

Public Access Agency Reference Group Meeting

Date: Monday 25 May 2020

Time: 2:00 – 3:00pm (Teleconference)

Participants

Joanne Kummrow, Public Access Deputy
Commissioner, OVIC (Chair)

Ianina Belski, Assistant Commissioner – Public
Access Reviews, OVIC

Shantelle Ryan, Assistant Commissioner – Public
Access Resolution, OVIC

Andrew Weston, Department of Transport

Chelvi Arunagiri, City of Melbourne

Diana Battaglia, Alfred Health

Fiona Hunt, Monash University

Lisa Scholes, Department of Health and Human
Services

Melinda Robinson, Department of Justice and
Community Safety

Monica Barnes, Country Fire Authority

Robin Davey, Victoria Police

Sarah Crossman, Secretariat, OVIC

Minutes

1. Welcome

- Meeting start: 2:05pm.
- The Public Access Deputy Commissioner welcomed everyone to the meeting.

Apologies

- Cameron Montgomery, City of Ballarat
- Jude Hunter, Victorian WorkCover Authority
- Lauren Reader, Macedon Ranges Shire Council
- Susannah Whitty, Eastern Health
- Todd Roscoe, Department of Education and Training

Previous meeting minutes

- All attendees confirmed the meeting minutes of 15 April 2020. There were no action items arising from that meeting.

2. FOI and COVID-19 FAQs

- The Assistant Commissioner – Public Access Reviews noted the FOI and COVID-19 FAQs for [agencies](#) and for the [public](#) are on OVIC's website. They were updated to include three more questions for agencies regarding agencies that are completely closed, verifying the identity of applicants, and arrangements for provision of certain documents in accordance with the new [COVID-19 Omnibus \(Emergency Measures\) \(Integrity Entities\) Regulations 2020](#).

3. COVID-19 Omnibus (Emergency Measures) (Integrity Entities) Regulations 2020

- The Public Access Deputy Commissioner noted, on 19 May 2020, the Governor approved the [COVID-19 Omnibus \(Emergency Measures\) \(Integrity Entities\) Regulations 2020](#) under the [COVID-19 Omnibus \(Emergency Measures\) Act 2020](#).
- The main modification under the Regulations is that agencies now need to provide OVIC with copies of documents by secure electronic means where those documents are claimed to be exempt under section 28, 29A, 31 or 31A of the FOI Act. Previously, OVIC staff had to physically

inspect those documents at the agency's premises. Due to COVID-19, this requirement was not possible with OVIC staff and agency staff working from home.

4. OVIC update

New file sharing platform

- The Assistant Commissioner – Public Access Resolution noted OVIC is progressing the deployment of a new file sharing platform to facilitate the secure exchange of documents for OVIC reviews and complaints. OVIC is currently conducting a security assessment and privacy impact assessment on the technology and anticipates the platform will be operational by 30 June 2020. OVIC will prepare instructions for agencies on using the new platform to provide all documents to OVIC securely electronically. As previously discussed, the next phase of this digitisation project will be for OVIC, following a review, to provide an agency with an electronic marked up copy of any documents exempt under the FOI Act with a notice of decision.

Operational update – Reviews

- The Assistant Commissioner – Public Access Reviews noted the Public Access team reduced cases to 192 open reviews and 87 complaints as at 31 March 2020. As at 22 May 2020, OVIC had 93 open complaints and 203 reviews which reflects the increase in reviews and complaints being received.

Publication of Notices of Decision

- The Assistant Commissioner – Public Access Reviews noted that, as at 25 May 2020, OVIC has published 279 decisions. OVIC welcomes feedback from agencies on decisions to be published and must contact the Assistant Commissioner – Public Access Reviews directly within 5 business days of receiving a decision if there are concerns about publishing sensitive information. Decisions will be published after 5 business days from the date the decision is provided to an agency and applicant.
- OVIC believes the published decisions are providing a valuable educative function to the public and to agencies. The Victorian Information Commissioner AustLII page has been accessed over 16,000 times since it was launched in July 2019.

Operational update – Registry and Complaints

- The Assistant Commissioner – Public Access Resolution noted OVIC's Registry and Case Support team continues to see a rise in review and complaint applications. Enquiries have also increased, both by email and telephone.
- The Assistant Commissioner – Public Access Resolution noted OVIC has used its powers under section 61B of the FOI Act not to accept some recent minor delay complaints where the delay was directly related to operational issues arising from COVID-19. OVIC will continue to monitor complaints of this nature.
- The Assistant Commissioner – Public Access Resolution noted in some instances where it is not apparent that a complaint relates to operational issues arising from COVID-19, OVIC will accept the complaint and make enquiries with the agency. Agencies are encouraged to provide detailed information to OVIC regarding any matter in which operational issues arise from COVID-19. For delay complaints, agencies are encouraged to provide a realistic timeframe as to when a matter will be dealt with so OVIC can provide that information to an applicant in the interest of resolving the matter at an early stage and to manage expectations during this period. Similarly, if an agency seeks an extension of time to provide documents or make a submission to OVIC, agencies should provide relevant information to OVIC so we can consider the extension of time request.

- The Public Access Team have been able to successfully resolve a number of matters through informal resolution and OVIC will continue efforts in this space.

Stakeholder discussions

- The Assistant Commissioner – Public Access Resolution noted OVIC has had regular telephone meetings with agencies. OVIC has agreed to provide two agencies with a list of open review and complaint matters each month and highlight matters that OVIC is waiting for responses on. If other agencies would benefit from OVIC providing a similar list of matters, please contact OVIC.

2019-20 Annual Report

- The Assistant Commissioner – Public Access Resolution noted work is underway for the 2019-2020 Annual Report. OVIC has sent early notification emails to agencies, and has requested contact details for cemetery trusts so we can begin compiling and sending correspondence about the annual report survey, which is ready. The next step will be to create usernames and passwords for agencies for the survey.

Appearance before the Integrity and Oversight Committee on 2 March 2020

- The Public Access Deputy Commissioner noted that as part of their function of overseeing integrity bodies, the Integrity and Oversight Committee organised public hearings with four Victorian integrity agencies including OVIC, the Victorian Inspectorate, the Victorian Ombudsman, and IBAC.
- OVIC's hearing took place on 2 March 2020. The public hearings for the remaining agencies have been postponed due to COVID-19. The purpose of this hearing was for OVIC to provide information about our performance over the past two years regarding FOI, privacy and information security, followed by questions from the Committee. The transcript from OVIC's hearing has not been published yet, however, some of the issues the Information Commissioner and Public Access Deputy Commissioner spoke to at the hearing included:
 - timeliness of OVIC review decisions;
 - breakdown of OVIC review decisions in terms of affirming or overturning the original agency FOI decision;
 - what happens after OVIC makes a review decision to release more documents, including timeframes for agencies to comply with an OVIC decision, and any instances of agencies not complying with OVIC's decision; and
 - proactive and informal release.
- OVIC will advise when the transcript has been published.
- The Public Access Deputy Commissioner also noted that the Integrity and Oversight Committee will be holding public hearings on OVIC's education and training function in August 2020.

Proactive and informal release discussion paper

- The Public Access Deputy Commissioner spoke to consultation on OVIC's [discussion paper](#) on proactive and informal release. Consultation closed on 1 May, and the Policy team is currently reviewing the 15 submissions received. The Public Access Deputy Commissioner thanked all who provided a submission. The feedback OVIC received will help shape the work OVIC does in relation to proactive and informal release. The Public Access Deputy Commissioner noted the likely need for further consultation with agencies, including possible 'round table' discussions either remotely or in person.

- The Public Access Deputy Commissioner noted the discussion paper is still available on OVIC's website, and we will publish submissions shortly where the submitter has provided their consent for OVIC to publish the submission.
- Some members noted they had intended to provide a submission, but the sudden change in remote working arrangements arising from COVID-19 precluded them making a submission.

FOI training and education

- The Public Access Deputy Commissioner noted OVIC is working on implementing webinar software to deliver more free training and host events remotely. The introduction of a webinar training platform will complement OVIC's free face to face FOI training, and will allow agencies based in rural and regional Victoria to better access OVIC training.
- OVIC offers free online e-learning modules on FOI exemptions and processing an FOI request. OVIC is developing a new e-learning module on the Professional Standards which will be available on our website.
- The Public Access Deputy Commissioner noted agencies can keep up to date with OVIC news on [Twitter](#), [LinkedIn](#) and through our monthly newsletter, which provides updates on what OVIC is doing and provides summaries of recent OVIC and VCAT FOI decisions, and other case law.
- If there is anything agencies would like to see in terms of OVIC's training and education offerings and our communication channels, please contact OVIC.

5. Business continuity and COVID-19 pandemic

- Members provided updates on how their agencies are continuing to deal with the operational impacts of COVID-19 and the continuity of FOI services.
- Most members noted working remotely has become the 'new normal', but there are ongoing difficulties in obtaining access to documents, resulting in delays or needing to advise applicants to make their request again at a later time.
- Some members also noted any initial drop in the number of FOI requests being received due to COVID-19 has subsided, and agencies are now receiving an increasing number of requests.

6. Online FOI Portal

- The Public Access Deputy Commissioner noted the [online FOI portal](#) is an important tool for applicants to use to make FOI requests to around 20 agencies. OVIC wished to consult with agencies regarding the continued benefit and utility of the portal, including whether changes and improvements are needed, particularly noting the rapid move by agencies to working electronically and remotely in the provision of FOI services. OVIC is interested in learning more about agencies' views on the portal to better understand what kind of changes would improve the functionality of the portal.
- The link to the portal is located on OVIC's website, however the portal is administered by the Department of Premier and Cabinet (but with recent Machinery of Government changes it will move to the Department of Justice and Community Safety) and money collected through the portal (i.e. FOI application fees) is received by the Department of Treasury and Finance.
- Members discussed issues including:
 - Having the link to the portal feature more prominently on OVIC's website. Currently, it is difficult to locate.
 - Administrative and financial arrangements for the portal should be discussed further.

- For those agencies to whom an online request may be made, there has been an increase for some in the number of online requests made through the portal due to COVID-19. This has been welcomed by agencies as they would like to be able to rely on use of the portal for receipt of FOI applications.
- Adding more agencies to the portal would be beneficial.
- Educational and guidance materials on how to make a valid request should be included on the online portal page to assist applicants.

7. Close

- **Meeting close:** 3:01pm
- **Next meeting:** Monday 24 August 2020 at 2:00pm. Agencies will be advised as to the meeting format closer to the meeting date.