

Public Access Agency Reference Group Meeting

Date: Monday 22 November 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

Annan Boag, Assistant Commissioner Privacy and Assurance

Penny Eastman, Manager Reviews and Regulation, OVIC

Tyrrell Davidson, Acting Manager Complaints and Professional Standards, OVIC

Sarah Crossman, Principal Policy Officer, OVIC

Lisa Scholes, Department of Families, Fairness and Housing

Michelle Tipton, City of Melbourne

Peter Gannoni, City of Melbourne

Raffaella Di Miao, University of Melbourne

Robin Davey, Victoria Police

Anita Mugo, Secretariat, OVIC

Agenda Items

1.	<p>Welcome</p> <ul style="list-style-type: none"> • Meeting start: 2: 02pm • The Public Access Deputy Commissioner welcomed everyone to the meeting. <p>Apologies</p> <ul style="list-style-type: none"> • Cameron Montgomery, City of Ballarat • Felicity Wright, Transport Accident Commission • Jane Taylor, Department of Education and Training • Melinda Robinson, Department of Justice and Community Safety • Monica Barnes, Country Fire Authority <p>Previous meeting minutes and action items</p> <ul style="list-style-type: none"> • Attendees confirmed the meeting minutes of 4 October 2021. There were no action items arising from that meeting.
2.	<p>Overview of Information Commissioner’s Own Motion Investigation Report</p> <ul style="list-style-type: none"> • The Assistant Commissioner Privacy and Assurance gave an overview of the Information Commissioner’s own motion investigation report into impediments to timely FOI and information release. • The Assistant Commissioner Privacy and Assurance noted most common complaint OVIC receives about FOI decisions relate to delay. The investigation sought to examine the causes of delay in FOI across five Victorian agencies. • The Assistant Commissioner Privacy and Assurance discussed the common issues across the five agencies investigated that point to impediments to timely FOI in Victoria generally. The common issues include:

	<ul style="list-style-type: none"> ○ Resourcing and efficiency ○ FOI performance reporting and monitoring ○ Engagement with FOI applicants ○ Briefing agency executives and ministers on topical FOI requests ○ Legislative impediments
3.	<p>Overview of OVIC Annual Report data and trends</p> <ul style="list-style-type: none"> ● The Public Access Deputy Commissioner gave an overview of OVIC Annual report data and trends noting the report was tabled on 7 October 2021. <p><u>FOI requests</u></p> <ul style="list-style-type: none"> ● There was a record high of 42,249 FOI requests made to Victorian government agencies in the 2020-21 financial year. 71.12% of the requests related to personal affairs information. <p><u>Appeals</u></p> <ul style="list-style-type: none"> ● There was an increase in the number of appeals to the Victorian Civil and Administrative Tribunal with 190 appeals lodged in 2020-21. <p><u>Access decisions and exemptions</u></p> <ul style="list-style-type: none"> ● Agencies in the health sector made the largest number of access decisions. The most common exemptions agencies across the public sector relied on in 2020-21 included: <ul style="list-style-type: none"> ○ Section 33 – protection of an individual’s personal affairs ○ Section 38 – where a secrecy or confidentiality provision of an Act other than the FOI Act applies to particular documents ○ Section 30 – internal working documents containing opinions, advice, or recommendations where it would not be in the public interest for those documents to be released ○ Section 31 – documents related to law enforcement activities ○ Section 35 – information obtained in confidence <p><u>Top 30 agencies</u></p> <ul style="list-style-type: none"> ● Of the top 10 agencies that received the majority of FOI requests in 2020-21, 7 out of 10 agencies are public health services or agencies, and of the top 30 agencies, 21 out of 30 are public health services or agencies. <p>Return to office</p> <ul style="list-style-type: none"> ● The Public Access Deputy Commissioner noted OVIC staff will return to office in January 2022. <p>Briefing by OVIC Commissioners for agency Executives to be held on 2 December 2021</p> <ul style="list-style-type: none"> ● The Public Access Deputy Commissioner noted OVIC is hosting a virtual executive briefing on 2 December 2021 for senior level VPS Managers and Executive Directors. This is the 2nd briefing OVIC is hosting this year.
4.	<p>Agency updates</p> <ul style="list-style-type: none"> ● The Public Access Deputy Commissioner introduced Michelle Tipton and Peter Gannoni both from City of Melbourne. ● Reference Group members provided updates on their agency and FOI workloads:

	<ul style="list-style-type: none"> ○ Increase in FOI requests – some members discussed continued increase in FOI requests particularly as the year comes to an end. Some members noted the increased demand affects timeliness. ○ Accessing documents remotely - One member discussed ongoing challenges accessing records at PROV. ○ Return to office – some members discussed return to office with some members returning to office this month while other members are returning next year.
5.	<p>Update on FOI guidelines project</p> <ul style="list-style-type: none"> ● The Principal Policy Officer provided an update on the FOI guidelines project noting consultation on draft content will begin soon. ● OVIC will take an iterative approach to consultation. Content for the FOI guidelines is being drafted according to each part of the Act. OVIC will publish draft content on each part separately for consultation, and consultation period will be 4 weeks. ● The Principal Policy Officer noted Reference Group members will be invited to give their feedback on the drafts.
6.	<p>OVIC update</p> <ul style="list-style-type: none"> ● The Public Access Assistant Commissioners provided the OVIC operational update. <p><u>Reviews</u></p> <ul style="list-style-type: none"> ● The Assistant Commissioner Public Access Reviews and Regulation noted as of 22 November 2021, OVIC has 162 open reviews. On average, OVIC continues to receive around 10 new review applications per week. ● So far this financial year, OVIC has received 217 review applications and closed 218 reviews. <p><u>Publication of Notices of Decision</u></p> <ul style="list-style-type: none"> ● As of 22 November 2021, OVIC has published 478 decisions. The Assistant Commissioner Public Access Reviews and Regulation encouraged members to read the decisions online as some have been high-profile cases. <p><u>Upcoming events</u></p> <ul style="list-style-type: none"> ● The Assistant Commissioner Public Access Reviews and Regulation noted upcoming events including: <ul style="list-style-type: none"> ○ 23 November 2021 - Information Access Series webinar on Health Information ○ 8 December 2021 - a one-off 2-hour FOI training webinar focusing on the pre-assessment stage of processing an FOI request aimed at new FOI staff or practitioners wanting refresher training. ● The Assistant Commissioner Public Access Reviews and Regulation invited members to contact her with any suggestions or ideas on topics to cover in future Information Access Series events. <p><u>Recruitment</u></p> <ul style="list-style-type: none"> ● The Assistant Commissioner Public Access Operations and Compliance noted 2 Public Access staff have secured secondments:

- Paul Pittorino, Manager Complaints and Professional Standards is undertaking a senior role at IBAC as Team Leader Assessment and Review from Monday 15 November 2021 to 30 April 2022;
- Bruce Rego, Principal Case Manager, is undertaking the role of Senior Assessment & Review Officer at IBAC from Monday 22 November 2021 to 27 May 2022
- Tyrrell Davidson is Acting Manager of Complaints and Professional Standards.
- A Principal Case Manager position will be advertised on the JSE net. It is a VPS 5.1 role and involves supervisory responsibilities. OVIC is open to a secondment arrangement for an agency FOI practitioner to come and work in this role.
- OVIC is also recruiting for two non-ongoing VPS 3 backfill positions.

FAQs

- The Assistant Commissioner Public Access Operations and Compliance noted OVIC has developed an FAQ resource on privacy and vaccinations. The resource is targeted at members of the public and covers the collection of vaccination information by employers and hospitality venues such as cafes and bars.

Complaints

- The Assistant Commissioner Public Access Operations and Compliance noted as of 22 November 2021, OVIC has 223 open complaints. On average, OVIC receives approximately 16 new complaints each week. Of the 223 open complaints, 189 concern agency delays.
- So far this financial year, OVIC has received 327 complaints and closed 302 complaints.

Professional standards

- The Assistant Commissioner Public Access Operations and Compliance noted OVIC continues to record Professional Standard engagements, with the most common engagement recorded being Standard 10.3.
- The majority of engagements recorded against agencies are resolved informally by way of a discussion with the agency.
- The Assistant Commissioner Public Access Operations and Compliance noted agencies can use the Professional Standards Self-Assessment Tool on OVIC's website. If agencies have already completed a self-assessment, a re-assessment is recommended to track improvements.

Informal resolution

- The Assistant Commissioner Public Access Operations and Compliance noted in September 2021, OVIC informally resolved 46.15% of review matters.
- In October 2021, OVIC informally resolved 21.15% of review matters.
- This financial year, OVIC has informally resolved 28.34% of review matters.
- OVIC's BP3 target is to informally resolve 25% or more review matters and the team will continue to focus on achieving this target.

Integrity and Oversight Committee report

- The Public Access Deputy Commissioner noted the Integrity and Oversight Committee has tabled its report on the performance of Victoria's integrity agencies.

7.	<p>Reference Group review</p> <ul style="list-style-type: none"> • The Public Access Deputy Commissioner noted this is the last Reference Group meeting for 2021 and invited members to provide feedback on the operation of the Group. • The Public Access Deputy Commissioner also noted members can provide feedback regarding their membership including whether they wish to continue participating in the group or whether new representatives will attend future meetings on behalf of the relevant agency. • Members are welcome to provide feedback via email to the Secretariat.
8.	<p>Other business</p> <ul style="list-style-type: none"> • None.
	<p>Meeting close: 3:02pm</p> <p>Next meeting: OVIC will provide meeting dates for 2022 early next year.</p>