

## Submission form for the Proactive and Informal Release of Information in the Victorian Public Sector Discussion Paper

### About this form

The Office of the Victorian Information Commissioner (**OVIC**) is seeking agencies' views on its discussion paper on proactive and informal release of information in the Victorian Public Sector.

OVIC encourages agencies to use this form when making a submission. This form contains space to provide comments on the questions listed in the discussion paper, and space for other general feedback.

More information on the proactive and informal release discussion paper can be found on OVIC's website [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au).

### Collection of personal information

You are not required to provide any personal information in order to make a submission to OVIC's discussion paper. All fields on this form relating to personal information are optional. Where you choose to provide personal information, OVIC may use it to provide you consolidated feedback on the submissions we receive, seek clarification on your submission or follow up with you where you have indicated you wish to be involved further in OVIC's work. If you choose to provide personal information, we ask that you do not include this information anywhere other than the designated fields on this form.

If you choose to make your submission by email, we may be able to identify you from your email address. If you prefer to remain anonymous, you can post your submission to OVIC.

OVIC will not disclose your personal information without your consent, except where required to do so by law. You may contact OVIC to request access to any personal information you have provided to us by emailing [enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au).

For further information on how OVIC handles personal information, please review our privacy policy [here](#).

### Publication of submission

OVIC intends to publish submissions received on the discussion paper but will not do so without prior consent. Please indicate below whether you would like your submission to be made public in full, public with personal information removed, or not made public.

Please indicate below if this submission can be published:

<input checked="" type="checkbox"/>	Publish in full	<input type="checkbox"/>	Publish but do not include personal information	<input type="checkbox"/>	Do not publish
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**Information about who is making this submission**

All fields below are optional.

Name:	
Email:	

If you are making this submission on behalf of an agency or organisation please identify below.

Agency / Organisation:	Victorian Ombudsman
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This submission is made by a:

<input checked="" type="checkbox"/>	Public sector agency subject to the FOI Act	<input type="checkbox"/>	Private organisation / Not for profit
<input type="checkbox"/>	Public sector agency outside of Victoria	<input type="checkbox"/>	Member of the public
<input type="checkbox"/>	Member of Parliament	<input type="checkbox"/>	Other

**Participating in future work with OVIC**

A reason for seeking submissions on the discussion paper is to identify future work for OVIC in relation to the proactive and informal release of information in the Victorian public sector.

Please indicate below if you would be interested in participating in future OVIC work, events, or provide additional information to OVIC regarding proactive and informal release in your agency.

If you are interested in being involved in OVIC's work further, please provide your name and contact details in the fields above so we can contact you.

- I am interested in participating in a future OVIC event (for example, a roundtable discussion on proactive and informal release).
- I am interested in being involved in future OVIC work in relation to proactive and informal release.
- I am willing to provide additional information about my agency's proactive and informal release practices (for example, a proactive and/or informal release policy).

**Completing this form**

To complete this template, insert your response to individual questions, or provide general comments on proactive and/or informal release in the space provided.

**Submitting this form**

Submissions must be provided to OVIC by **5pm, Friday 1 May 2020**. You can make a submission by:

- **Emailing** your submission to [policyteam@ovic.vic.gov.au](mailto:policyteam@ovic.vic.gov.au)
- **Posting** your submission to:  
Policy team  
Office of the Victorian Information Commissioner  
PO Box 24274  
Melbourne VIC 3001

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**Do you have any overall comments on the Proactive and Informal Release of Information in the Victorian Public Sector Discussion Paper?**

The discussion paper provides clear explanations of the differences, and similarities, between proactive and informal release. It also identifies the policy position with respect to these types of release of information outside the FOI Act. For an agency such as the Victorian Ombudsman to whom the FOI Act does not apply in relation to particular classes of documents (see section 29A of the Ombudsman Act 1973), it is very useful to understand how information can be provided to an FOI applicant, or made public more generally through our website.

**Do you have any comments on specific questions listed in the discussion paper?**

<i>Question No.</i>	<i>Question</i>	<i>Comments</i>
1	Does your agency proactively release information outside the FOI Act? If yes, what kind of information does your agency typically release proactively?	<p>Our agency publishes a lot of material on its website, including Parliamentary reports, guidelines, and practice notes about the work of the Ombudsman and her powers. In addition, we publish a number of practice manuals and educational materials relating to good complaint handling, dealing with difficult complainants etc on our website.</p> <p>People are alerted to new material on our website via our social media presence on Facebook, Twitter and Instagram.</p>
2	Does your agency collect and/or retain data about its proactive release of information? If yes, what kind of data is collected and/or retained?	<p>VO collects statistics on website access figures and also audits our social media feeds to check on numbers of people accessing our messages and taking actions such as re-tweeting.</p>
3	Does your agency's proactive release of information result in it receiving fewer FOI requests?	<p>The operational work of the VO is largely 'exempt' from the FOI Act by virtue of section 29A of the Ombudsman Act, and so it is important that this message be put out via our website and by VO officers dealing with complainants (primarily our Early Resolution Team who field all phone calls into VO). This means that we do not get very many FOI requests. We would hope that having an accessible website and published email addresses for both our Communication and Engagement team and Education team, that this would enable a person to make a request for information outside the FOI Act.</p>

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4	How does your agency proactively release information? For example, is it available free of charge, for a fee, online?	Most of our proactive released information is on our website and available on-line for free. We do not charge to provide hard copies of documents either.
5	What factors influence the proactive release of information by your agency? Does your agency have a process, policy or procedure for determining whether information can be proactively released? If yes, please specify the role(s) of agency staff who authorise or determine whether information should be released proactively, and any process, policy or procedure supporting this and how it was developed.	<p>Decisions on proactive release of information are made by the Communication and Engagement team in conjunction with the Ombudsman and Deputy Ombudsman and Chief Operating Officer. There is no formal policy about proactive release of information, but our office, particularly our Communication and Engagement team, is active in identifying proactive release of information opportunities.</p> <p>The proactively released information may be communicated in various ways, including a regular radio spot for the Ombudsman on ABC Radio in Ballarat, where she takes talk-back calls.</p>
6	What factors influence the proactive release of information by your agency? Does your agency have a process, policy or procedure for determining whether information can be proactively released? If yes, please specify the role(s) of agency staff who authorise or determine whether information should be released proactively, and any process, policy or procedure supporting this and how it was developed.	<p>See also the answer to question 5 above.</p> <p>Our Communication and Engagement team works directly with the Executive of VO to determine what will be released proactively and what types. This team is responsible for all external communications, including media liaison, social media, graphic design, report tabling, website content and video production.</p> <p>VO has a policy and procedure 'Information Requests, Confidentiality and Privacy' that provide guidance in making these decisions.</p>
7	Does your agency have concerns, or experience challenges, with proactively releasing information? If yes, please describe them.	<p>The challenges in proactively releasing information arise in VO having to make sure that certain information, that comes out of our investigations (not all of which are publicly reported on) is effectively de-identified. The Ombudsman does recognise that when putting information into the public arena that this could result in public criticism, including bad Google reviews, however she is strongly of the belief that information should be made available in the interests of fairness and in the public interest.</p>
8	What factors, assistance, or support would assist your agency to begin or improve proactively releasing information?	<p>What would help VO in more proactively sharing information would be amendments to the Ombudsman Act that have been sought for some time, that would enable the Ombudsman to proactive release more types of information to the community in the public interest. At present, she has limited legislative authority to do so.</p>

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9	OVIC has published a practice note on proactive release on its website ( <a href="https://ovic.vic.gov.au/resource/proactive-release-of-information/">https://ovic.vic.gov.au/resource/proactive-release-of-information/</a> ). How can this practice note be improved to better meet the needs of your agency?	No suggestions for changes. I have found the practice note useful, and I am very much in favour of having a lot of real life examples in such tools.
10	Does your agency informally release information outside the FOI Act? If yes, what kind of information does your agency typically release informally? What kind of information or FOI requests does your agency typically decide must be processed under the FOI Act, and why?	<p>Yes</p> <p>We respond to both FOI requests and information requests made outside the FOI Act. Most FOI Act applications are made by VO complainants. Under section 29A of the Ombudsman Act, the FOI Act does not apply to any records relating to VO enquiries or investigations (operational work). Most FOI requests relate to such documents, however, we take the position that we can release copies of documents to a complainant about their complaint that are communications between the complainant and VO, and copies of investigation outcomes and reports that had previously been provided to the complainant.</p> <p>We also release copies of documents that are publicly available in circumstances where a person may not be able to access them in other ways, such as downloading them from our website or visiting our office. An example of this would be a prisoner seeking access to a Parliamentary report.</p> <p>FOI requests that are processed under the FOI Act are those that do not relate to the operational work of the Ombudsman, and usually are ones where the Ombudsman would claim an exemption in whole or part from releasing the information.</p>
11	Does your agency collect and/or retain data about its informal release of information? If yes, what kind of data is collected and/or retained?	VO uses its Resolve case management system not only to record all FOI requests but also the informal information requests that come in via email or via our online complaint form. Informal requests made to our Communications and Engagement team via their email address, are forwarded to our Early Resolution team and entered into our case management system. In addition, as stated in question 2 above, we collect statistics on access to information made via our website or social media platforms.
12	Approximately how often/what proportion of information or FOI requests are responded to informally?	The majority of FOI requests made to VO fall under section 29A of the Ombudsman Act. Having made a determination that section 29A applies, I (as FOI officer) look at the request to see if information can be released informally. I would also consult with the relevant VO case officer seeking their view as to whether information can be informally released.

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13	How does your agency informally release information?	VO informally releases information mostly as email attachments. If the information is too large, then we may download it and provide it on DVDs or CDs, and in the case of hardcopy Ombudsman Parliamentary reports, we provide them by mail.
14	What factors influence the informal release of information by your agency? Does your agency have a process, policy or procedure for determining whether information can be informally released? If yes, please specify the role(s) of agency staff who authorise or determine whether information should be released informally, and any process, policy or procedure supporting this process and how it was developed.	<p>The factors that influence me in making a decision whether or not to release informally are:</p> <ul style="list-style-type: none"> <li>- Why does the person need the information?</li> <li>- What does the person propose to do with it if they receive it?</li> <li>- Does the person need the information for litigation or court/tribunal proceedings – we would ask for it to be subpoenaed</li> <li>- Are there any legislative restrictions on disclosing the information</li> </ul> <p>I am the FOI officer and deal with all of these requests.</p> <p>VO has a policy and procedure ‘Information Requests, Confidentiality and Privacy’ that provide guidance to me in making these decisions.</p>
15	Are there barriers that affect your agency informally releasing information? If yes, what kinds of barriers exist?	Barriers as identified in Question 14 above.
16	Does your agency have concerns, or experience challenges, with informally releasing information? If yes, please describe them.	Challenges are the same as with Question 7 and Question 14 above
17	What factors, assistance, or support would assist your agency to begin or improve informally releasing information?	None.
18	OVIC has published a practice note on the informal release of information on its website ( <a href="https://ovic.vic.gov.au/resource/informal-release-of-information/">https://ovic.vic.gov.au/resource/informal-release-of-information/</a> ). How can this	Same as Question 9.

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	practice note be improved to better meet the needs of your agency?	
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