

## Notice of Decision and Reasons for Decision

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Applicant:	'AR6'
Agency:	City of Greater Geelong
Decision date:	14 November 2019
Exemptions considered:	Sections 30(1), 32, 33(1)
Citation:	'AR6' and <i>City of Greater Geelong (Freedom of Information)</i> [2019] VICmr 160 (14 November 2019)

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FREEDOM OF INFORMATION – internal communications – opinion of agency officers – deliberative process – contrary to public interest – personal affairs information – unreasonable disclosure – documents affecting legal proceedings – privileged from production in legal proceedings – legal professional privilege – communicated 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 is the same as the Agency's decision in that I have decided to release some of the documents in part and refuse access to some of the documents in full.

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

14 November 2019

## Reasons for Decision

### Background to review

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

....

I am requesting copies of all correspondence that specifically mentions me by name or membership number, including but not limited to; emails to or from official staff email addresses, any internal electronic communication such as membership database, memos and staff meeting minutes.

I am also requesting any video surveillance from [named facility] used to access alleged incidents.

My final request is for all documentation and CCTV relating to the [injury] I sustained [on date] at [named facility], including incident reports, follow up notes, staff notes, meeting minutes, memos or any other correspondence relating to the incident.

I request all information used or likely to be used in any past, current or future consideration of my behaviour and/or membership at [named facilities], where I or the incidents I am involved in are referenced, including but not limited to:

- Staff reports and emails to/from official staff email addresses
- Staff notes
- SOP for
  1. Managing [incident type]
  2. Collecting customer feedback
  3. Banning a patron from a venue
- Medical report
- Incident reports
- Meeting minutes
- Any document describing centre and patron rights and responsibilities
- Customer feedback
- Job Descriptions for
  1. Guard on Duty
  2. First Aid attendant on Duty
  3. Manager on Duty

2. In its decision, the Agency identified 62 documents falling within the terms of the Applicant's request. It decided to release 41 documents in full, eight documents in part and refuse access to 13 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 24 October 2019, the Applicant advised my office they are not seeking access to any personal affairs information relating to names of third parties. The Applicant also indicated they are not seeking a review of the Agency's decision in relation to the CCTV footage.
5. I have examined copies of the documents subject to review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. 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 submission received on 18 July 2019; and
  - (d) all other communications between OVIC staff and the Applicant.
8. 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

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

### ***Section 30(1) – Internal Working Documents***

10. 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.
11. The exemption does not apply to purely factual material in a document.<sup>1</sup>
12. 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.

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

13. I must also be satisfied releasing this information is not contrary to the public interest. This requires a 'process of the weighing against each other conflicting merits and demerits'.<sup>2</sup>

*Do the documents 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?*

14. I am satisfied parts of the information exempted by the Agency consist of the opinions of Agency officers and consultations between Agency officers, noting the documents contain information relating to staff observations, comments, notes and other forms of internal communications.
15. I also consider the draft letter attached to one of the emails in Document 49 to be the opinion, advice and recommendations of the Agency officer who prepared it as to the material that should be included in the final version of the letter.
16. Having carefully reviewed the documents, I consider some parts of the documents consist of factual information concerning incidents involving the Applicant, however, this information is at times inextricably intertwined with information relating to opinions and consultations between Agency officers.
17. Also, some parts of the documents consist of a direction and merely record a decision already made by the Agency.
18. I note the observation of the Victorian Civil and Administrative Tribunal (VCAT) in *Pritchard v Victoria Police*<sup>3</sup> that:

Given .... that it was an instruction and because on the face of the document it is clear that it is communicating decisions made, it cannot possibly be an opinion or recommendation made as part of the deliberative process.

19. While the application of section 30(1)(a) has been interpreted to apply broadly, I am not of the view it is intended to extend to information in the nature of a direction. As such, I am not satisfied the first limb of the exemption under section 30(1) has been met with respect to some parts of the information exempted by the Agency under section 30(1).

*Were the communications 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?*

20. The term 'deliberative process' has been interpreted widely. In *Re Waterford and Department of Treasury (No. 2)*,<sup>4</sup> the Commonwealth Administrative Appeals Tribunal held:

... "deliberative processes" [is] wide enough to include any of the processes of deliberation or consideration involved in the functions of an agency... In short, ... its thinking processes – the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

21. Having reviewed the documents, I am satisfied some of the information was provided in the course of the Agency's deliberative processes relating to the management of customers and the management of safety risks for its customers and staff.

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<sup>2</sup> *Sinclair v Maryborough Mining Warden* [1975] HCA 17; (1975) 132 CLR 473 at 485, adopted in *Department of Premier and Cabinet v Hulls* [1999] VSCA 117 at [30].

<sup>3</sup> [2008] VCAT 913 at [16].

<sup>4</sup> [1981] 1 AAR 1.

*Would disclosure of the documents be contrary to the public interest?*

22. In deciding if release is contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful that the object of the FOI Act is to facilitate and promote the disclosure of information.
23. In deciding whether disclosure of the information exempted by the Agency would be contrary to the public interest, I have given weight to the following relevant factors<sup>5</sup>:
- (a) the right of every person to gain access to documents under the FOI Act;
  - (b) the degree of sensitivity of the issues discussed in the documents and the broader context giving rise to the creation of the documents;
  - (c) the stage of a decision or status of policy development or a process being undertaken at the time the communication were made;
  - (d) whether the 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) whether disclosure of the documents would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a process, which the agency would not otherwise be able to explain upon disclosure of the documents;
  - (f) the impact of disclosing documents in draft form, including disclosure not clearly or accurately representing a final position or decision reached by the agency at the conclusion of a decision or process; and
  - (g) 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.
24. Having carefully reviewed the documents, I am of the view that it would be contrary to the public interest to release certain information in the documents for the following reasons:
- (a) I consider the documents to be sensitive in nature, given that they relate to the management of safety risks to customers and staff and some of the information has been provided in confidence.
  - (b) I appreciate the Applicant has a strong personal interest in obtaining access to the information. Furthermore, I acknowledge a broader public interest in disclosure where it is clear from the face of a document there may be a flawed process or legitimate questions are raised as to the appropriateness or fairness of an outcome reached. However, in this case, there is nothing on the face of the documents to suggest there was anything unusual about the Agency's processes. Therefore, I am not satisfied there is a broader public interest in the disclosure of certain information in the documents.

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<sup>5</sup> *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

- (c) I consider the Agency's internal assessment and deliberative processes require its officers to discuss a number of relevant issues before deciding on an outcome. While Agency officers are professionally obliged to provide frank and robust opinions and undertake consultation, I accept that disclosure in the particular circumstances of this case would be reasonably likely to discourage or inhibit the free exchange of opinion and consultation between Agency officers in the future. This would be contrary to the public interest as it would have a detrimental effect of the ability of an agency to conduct a thorough and considered process, which in turn would compromise the safety of its customers and compromise the Agency's legal obligation to comply with occupation health and safety legislation with respect to its staff. Any diminution of that as a result of the routine release of similar opinions could generally have adverse consequences.

25. Accordingly, I am satisfied part of the information in the documents is exempt under section 30(1).

**Section 32(1) – Documents affecting legal proceedings**

26. 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.

27. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:<sup>6</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
- (a) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
- (b) 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.

28. A document will be subject to client legal privilege where it contains a 'confidential communication'<sup>7</sup> between:

- (a) 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;<sup>8</sup> or
- (b) the client and another person, which was made for the dominant purpose of the client being provided with professional legal services relating to a proceeding in which the client is or was a party.<sup>9</sup>

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<sup>6</sup> *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also *Evidence Act 2008* (Vic), section 119.

<sup>7</sup> Defined in section 117 of the *Evidence Act 2008* (Vic) to mean communications made in circumstances where the Agency and its professional legal advisers were under an obligation not to disclose their contents.

<sup>8</sup> Section 118 of the *Evidence Act 2008* (Vic).

<sup>9</sup> Section 119 of the *Evidence Act 2008* (Vic).

*Do the documents contain confidential communications?*

29. The Agency applied the exemption in section 32(1) to some of the documents on the basis they disclose confidential communications made for the dominant purpose of obtaining or providing legal advice.
30. Having carefully examined each document to which this exemption was applied, I have determined these documents set out confidential communications between the Agency and its legal advisor.

*What was the dominant purpose of the confidential communications?*

31. The dominant purpose for which the confidential communications were made determines whether the exemption applies.<sup>10</sup>
32. I am satisfied release would disclose information provided for the dominant purpose of providing legal advice and this information is therefore exempt under section 32(1). It is not appropriate for me to set out in any greater detail the reasons for coming to this conclusion, as to do so may reveal the very information the exemption is intended to protect.

***Section 33(1) – Documents affect personal privacy***

33. 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>11</sup> and
  - (a) such disclosure would be ‘unreasonable’.
34. 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>12</sup>
35. 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.

*Does the information relate to the personal affairs information of an individual other than the Applicant?*

36. The exempt information relates to names, position titles, email addresses, telephone numbers, mobile numbers and signatures relating to third parties. The documents also include statements made by third parties and information from which a person’s identity, address or location can reasonably be determined. The personal affairs information of third parties also includes information relating to Agency officers. I consider this information to be the personal affairs information of individuals other than the Applicant.
37. Also, having closely reviewed the contents of the documents, I consider some parts of the documents contain personal affairs information relating to the Applicant, including incidents which involved the Applicant. However, I consider this information is intertwined with the personal affairs information of third parties.

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<sup>10</sup> *Thwaites v DHS* [1998] VCAT 580 at [22]-[24].

<sup>11</sup> Sections 33(1) and (2).

<sup>12</sup> Section 33(9).

*Would it be unreasonable to release the personal affairs information?*

38. The determining factor in this review, in relation to personal affairs information, is whether disclosure of this type of information is unreasonable. 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.
39. I acknowledge the Applicant may know some of the third parties mentioned in the documents. However, even where an applicant claims to know the third parties involved, disclosure of personal affairs information may still be unreasonable.<sup>13</sup>
40. 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 an FOI request has been received for documents containing their personal information and seek their view as to whether disclosure of the document should occur.<sup>14</sup> 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 distress, 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
  - (c) it is not practicable to do so.<sup>15</sup>
41. The Agency advised it did not consult with any of the third parties in this matter.
42. I have given particular consideration to the following factors in the circumstances of this matter:
- (a) The nature of the personal affairs information – The information in the documents was provided and documented for the purpose of managing customers and managing safety risks for customers and Agency staff. Some of the information in the documents was provided to the Agency in confidence. In the circumstances, I consider this information to be sensitive in nature. This weighs against disclosure.
  - (b) The extent to which the information is available to the public – I do not consider the information exempted by the Agency in the documents to be information available to the public. This factor weighs against disclosure.
  - (c) Whether any public interest would be promoted by release of the information – The Applicant is seeking access to the information to confirm that Agency officers have made false and personally damaging statements concerning the Applicant. Therefore, I appreciate the strong personal interest the Applicant may have in obtaining all information concerning this matter. I acknowledge the Agency in its decision released a considerable amount of information to the Applicant. However, I also appreciate redactions made to documents and documents denied in full can create a sense of disappointment and frustration to an applicant, regardless of whether only a small amount of material is withheld, and an applicant may simply wish for a complete copy of a document without any redactions to any pages.

To the extent the Applicant's motivations for seeking access to the information is to obtain a copy of the documents with no redactions, it would be met by release of the information.<sup>16</sup>

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<sup>13</sup> *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

<sup>14</sup> Section 33(2B).

<sup>15</sup> Section 33(2C).

<sup>16</sup> See *Hanson v Department of Education and Training* [2007] VCAT 123.



However, I consider the Applicant's interest in the information would most likely serve the Applicant's personal interest, rather than any public interest. I do not consider there is a broader public interest to be promoted by releasing the personal affairs information of third parties. Where an applicant's motivation for seeking access to personal affairs information of a third party is more closely related to an applicant's personal interest or curiosity in obtaining the information without a broader public interest, access is more likely to be unreasonable.<sup>17</sup>

Also, in circumstances where information is provided in confidence and relates to matters concerning the safety of third parties, I am of the view the stronger public interest lies in the Agency maintaining the confidentiality of the personal affairs information, particularly where it has not been widely disclosed.

- (d) Whether the individuals to whom the information relates object or would be likely to object to the release of the information – As detailed above, the Agency did not consult with the individuals to whom the personal affairs information relates. In the circumstances, I am of the view it is likely the individuals concerned would object to release under FOI. Also, although some of this information was recorded or obtained in the process of an Agency officer's professional duties, I consider it likely that these individuals would also object to the release of their personal affairs information on the grounds that the information was provided and recorded in a sensitive context.

In any case, while the view of a third party is a relevant consideration, it is not determinative of whether release of the documents is unreasonable in the circumstances.

- (e) Release under FOI imposes no restrictions on further use or dissemination - This factor weighs against disclosure.
- (f) Whether disclosure of the information would, or would be reasonably like to, endanger the life or physical safety of any person – There is no information before me to suggest this is a relevant factor.

43. In balancing the above factors, I have determined it would be unreasonable to release the personal affairs information to which the Agency has refused access under section 33(1).

#### ***Section 35(1)(b) – Documents containing material obtained in confidence***

44. The Agency refused access to certain documents in full under section 35(1)(b). As I have determined that the information exempted by the Agency under section 35(1)(b) is exempt under other sections of the FOI Act, I have not considered the exemption under section 35(1)(b) in this matter.

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

45. 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.

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<sup>17</sup> *Gunawan v Department of Education* [1999] VCAT 665.

46. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'<sup>18</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>19</sup>
47. I have considered the effect of deleting irrelevant and exempt information from the documents. In my view, it is practicable for the Agency to delete the irrelevant and exempt information in some of the documents, because it would not require substantial time and effort, and the edited documents would retain meaning.

### **Conclusion**

48. On the information available, I am satisfied the exemptions in sections 30(1), 32(1) and 33(1) apply to some of the documents. I have decided to grant access to some of the documents in part and refuse access to some of the documents in full.

### **Review rights**

49. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.<sup>20</sup>
50. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.<sup>21</sup>
51. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.<sup>22</sup>
52. 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.
53. 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>23</sup>

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

54. 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.

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<sup>18</sup> *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 [82].

<sup>19</sup> *Honeywood v Department of Human Services* [2006] VCAT 2048 [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 [140], [155].

<sup>20</sup> The Applicant in section 50(1)(b) and the Agency in section 50(3D).

<sup>21</sup> Section 52(5).

<sup>22</sup> Section 52(9).

<sup>23</sup> Sections 50(3F) and (3FA).

## Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.		Notice of behaviour letter to Applicant		Released in full	Not subject to review	
2.	[Date]	SMS to Applicant		Released in full	Not subject to review	
3.	[Date]	[Activity type] Follow up Plan		Released in full	Not subject to review	
4.	[Date]	Invite to attend meeting		Released in full	Not subject to review	
5.	[Date]	Letter response to request for evidence		Released in full	Not subject to review	
6.		SMS to Applicant regarding [activity type] sign		Released in full	Not subject to review	
7.	[Date]	SMS to Applicant		Released in full	Not subject to review	

## Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
8.		Feedback handling process		Released in full	Not subject to review	
9.	[Date]	File note – staff member	1	Refused in full Sections 30(1), 33(1), 35(1)(b)	Refuse in full Sections 30(1), 33(1)	<p><b>Section 30(1):</b> I am satisfied part of the document contains information in the nature of opinion, which has been provided by an Agency officer for the purpose of the deliberative processes involved in the functions of the Agency, being the management of customers and the management of safety risks for its customers and staff. I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in circumstances where there is a degree of sensitivity and the information has been provided to management in confidence.</p> <p>I am of the view that part of the information is factual in nature; however, this information is intertwined with the personal affairs information of an Agency officer and is exempt under section 33(1) for the reasons set out below.</p> <p><b>Section 33(1):</b> The personal affairs information in this document consists of</p>

Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>information from which a person's identity can reasonably be determined. The information consists of a statement made by an Agency officer.</p> <p>Although part of the document consists of factual information and concerns the personal affairs information of the Applicant, I am of the view that the personal affairs information of a third party is intertwined with any factual information concerning the Applicant and incidents involving the Applicant.</p> <p>I have determined it is unreasonable to release this information particularly because:</p> <ul style="list-style-type: none"> <li>• I am of the view that given the content of the information and the context in which it was recorded, the information was provided to Agency management in confidence;</li> <li>• The individual concerned is likely to object to the release of their personal affairs information;</li> <li>• I do not consider there is any broader public interest to be</li> </ul>

Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>promoted by releasing the information; and</p> <ul style="list-style-type: none"> <li>• Release under the FOI Act imposes no restrictions on further use or dissemination.</li> </ul> <p><b>Section 35(1)(b):</b> As I have determined that this document is exempt in full under section 33(1) and in part under 30(1), I have not considered the exemption under section 35(1)(b) with respect to this document.</p>
10.	[Date]	Letter received		Released in full	Not subject to review	
11.		Conditions of Entry		Released in full	Not subject to review	
12.		Membership policy		Released in full	Not subject to review	
13.		Conditions of Entry		Released in full	Not subject to review	

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14.		Membership application		Released in full	Not subject to review	
15.	[Date]	Letter to attend meeting		Released in full	Not subject to review	
16.	[Date]	CCTV review incident	2	Refused in full Sections 30(1), 33(1)	Refuse in full Sections 30(1), 33(1)	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of Agency officers' names. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of information from which a person's identity could reasonably be determined. I am of the view that the personal affairs information of a third party is intertwined with factual information concerning an incident involving the Applicant.</p>

Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>I have determined it is unreasonable to release this information particularly because:</p> <ul style="list-style-type: none"> <li>• The individual concerned is likely to object to the release of their personal affairs information; and</li> <li>• I do not consider there is any broader public interest to be promoted by releasing the information.</li> </ul>
17.	[Date]	SMS to Applicant		Released in full	Not subject to review	
18.	[Date]	Public Incident Report		Released in full	Not subject to review	
19.	[Date]	Public Incident Report	1	Released in part Section 33(1)	<p><b>Release in part</b> Sections 25, 33(1)</p> <p>The name of the Agency officer is irrelevant to the Applicant's review and is to be deleted under section 25.</p>	<p><b>Section 33(1):</b> The personal affairs information in this document consists of the name and signature of an Agency officer. The Applicant is not seeking access to names as part of this review.</p> <p>I consider release of the Agency officer's signature would be unreasonable as I</p>



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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					The signature of the Agency officer exempted by the Agency is to remain deleted under section 33(1).	am of the view the relevant individual would object to the release of this information. I also do not consider that release of this information would serve the purpose for which the Applicant is seeking access to the documents.
20.	[Date]	[activity type] Plan	4	Released in part Section 33(1)	<b>Not subject to review</b>	<b>Section 33(1):</b> The personal affairs information in this document consists of names of third parties, including Agency officers. The Applicant is not seeking access to this type of information as part of this review.
21.		File notes	11	Refused in full Sections 30(1), 33(1)	<b>Refuse in full</b> Sections 30(1), 33(1)	<b>Section 30(1):</b> I consider part of the information to be factual in nature; however, this information is intertwined with the opinion of Agency officers. I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.  <b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.

## Annexure 1

Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>The personal affairs information in this document also consists of information from which a person's identity could reasonably be determined. I am of the view that the personal affairs information of a third party is intertwined with factual information concerning incidents involving the Applicant.</p> <p>I have determined it is unreasonable to release this information. Please refer to my comments in Document 16, above.</p>
22.	[Date]	Public Incident Report	2	Released in part Section 33(1)	<p><b>Release in part</b> Sections 25, 33(1)</p> <p>The name of the Agency officer is irrelevant to the Applicant's review and is to be deleted under section 25.</p> <p>The signature of the Agency officer exempted by the Agency is to remain deleted under section 33(1).</p>	<p><b>Section 33(1):</b> The personal affairs information in this document consists of the name and signature of an Agency officer. The Applicant is not seeking access to this type of information as part of this review.</p> <p>I consider release of the Agency officer's signature would be unreasonable. Please refer to my comments in Document 19, above.</p>
23.	[Date]	Accident/incident investigation report	2	Refused in full	<b>Refuse in full</b>	<p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of names of Agency officers.</p>

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				Sections 33(1), 35(1)(b)	Section 33(1)	<p>The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a telephone number, position title, statements made by a third party and other information from which a person's identity can reasonably be determined.</p> <p>I have determined it is unreasonable to release this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 35(1)(b):</b> As I have determined that this document is exempt under section 33(1), I have not considered the exemption under section 35(1)(b) with respect to this document.</p>
24.		Position description [redacted] service officer		Released in full	Not subject to review	
25.		Position description Shift Supervisor		Released in full	Not subject to review	
26.		Position description Centre manager		Released in full	Not subject to review	

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27.		Applicant member visits		Released in full	Not subject to review	
28.		Applicant member visits		Released in full	Not subject to review	
29.		[injury descriptors]		Released in full	Not subject to review	
30.	[Date]	Internal email	1	Refused in full Sections 30(1), 33(1), 35(1)(b)	Refuse in full Sections 30(1), 33(1)	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a position title, telephone number, email address, statements made by a third party and information from which a person's identity could reasonably be determined. I am of the view that the personal affairs information is intertwined with factual information</p>

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						<p>concerning an incident involving the Applicant.</p> <p>I have determined it is unreasonable to release this information. Please refer to my comments in Document 9, above.</p> <p><b>Section 35(1)(b):</b> As I have determined that this document is exempt in full under section 33(1) and in part under section 30(1), I have not considered the exemption under section 35(1)(b) with respect to this document.</p>
31.		Conditions of Entry		Released in full	Not subject to review	
32.		Conditions of Entry		Released in full	Not subject to review	
33.		[Named venue] [activity type] emails	8	Released in part Section 33(1)	Not subject to review	<b>Section 33(1):</b> The personal affairs information in this document consists of names of third parties, including Agency officers. The Applicant is not seeking access to this type of information as part of this review.
34.		[Named venue] [activity type] emails		Released in full	Not subject to review	
35.		[Named venue]		Released in full	Not subject to review	

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		[activity type] emails				
36.		[Named venue] [activity type] emails		Released in full	Not subject to review	
37.		[Named venue] [activity type] emails		Released in full	Not subject to review	
38.		[Named venue] [activity type] emails		Released in full	Not subject to review	
39.		[Named venue] [activity type] emails		Released in full	Not subject to review	
40.		[Named venue] [activity type] emails		Released in full	Not subject to review	
41.		[Named venue] [activity type] emails		Released in full	Not subject to review	
42.		[Named venue] [activity type] emails		Released in full	Not subject to review	
43.		[Named venue] [activity type] sms		Released in full	Not subject to review	
44.		[Named venue] [activity type] sms		Released in full	Not subject to review	

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45.		[Named venue] [activity type] emails		Released in full	Not subject to review	
46.		Statutory declaration		Released in full	Not subject to review	
47.	[Date]	Consult regarding incident	1	Refused in full Sections 30(1), 33(1)	Refuse in full Sections 30(1), 33(1)	<p><b>Section 30(1):</b> I consider part of the information to be factual in nature, however, this information is intertwined with the opinion of Agency officers and the personal affairs information of third parties.</p> <p>I am satisfied it would be contrary to the public interest to release the opinion and consultation between Agency officers in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of third parties, including names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a position title, telephone number, email address and information from which a person's</p>

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						<p>identity could reasonably be determined. I am of the view that the personal affairs information of third parties is intertwined with factual information concerning an incident involving the Applicant.</p> <p>I have determined it is unreasonable to release this information. Please refer to my comments in Document 16, above.</p>
48.	[Date]	Handover notes for manager	6	<p>Refused in full</p> <p>Sections 30(1), 33(1)</p>	<p><b>Refuse in full</b></p> <p>Section 30(1), 33(1)</p>	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of third parties, including names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of position titles, an email address and information from which a person's identity could reasonably be determined.</p>



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						<p>The document also consists of information which is administrative in nature. I am of the view that the Applicant's personal interest in the document would not be served by granting access to administrative information.</p> <p>I have determined it is unreasonable to release the personal affairs information in this document. Please refer to my comments in Document 16, above.</p>
49.	[Date]	Membership complaint – legal advice	6	<p>Refused in full</p> <p>Sections 30(1), 32, 33(1)</p>	<p>Refuse in full</p> <p>Sections 30(1), 32(1)</p>	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in the email correspondence in this document. Please refer to my comments in Document 9, above.</p> <p>I also consider the draft letter attached to one of the emails sent to the Agency's legal advisers to be the opinion, advice and recommendations of the Agency officer who prepared it as to the material that should be include in the final version of the letter. I am satisfied it would be contrary to the public interest to release a draft document that was submitted to the Agency's legal advisors for comment</p>

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						<p>and does not clearly represent a final position in the sensitive context of this matter.</p> <p><b>Section 32(1):</b> The information in this document details communications concerning matters protected by legal professional privilege between the Agency and its legal advisers. I am satisfied release would disclose information provided for the dominant purpose of obtaining and providing legal advice and is therefore exempt under section 32(1).</p> <p><b>Section 33(1):</b> As I have determined the information in this document is exempt under sections 32(1) and 33(1), I have not considered the exemption under section 33(1) with respect to the information in this document.</p>
50.		Letter in response to request for evidence		Released in full	Not subject to review	
51.	[Date]	Email	1	Released in part Section 33(1)	Not subject to review	<b>Section 33(1):</b> The personal affairs information in this document consists of names of third parties, including Agency officers. The Applicant is not seeking access to this type of information as part of this review.

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52.	[Date]	Internal email	1	Refused in full Sections 30(1), 33(1), 35(1)(b)	Refuse in full Sections 30(1), 33(1)	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a position title, telephone number, mobile telephone number, email address, and statements made by a third party.</p> <p>I have determined it is unreasonable to release this information. Please refer to my comments in Document 9, above.</p> <p><b>Section 35(1)(b):</b> As I have determined that this document is exempt under section 33(1), I have not considered the exemption under section 35(1)(b) with respect to this document.</p>
53.	[Date]	Internal email	1	Refused in full	Refuse in full	<p><b>Section 30(1):</b> I am satisfied it would be contrary to the public interest to release</p>

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				Sections 30(1), 33(1)	Sections 30(1), 33(1)	<p>the opinion of an Agency officer in this document. Please refer to my comments in Document 9, above.</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a position title, telephone number, email address, statements made by a third party, and information from which a person's identity could reasonably be determined.</p> <p>The document also consists of information which is administrative in nature. I am of the view that the Applicant's personal interest in the document would not be served by granting access to administrative information.</p> <p>I have determined it is unreasonable to release the information in this document. Please refer to my comments in Document 9, above.</p>

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54.	[Date]	Internal email	1	<p>Refused in full</p> <p>Sections 30(1), 33(1), 35(1)(b)</p>	<p>Refused in full</p> <p>Section 33(1)</p>	<p><b>Section 30(1):</b> I am not satisfied the document contains information in the nature of opinion, advice, recommendation, consultation or deliberation that has taken place between Agency officers. I consider the information to be in the nature of a direction, and therefore, this information is not exempt under section 30(1).</p> <p><b>Section 33(1):</b> Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of a position title, telephone number, mobile number, email address, statements made by a third party, and information from which a person's identity could reasonably be determined.</p> <p>I have determined it is unreasonable to release the information in this document. Please refer to my comments in Document 9, above.</p>

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						<b>Section 35(1)(b):</b> As I have determined that this document is exempt under section 33(1), I have not considered the exemption under section 35(1)(b) with respect to this document.
55.	[Date] to [Date]	Membership form – legal advice	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	<b>Section 32(1):</b> Please refer to my comments in Document 49, above in relation to the email sent on 25 September 2018.  In relation to the email sent on [date], which is from the manager to other Agency staff and consists of a total of [specified number of] words, I do not consider this is exempt under section 32(1). I am however of the view that release would not assist the Applicant as this information doesn't retain any meaning without the full email chain, the vast majority of which is exempt under section 32(1).
56.		File note – phone call		Released in full	Not subject to review	
57.		[named venue] feedback		Released in full	Not subject to review	
58.		[named venue]		Released in full	Not subject to review	

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		[activity type] email				
59.	[Date]	Incident report	2	Refused in full Sections 33(1), 35(1)(b)	Refuse in full Section 33(1)	<p><b>Section 33(1):</b> Part of the information in this document is a repeat of the information in Document 9.</p> <p>Part of the personal affairs information in this document consists of the names of Agency officers. The Applicant is not seeking access to this type of information as part of this review.</p> <p>The personal affairs information in this document also consists of position titles, telephone numbers, mobile telephone numbers, email addresses, and statements made by third parties.</p> <p>I have determined it is unreasonable to release this information. Please refer to my comments in Document 9, above.</p> <p><b>Section 35(1)(b):</b> As I have determined that this document is exempt under section 33(1), I have not considered the exemption under section 35(1)(b) with respect to this document.</p>
60.	[Date]	CCTV footage	9 minutes of	Released in part Section 33(1)	Not subject to review	

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Document No.	Date of Document	Document Description	Number of Pages	Agency's Decision	OVIC Decision	OVIC Comments
			footage			
61.	[Date]	CCTV footage	20 minutes of footage	Released in part Section 33(1)	<b>Not subject to review</b>	
62.	[Date]	CCTV footage	10 minutes of footage	Released in part Section 33(1)	<b>Not subject to review</b>	