 - (a) such disclosure would be 'unreasonable'.

Does the information constitute 'personal affairs information'?

13. 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.²
14. A third party's opinion or observations about another person's conduct has been held to constitute information related to the personal affairs of a third party.³
15. The phrase 'personal affairs information' has been interpreted broadly, and includes matters related to the health, private behaviour, home life or personal or family relationships of individuals.⁴
16. The information exempted by the Agency under section 33(1) includes:
- (a) telephone numbers;
 - (b) third party information;
 - (c) third party communication; and
 - (d) a confidential report.
17. I am satisfied this information is 'personal affairs information' for the purposes of section 33(1).

Would release of the personal affairs information be unreasonable?

18. Determining whether disclosure would be unreasonable involves balancing the public interest in the disclosure of official information with the personal interest in privacy in the circumstances of a particular matter.
19. In deciding whether disclosure of a document would involve the unreasonable disclosure of a third party's personal affairs information, an agency must notify that person that an FOI request has been received for documents containing personal information and seek their view as to whether disclosure of the documents should occur.⁵ However, this obligation does not arise if:
- (a) the notification would be reasonably likely to endanger the life or physical safety of a person, or cause them undue stress, or is otherwise unreasonable in the circumstances;
 - (b) the notification would be reasonably likely to increase the risk to the safety of a person experiencing family violence; or

¹ Sections 33(1) and (2).

² Section 33(9).

³ *Richardson v Business Licensing Authority* [2003] VCAT 1053, cited in *Davis v Victoria Police (General)* [2008] VCAT 1343 at [43], *Pritchard v Victoria Police (General)* [2008] VCAT 913 at [24], *Mrs R v Ballarat Health Services (General)* [2007] VCAT 2397 at [13].

⁴ *Re F and Health Department* (1988) 2 VAR 458 as quoted in *RJF v Victoria Police FOI Division* [2013] VCAT 1267 at [103].

⁵ Section 33(2B).

(c) it is not practicable to do so.⁶

20. In this instance, the Agency advised it was not practicable to consult with third parties. I have considered the Agency's reasons and accept third party consultation is not practicable in the circumstances.
21. In determining whether the release of the personal affairs information is unreasonable in the circumstances, I have given weight to the following factors:
- (a) the nature of the personal affairs information (for example, whether it is sensitive or its current relevance);
 - (b) the extent to which the information is available to the public;
 - (c) the circumstances in which the information was obtained (for example, whether it was obtained involuntarily or in confidence);
 - (d) the Applicant's interest in the information, including their purpose or motive for seeking access to the documents;
 - (e) whether any public interest would be promoted by disclosure;
 - (f) the likelihood of further disclosure of the information if it is released;
 - (g) whether any third parties, to whom the information relates, consent or object to the disclosure;
 - (h) whether disclosure would cause any person stress, anxiety or embarrassment; and
 - (i) whether the disclosure of information relating to the personal affairs of any person would, or would be likely to, endanger the life or physical safety of any person.
22. I have also taken into consideration the nature of disclosure under the FOI Act is unconditional and unrestricted, which means an applicant is free to disseminate widely or use a document disclosed to them as they choose.⁷
23. I am also required to consider section 33(2A) in determining if release of the personal affairs information of third parties would be unreasonable. This provision requires me to consider whether disclosure of information would, or would be reasonably likely, to endanger the life or physical safety of any person. In my view, there are reasonable grounds to consider concerns exist in relation to the impact of disclosure on the safety of third parties in this case.
24. Having reviewed the documents subject to review, I am satisfied it would be unreasonable to release certain third parties' personal affairs information, in light of the following factors:
- (a) The information provided to the Agency is sensitive and personal in nature.⁸
 - (b) The information was provided to the Agency with an expectation of privacy. I have formed this view given the sensitivity of the information provided and consider the third parties would be likely to object to release of such information.
 - (c) The information provided to the Agency has not public available.

⁶ Section 33(2C).

⁷ *Victoria Police v Marke* [2008] VCSA 218 at [68].

⁸ *Page v Metropolitan Transit Authority* [1988] 2 VAR 243 at [246].

- (d) The Applicant's interest in obtaining the information is a matter of private interest. I do not consider any public interest would be promoted by disclosure of third parties' personal affairs information to the Applicant. I am of the view there is a greater public interest in the Agency preserving the privacy of third parties in this circumstance.
- (e) While I acknowledge the Applicant has a genuine interest in seeking access to the documents subject to review, I have determined the need to protect certain sensitive and confidential information provided by third parties to the Agency outweighs the Applicant's personal interest in obtaining access to this information.

25. I have determined disclosure of the personal affairs information in the documents subject to review would be unreasonable and is exempt under section 33(1).

Section 35(1)(b)

26. 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
- (a) 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.

Was the information or matter communicated in confidence?

27. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.⁹ Further, confidentiality can be expressed or implied from the circumstances of the matter.¹⁰

28. Information exempted by the Agency under section 35(1)(b) includes:

- (a) telephone numbers;
- (b) third party information;
- (c) third party communication; and
- (d) a confidential report.

29. This information was voluntarily provided to the Agency by a person or persons in the course of providing medical treatment to the Applicant.

30. Accordingly, I am satisfied the information was communicated to the Agency in confidence. This view takes account of the sensitive nature of the information and the circumstances in and purpose for which it was provided to the Agency.

Would disclosure be contrary to the public interest as it would be reasonably likely to impair the ability of the Agency to obtain similar information in the future?

31. Section 35(1)(b) also requires I consider whether the Agency would be impaired from obtaining similar information in the future if information is disclosed under the FOI Act.

⁹ XYZ v Victoria Police (General) [2010] VCAT 255 at [265].

¹⁰ Ibid.

32. This means I must be satisfied, if the information were disclosed, it would impair the ability of the Agency to obtain similar information in future (eg. others in the position of the communicators would be reasonably likely to not provide such information to the Agency in the future).
33. In its submission, dated 9 August 2019, the Agency advised it would be contrary to the public interest to release the information as it would constitute a breach of confidentiality and would likely inhibit other people from making reports or providing similar information to the Agency in the future.
34. In this case, I accept, in its capacity as a healthcare provider, the Agency relies on confidential information being provided by third parties to plan and provide effective treatment and care to patients. Such information, by its very nature, is generally highly personal, sensitive and confidential.
35. I consider there is an essential public interest in individuals being able to provide what is often sensitive and confidential information to the Agency. Where this occurs, members of the public need to feel confident information they provide, including their identity, will be held in confidence by the Agency.¹¹
36. Further, I am of the view if individuals were aware their identity and the information, they provide in confidence would be disclosed in response to an FOI request, they would be less likely to communicate similar information to the Agency in the future. I consider this is a significant and detrimental outcome for the Agency which relies on receiving confidential information to provide timely and necessary medical treatment and health services to its patients.
37. Furthermore, section 35(1)(b) is concerned with protecting the public interest in the free flow of information between agencies and individuals. In the context of the Agency, being a healthcare provider, the voluntary provision of sensitive information in a clinical context may be vital to the Agency's ability to effectively discharge its medical treatment and health service functions.
38. On the other hand, I acknowledge the Applicant has a genuine interest in obtaining full access to their medical records. However, in weighing these two competing considerations, I have determined the need to protect sensitive information provided by a third party in confidence to the Agency outweighs the Applicant's personal interest in obtaining this information.
39. For these reasons, I am satisfied the information exempt by the Agency in the documents is exempt under section 35(1)(b).

Deletion of exempt or irrelevant information

40. 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 a copy.
41. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹² and the effectiveness of the deletions. Where deletions would render the document meaningless, they are not 'practicable', and release of the document will not be required under section 25.¹³

¹¹ See *Maki v Alfred Hospital*, unreported, VCAT, Davis M, 19 April 2002.

¹² *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].

¹³ *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].

42. I have considered the effect of deleting exempt information from the documents. In my view, it is practicable to delete such information as to do so would not require substantial time and effort, and the edited document would remain meaning.

Conclusion

43. On the information before me, I am satisfied the exemptions in sections 33(1) and 35(1)(b) apply to the documents in question. Accordingly, my decision is the same as the Agency's decision in that I have decided to grant access to the documents in part with exempt information deleted in accordance with section 25.
44. The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

Review rights

45. 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.¹⁴
46. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁵
47. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁶
48. 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.
49. 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.¹⁷

When this decision takes effect

50. 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.

¹⁴ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹⁵ Section 52(5).

¹⁶ Section 52(9).

¹⁷ 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]	Form	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	<p>Section 33(1): I am satisfied the release of the third parties' personal affairs information would be unreasonable in the circumstances. Accordingly, this information is exempt under section 33(1).</p> <p>Section 35(1)(b): I am satisfied the information provided to Agency's officers by third parties was communicated in confidence and disclosure of the information would be contrary to the public interest as it would reasonably impair the ability of the Agency to obtain similar information in the future. Accordingly, this information is exempt under section 35(1)(b).</p> <p>Section 25: I am satisfied it is practicable to delete exempt information from the documents as to do so would not require substantial time and effort, and the edited document would retain meaning.</p>
2.	[Date]	Form	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	<p>Section 33(1): See comments for Document 1.</p> <p>Section 35(1)(b): See comments for Document 1.</p> <p>Section 25: See comments for Document 1.</p>
3.	[Date]	Additional Patient Contacts Form	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	<p>Section 33(1): See comments for Document 1.</p> <p>Section 35(1)(b): See comments for Document 1.</p> <p>Section 25: See comments for Document 1.</p>

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
4.	[Date]	Assessment Form	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
5.	[Date]	Assessment Form	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
6.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
7.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
8.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
9.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
10.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
11.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
12.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
13.	[Date]	Triage Contact / CAT Referral Form	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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14.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
15.	[Date]	South West Area Mental Health Service – Triage Assessment	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
16.	[Date]	Clinical Notes	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
17.	[Date]	Western Hospital Division of Psychiatry Clinical Report	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
18.	[Date]	Western Hospital Division of Psychiatry Clinical Report	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
19.	[Date]	Continuation Sheet	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
20.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
21.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
22.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
23.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
24.	[Date]	Continuation Sheet	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
25.	[Date]	Mercy Health Patient Progress Note	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
26.	[Date]	Mercy Health Patient Progress Note	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
26A.	[Date]	Mercy Health Patient Progress Note	2	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
26B.	[Date]	Mercy Health Patient Progress Note	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
26C.	[Date]	Mercy Health Patient Progress Note	3	Denied in full Sections 33(1), 35(1)(b)	Refuse in full Sections 33(1), 35(1)(b)	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1.
26D.	[Date]	Mercy Health Patient Progress Note	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
26E.	[Date]	Mercy Health Patient Progress Note	1	Release in part Sections 33(1), 35(1)(b)	Release in part Sections 33(1), 35(1)(b), 25	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1. Section 25: See comments for Document 1.
27.	[Date]	Mercy Health Patient Progress Note	1	See OVIC comments	Release in full	During the review, the Agency advised this document can be released in full as information in it was redacted in error. Accordingly, this document is not subject to review as it is to be released in full.
28.	[Date]	Mercy Health Patient Progress Notes containing Risk Assessment and Management Report	8	Denied in full Sections 33(1), 35(1)(b)	Refuse in full Sections 33(1), 35(1)(b)	Section 33(1): See comments for Document 1. Section 35(1)(b): See comments for Document 1.

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29.	[Date]	Mercy Health Patient Progress Note	1	See OVIC comments	Released in full	During the review, the Agency advised this document can be released in full as information in it was redacted in error. Accordingly, this document is not subject to review as it is to be released in full.
30.	[Date]	Mercy Health Patient Progress Note	1	Release in part Sections 33(1), 35(1)(b)	Release in full	Document 30 includes the same content as Document 31. During the review, the Agency advised Document 31 can be released in full as information in it was redacted in error. Accordingly, this duplicated information in Document 30 should similarly be released.
31.	[Date]	Mercy Health Patient Progress Note	1	See OVIC comments	Release in full	During the review, the Agency advised this document can be released in full as information in it was redacted in error. Accordingly, this document is not subject to review as it is to be released in full.