

Public Access Agency Reference Group Meeting

Date: Monday, 23 August 2021

Time: 2:00 – 3:00pm (Microsoft Teams)

Participants

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

Ianina Belski, Assistant Commissioner – Public Access Reviews and Regulation, OVIC

Shantelle Ryan, Assistant Commissioner – Public Access Operations and Compliance, OVIC

Cliff Bertram, Assistant Commissioner Policy, OVIC

Cameron Montgomery, City of Ballarat

Felicity Wright, Transport Accident Commission

Jane Taylor, Department of Education and Training

Bronte Wright, Victorian WorkCover Authority

Lisa Scholes, Department of Families, Fairness and Housing

Melinda Robinson, Department of Justice and Community Safety

Monica Barnes, County Fire Authority

Robin Davey, Victoria Police

Raffaella Di Maio, University of Melbourne

Anita Mugo, Secretariat, OVIC

Agenda Items

1. Welcome

- Meeting start: 2:02pm
- The Public Access Deputy Commissioner welcomed everyone to the meeting.

Apologies

- Andrew Weston, Department of Transport
- Jude Hunter, Victorian WorkCover Authority
- Richard Long, Monash University
- Samantha Oliver, City of Melbourne
- Susannah Whitty, Eastern Health

Previous meeting minutes and action items

- Attendees confirmed the meeting minutes of 24 May 2021. There was one action item arising from that meeting:
 - The Public Access Deputy Commissioner and Public Access Assistant Commissioners agreed to facilitate a special meeting to give Public Access Agency Reference Group members and other FOI agencies an opportunity to discuss challenges in resourcing and recruitment of FOI officers.
 - The Secretariat provided an update noting this action is ongoing. The special meeting is tentatively scheduled for 4 October 2021 and will include representatives from the Victorian Public Sector Commission and will be open to Victorian FOI agencies and departments. Event details will be sent to members and promoted more broadly by OVIC in

	<p>due course.</p> <p>New members</p> <ul style="list-style-type: none"> • The Public Access Deputy Commissioner welcomed Samantha Oliver from the City of Melbourne and Rafaella Di Maio from the University of Melbourne.
2.	<p>Agency updates</p> <ul style="list-style-type: none"> • Reference Group members provided updates on their agency and FOI workloads noting the current lockdown and working from home restrictions in Victoria, including: <ul style="list-style-type: none"> ○ accessing documents remotely – some members discussed ongoing challenges accessing records while working remotely particularly during lockdown. ○ increase in returning applicants – some members discussed the increase in returning applicants who make multiple FOI requests to an agency, which some agencies consider take up a significant amount of their time, noting increased demand in FOI requests generally. ○ increase in FOI requests – some members reported an increase in FOI requests over the past few months
3.	<p>New practice notes</p> <ul style="list-style-type: none"> • The Assistant Commissioner - Policy provided updates on two new practice notes that OVIC has published, and one practice note that is being developed: <ul style="list-style-type: none"> ○ Practice note 22 – When an access charge certificate may be issued to refer a matter to the Tribunal: ○ Practice note 23 – Noting and briefing processes on freedom of information decisions • The Assistant Commissioner - Policy noted OVIC is continuing to develop and refine guidance on Part II of the FOI Act and has begun a project to reform OVIC’s Part II material. • The Assistant Commissioner – Policy thanked members for their feedback on the draft practice notes.
4.	<p>International Access to Information Day 2021</p> <ul style="list-style-type: none"> • The Assistant Commissioner - Policy provided updates on OVIC’s plans for International Access to Information Day (IAID) which will be celebrated from 27 – 30 September: <ul style="list-style-type: none"> ○ New publications: OVIC intends to publish two key reports during IAID week. The report on Proactive and Informal release and the report on the culture of FOI in Victoria. ○ Events: OVIC will host a range of virtual events throughout the week including a launch event on 27 September 2021, two lightning talks and a panel discussion on the culture of FOI in Victoria.
5.	<p>OVIC update</p> <ul style="list-style-type: none"> • The Public Access Assistant Commissioners provided brief verbal updates with written updates to be included in the meeting minutes for information.

OVIC achievements from the 2020-21 financial year – Reviews

- The Assistant Commissioner - Public Access Reviews and Regulation noted as of 1 July 2021, OVIC had 163 open reviews. OVIC had closed 617 reviews in the 2020-21 financial year with 56.1% of review matters completed in time, which is an increase from 43.26% last financial year.
- The average completion time for a review has reduced from an average 139 days in the last financial year to 118 days this financial year, demonstrating that reviews are being finalised 15.1% quicker compared to the previous financial year.
- OVIC finalised 374 notices of decision in the 2020-21 financial year, with 216 decisions being different to the decision made by the agency or Minister (this equates to 57.8% of decisions).
- The Assistant Commissioner - Public Access Reviews and Regulation noted members will be able to have a more detailed look at OVIC's achievements once the Annual Report is tabled later this year.

Operational update – Reviews

- The Assistant Commissioner - Public Access Reviews and Regulation noted as at today's date (23 August 2021), OVIC has 181 open reviews. On average, OVIC continues to receive around 10 new review applications per week. To date, this financial year OVIC has received 79 review applications and has closed 63 reviews.

Publication of Notices of Decision

- The Assistant Commissioner - Public Access Reviews and Regulation noted as of 23 August 2021, OVIC has published 457 de-identified notices of decision. The Assistant Commissioner Public Access Reviews and Regulation reminded members they can contact her directly within 5 business days of receiving a decision if there are any concerns about publishing sensitive information.
- The Assistant Commissioner - Public Access Reviews and Regulation noted OVIC's AustLII page continues to be accessed frequently.

Upcoming events

- The Assistant Commissioner - Public Access Reviews and Regulation noted upcoming events including:
 - 2 September 2021 – Information Access Series webinar on the *Local Government Act 2020* (Vic) led by OVIC's General Counsel. The virtual session will focus on section 38 and access to information and will include case studies on areas such as council meeting documents, tender and business documents, personal affairs information and confidential documents about complaints to council.

Launch of new FOI consumer videos

- The Assistant Commissioner - Public Access Reviews and Regulation noted OVIC has developed and published three new consumer videos to promote better understanding of the FOI Act by members of the public. The videos cover the following topics:
 - Tips for making your FOI request
 - Requesting amendments to your information
 - Accessing your health records

- The Assistant Commissioner - Public Access Reviews and Regulation thanked Reference group members Lisa Scholes and Melinda Robinson for their contribution to the development of these resources.

Labelling FOI files which contain distressing content

- The Assistant Commissioner - Public Access Reviews and Regulation noted OVIC is considering ways to label FOI files that contain distressing content, following a presentation on vicarious trauma delivered by Michaela Hart from the Department of Health and the Department of Families, Fairness and Housing. Appropriate labelling is intended to minimise or prevent potential trauma being experienced by staff and to manage staff health and well-being.
- The Assistant Commissioner - Public Access Reviews and Regulation invited members to share any policies or initiatives implemented in their agencies which could assist OVIC with this work.

Operational update – Complaints and Informal Resolution update

Registry & Case Support

- The Assistant Commissioner - Public Access Operations & Compliance noted in the 2020-21 financial year, the Registry Team handled 18,000 enquiries, made up of approximately 3000 telephone calls and 15,000 emails. The Registry Team has noticed an increase in Privacy enquiries particularly around COVID and QR codes.
- The Assistant Commissioner - Public Access Operations & Compliance noted the Registry Team has received all but one response to the Annual Report Survey. Over the new few weeks, the Registry Team will be collating all the responses received, identifying and fixing any errors, analysing the data and preparing content for OVIC's Annual Report
- The Assistant Commissioner - Public Access Operations & Compliance noted the **Agency FOI Information Service** has been operational for nearly 4 months. Following a review, it was noted that 50% of queries received were responded to within 24 hours and the other 50% were responded to within 3 days.
- The Assistant Commissioner - Public Access Operations & Compliance noted OVIC would like to continue promoting the Service among FOI practitioners and invited members to share their experiences with a successful promotion of a service or provide suggestions on how OVIC can better promote the Service. Members are invited to contact The Assistant Commissioner - Public Access Operations & Compliance if they have suggestions for promotions.

Complaints

- The Assistant Commissioner - Public Access Operations & Compliance noted in 2020-21, OVIC recorded a significant increase of 41% in the number of complaint applications received, with 739 complaints received. The majority of complaints concerned delays in agencies making FOI decisions within statutory or agreed timeframes.
- Despite this increase, OVIC continued to make improvements in the timeliness of finalising complaints. The average time taken to finalise a complaint reduced to 61 days compared to 71 days the previous year, which represents a 14.1% improvement.
- OVIC currently has 235 open complaints, with the majority being delay complaints.

	<p><u>Informal resolution</u></p> <ul style="list-style-type: none"> The Assistant Commissioner - Public Access Operations & Compliance noted that a total of 617 review applications were finalised in 2020-21. OVIC informally resolved 168 of those applications which represents 27.2% of review applications being resolved informally. That is a 20.3% increase in the number of reviews informally resolved, from the previous year.
6.	<p>Other business</p> <ul style="list-style-type: none"> None
7.	<p>Meeting close: 3:04</p> <p>Next meeting: Monday 22 November 2021 from 2:00 – 3:00pm via Microsoft Teams.</p>

OVIC update for information

Professional Standards

- OVIC records an average of 30 engagements per month across all agencies.
- An ‘engagement’ refers to instances where a Standard is recorded in OVIC’s case management system against an agency (where it appears an agency has not complied with a Standard).
- The most common engagement recorded by OVIC relates to **Standard 10.3** – where an agency must respond to a request for documents and information by OVIC within requested or agreed timeframes.
- The action OVIC takes when an engagement is confirmed as a breach will depend on the severity of the breach, for example:
 - For minor breaches:
 - OVIC might remind the agency of its obligation to comply with the Standard(s);
 - encourage the agency to complete the ‘Agency Self-Assessment Tool’ on OVIC’s website;
 - work with the agency to assist it to become compliant.
 - In the case of a substantial or persistent breach, OVIC may take a more formal approach, for example:
 - discuss the Professional Standards issue at a meeting with the Agency;
 - correspond with the agency’s FOI Manager regarding the engagement and seek a response;
 - write a formal letter to the agency’s principal officer raising the issue and inviting a response and following the response, OVIC might make findings;
 - in the case of reviews, the Professional Standard issue might be discussed in the covering letter to a Notice of Decision;
 - for complaints, OVIC might make a recommendation to the agency in accordance with section 61L.

- the agency’s compliance with the Professional Standards may be subject to ongoing monitoring
- OVIC intends to prepare a public policy outlining how Professional Standard engagements are handled by OVIC and this will be published on OVIC’s website.