

Notice of Decision and Reasons for Decision

Applicant:	'DW5'
Agency:	City of Melbourne
Decision date:	11 January 2022
Exemptions considered:	Sections 25A(5), 29A(1C), 31(1)(a), 31(1)(d), 33(1) and 38 in conjunction with section 125 of the <i>Local Government Act 2020</i> (Vic)
Citation:	'DW5' and <i>City of Melbourne (Freedom of Information)</i> [2022] VICmr 2 (11 January 2022)

FREEDOM OF INFORMATION – council documents – CCTV footage – refusal to process request on grounds all documents, should any exist, would be exempt – disclosure of personal affairs information – law enforcement documents - prejudice proper administration of the law – not satisfied all documents would be exempt

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 fresh decision to refuse access to documents requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision.

I am not satisfied it is apparent from the nature of the requested document, as described in the Applicant's request, would be exempt from release under sections 29A(1C), 31(1)(a), 31(1)(d), 33(1), and 38 in conjunction with section 125 of the *Local Government Act 2020* (Vic) (**LG Act**).

The effect of my decision is that the Agency is required to search for and identify all documents relevant to the terms of the Applicant's request and assess those documents in accordance with the FOI Act.

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

11 January 2022

Reasons for Decision

Background to review

1. The Applicant made a freedom of information request to the Agency seeking access to:

CCTV footage of motor vehicle accident that occurred on [date] at [specified intersection in Melbourne central business district] involving two vehicles with registration [registration] and [registration].
Relevant timeframe: [times] on [date].
2. The Agency refused the Applicant's request under section 25A(5). The Agency determined it was not required to identify and consider any documents relevant to the request as it was apparent all documents would be exempt under sections 29A(1C), 31(1)(a), 31(1)(d), and 38 in conjunction with section 125 of the LG Act.
3. From the Agency's decision, it appears there is likely to be one document answering the terms of the Applicant's request – CCTV footage of the relevant incident (**Document**).

Review application

4. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access to the Document.
5. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
6. I have considered all communications and submissions received from the parties, including:
 - (a) the Agency's decision on the FOI request; and
 - (b) information provided by the Applicant and the Agency during the review.
7. 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.
8. I note Parliament's intention the FOI Act be interpreted so as to further the object of the Act and any discretions conferred by the Act must be exercised, as far as possible, so as to facilitate and promote the disclosure of information in a timely manner and at the lowest reasonable cost.

Preliminary view provided to Agency

9. On [date], OVIC advised the Agency the Commissioners' preliminary view was section 25A(5) did not apply to the Applicant's request as it was not apparent on the face of the Applicant's request that the Document would be exempt in full under sections 31(1)(a), 31(1)(d) and 38. The Agency was invited to provide a further submission or make a fresh decision under section 49M.
10. On [date], the Agency advised it intended to make a fresh decision under section 49M(1). OVIC informed the Applicant of the Agency's intention.
11. On [date], the Agency made a fresh decision in which it continued to rely on section 25A(5), and relied on an additional exemption under section 29A(1C) to refuse access to the Document.
12. The Applicant did not agree with the Agency's fresh decision and, as required by section 49MA(2), I proceeded with my review on the basis of the fresh decision.

Review of application of section 25A(5) to refuse to grant access to documents

13. Section 25A(5) provides an agency may refuse to grant access to a request for documents without having identified any or all of the documents if it is apparent from the nature of the request that all documents would be exempt in full under the FOI Act.
14. The power to refuse a request under section 25A(5) is carefully circumscribed. In *Knight v Corrections Victoria*,¹ the Supreme Court of Victoria held section 25A(5) will apply to an FOI request only where the following three elements are met:
 - (a) based solely on the description in the request, the decision maker must work out the inherent or essential quality or character of the documents;
 - (b) the decision maker must determine whether the documents, as described by the Applicant, are exempt. It must be apparent that all documents are exempt; and
 - (c) from the face of the request or the Applicant's declared wishes, there must be no scope to provide edited copies of any of the documents.

What is the essential character of the documents requested?

15. In this case, the Applicant seeks access to CCTV footage of an incident that occurred at a particular location and time.

Would each of the requested documents, as described in the FOI request, be exempt?

16. The Agency submits the Document would be exempt under sections 29A(1C), 31(1)(a), 31(1)(d) and 38 in conjunction with section 125 of the LG Act. I consider each of these exemptions below.

Application of section 29A(1C)

17. Section 29A(1C) provides that a document is an exempt document 'if subsection (1B) as in force before the commencement of section 6 of the *Emergency Management Amendment (Critical Infrastructure Resilience) Act 2014* would apply to or in respect of the document had section 6 of the *Emergency Management Amendment (Critical Infrastructure Resilience) Act 2014* not come into operation'.
18. In other words, section 29A(1C) saves section 29A(1B) as it applied prior to the commencement of section 6 of the *Emergency Management Amendment (Critical Infrastructure Resilience Act) Act 2014* (Vic) (**EMA Act**). The repealed section 29A(1B) (**former section 29A(1B)**) relevantly provides that a document is exempt if:
 - (a) Its disclosure would, or could reasonably be expected to, endanger the security of any premises within the meaning of the *Terrorism (Community Protection Act) 2003*; or...
19. 'Premises' is defined in the *Terrorism (Community Protection) Act 2003* (Vic) and includes: land; a building or vehicle; a part of a building or vehicle; and any place, whether built or not. The CCTV footage is of the [description of] intersection in Melbourne. I am satisfied this meets the definition of 'premises'.
20. The Agency's fresh decision states:

...Old s 29A(1B)(a) applies where disclosure of a document would have as a logical consequence, the capacity to, or it would be reasonable and not absurd, irrational or ridiculous to expect that it would, endanger the security of premises (in this case the location at which cameras are positioned and parts

¹ *Knight v Corrections Victoria* [2010] VSC 338.

of the buildings in the range of view). That is, disclosure would put in danger or create a perception of being put in danger the safety or feeling of safety of the location at which the cameras are positioned and/or the parts of the building within the range of view.

The VCAT has previously found that there were reasonable grounds for a certificate to be issued under s 29A(2) of the FOI Act to the effect that CCTV footage of Council cameras outside Flinders Street Station is exempt under old s 29A(1B) as release of the CCTV footage would or could reasonably be expected to endanger the security of the premises.

21. The Agency also states disclosure of the Document 'would or could reasonably be expected to endanger the security of' the premises captured by the CCTV footage. It relies on the decision of *Willner v City of Melbourne*² (**Willner decision**) in which the Victorian Civil and Administrative Tribunal (**VCAT**) held former section 29A(1B) of the EMA Act applied to 24 hours of continuous CCTV footage taken of the front of Flinders Street Station in Melbourne as:
 - The entrance to Flinders Street Station is an iconic location and likely to be a target for a terrorist attack;
 - Disclosure of the footage would disclose the precise location of CCTV cameras, which was not known to the general public;
 - Disclosure of the footage would identify premises or parts of premises which are not within the ordinary view of the camera;
 - Disclosure would provide information to the viewer as to:
 - the horizontal movement, tilt and swivel capacity and default setting of the cameras;
 - the facial recognition capability and search capability of the cameras;
 - the capacity of the cameras to operate in different light conditions;
 - the use of the cameras for law enforcement and evidence collection;
 - Disclosure could increase the risk of vandalism or damage to CCTV cameras; and
 - Disclosure could cause embarrassment to persons observed by CCTV.
22. In my view, the Willner decision is distinguishable from the matter under review. The Willner decision sought extensive footage of 'an iconic location likely to be target for a terrorist attack', apparently including footage that demonstrated how those cameras could be moved and swiveled as well as their capacity to operate in different light conditions.
23. In this matter, the Applicant seeks footage of a specific incident capped at 20 minutes at an intersection where the Agency identified no particular special character to suggest it is at risk of a terrorist attack. There was also no suggestion a shorter period of footage would show camera movement, tilt or swivel capacity, or the capacity of cameras to operate in different light conditions.
24. Given this exemption was newly relied on in the Agency's fresh decision, the Agency was invited to make a further submission to support its reliance on the exemption. The Agency declined to make a further submission and relies on the Willner decision, submitting I am bound to follow the decision.
25. In the absence of objective evidence to support the Agency's submissions, I am not satisfied disclosure of the Document would or could reasonably be expected to endanger the security of any premises. Accordingly, I am not satisfied on the face of the Applicant's request the Document would be exempt from release in full under section 29A(1C).

Application of section 31(1)(a)

26. Subject to section 31, section 31(1)(a) provides a document is an exempt document if its disclosure under the FOI Act 'would, or would be reasonably likely to, prejudice the investigation of a breach or

² [2015] VCAT 1594.

possible breach of the law or prejudice the enforcement or proper administration of the law in a particular instance’.

27. ‘Reasonably likely’ means there is a real chance of an event occurring; it is not fanciful or remote.³
28. ‘Prejudice’ means to hinder, impair or undermine and includes actual prejudice as well as impending prejudice.⁴
29. ‘In a particular instance’ does not require a single specific investigation. This phrase can encompass specific, identified aspects of law, administration of law or investigations of breaches or potential breaches of law.⁵
30. Section 31(1)(a) may apply in relation to either a particular investigation, or the enforcement or proper administration of the law more generally.
31. The Agency’s fresh decision states:

The Council has recently complied with a summons to produce documents issued at the request of your client in court proceedings. The CCTV footage has been provided to the Court which is now in a position to determine the extent of any disclosure to the parties to that proceeding, including your client. If the Council was to process the request and disclose any CCTV footage under the FOI Act in those circumstances, it would enable the Court processes to be undermined, contrary to the administration of justice and prejudicing the administration of the law in this particular instance.

32. I consider the Court proceeding to be ‘a particular instance’ for the purpose of section 31(1)(a). Nevertheless, I am not satisfied disclosure of the Document under the FOI Act to the Applicant’s legal representatives would undermine the Court’s adjudication of any current discovery process or be contrary to the administration of justice in these circumstances. Litigation discovery processes are separate to and distinct from the information access regime under the FOI Act.
33. Accordingly, I am not satisfied disclosure of the documents would prejudice the enforcement or proper administration of the law and am not satisfied on the face of the Applicant’s request the CCTV footage would be exempt from release in full under section 31(1)(a).

Application of section 31(1)(d)

34. Subject to section 31(1), section 31(1)(d) provides a document is exempt if its disclosure ‘would, or would be reasonably likely to, disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures’.
35. The exemptions in section 31(1) do not apply to widespread and well known methods and procedures.⁶
36. The Agency’s fresh decision states:

The Council has determined, from the apparent nature of the document sought, that there is a real and not fanciful or remote chance that disclosure of CCTV footage would prejudice (ie hinder, impair or undermine) the CCTV related methods used by the Council and law enforcement agencies such as

³ *Bergman v Department of Justice Freedom of Information Officer* [2012] VCAT 363 at [65], quoting *Binnie v Department of Agriculture and Rural Affairs* [1989] VR 836.

⁴ *Ibid*, Bergman at [66], referring to *Sobh v Police Force of Victoria* [1994] VicRp 2; [1994] 1 VR 41 at [55].

⁵ *Cichello v Department of Justice (Review and Regulation)* [2014] VCAT 340 at [24].

⁶ *XYZ v Victoria Police* [2010] VCAT 255 at [177].

Victoria Police in preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law.

37. It is well known that CCTV cameras are used within Melbourne's central business district to assist in the prevention, detection, investigation, and handling of matters arising out of breaches or evasions of the law. They are visible at most intersections, key locations and properties.
38. While I accept images in CCTV footage may disclose aspects of the operations of the cameras, there is nothing before me to suggest that procedures for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law would be prejudiced by disclosure of the requested footage.
39. Accordingly, I am not satisfied on the face of the Applicant's request that the Document would be exempt from release in full under section 31(1)(d).

Application of section 33(1)

40. 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;⁷ and
 - (b) such disclosure would be 'unreasonable'.

Do the documents contain personal affairs information?

41. Information relates to the 'personal affairs' of a person if it is reasonably capable of identifying them, or of disclosing their address or location.⁸ It has also been held information relates to an individual's personal affairs if it 'concerns or affects that person as an individual'.⁹
42. As the nature of disclosure under the FOI Act is unrestricted and unconditional, this is to be interpreted by the capacity of any member of the public to identify a third party.¹⁰
43. I accept CCTV footage may disclose the personal affairs of persons other than an FOI applicant even if the footage does not show the faces of those third parties. An individual may also be capable of being identified from what they are wearing or what they were doing.¹¹
44. I accept the Agency's submission the CCTV footage could capture the presence and interactions of other individuals, including members of the public and Victoria Police.
45. I consider it is reasonably likely the quality of the CCTV footage would be sufficiently clear at various times and to varying degrees to show identifying features of the individuals captured, such as facial features, distinctive clothing or other personal traits, such as a person's gait.
46. I consider third party individuals captured in the CCTV footage would be reasonably capable of being identified by persons with knowledge of or involvement in the events to which they relate, or other members of the public.
47. Accordingly, I am satisfied the Document would contain the personal affairs information of persons other than the Applicant.

⁷ Sections 33(1) and (2).

⁸ Section 33(9).

⁹ *Hanson v Department of Education & Training* [2007] VCAT 123 at [9].

¹⁰ *O'Sullivan v Department of Health and Community Services (No 2)* [1995] 9 VAR 1 at [14]; *Beauchamp v Department of Education* [2006] VCAT 1653 at [42].

¹¹ *Wilner v Department of Economic Development, Jobs, Training and Resources* [2015] VCAT 669 at [17].

Would disclosure of the personal affairs information be unreasonable?

48. The concept of 'unreasonable disclosure' involves determining whether the public interest in disclosure of official information is outweighed by the interest in protecting an individuals' personal privacy.

49. In determining whether disclosure of the personal affairs information in the Document would be unreasonable, I have considered the following factors:

(a) The nature of the personal affairs information

I consider the Document would depict the images, movements, and dealings of a range of individuals including members of the public and Victoria Police.

(b) The circumstances in which the personal affairs information was obtained

I accept the Agency's submission that CCTV cameras are in place to help to create a safer environment and reduce crime levels by deterring potential offenders and helping in crime detection as part of the Safe City Camera Program. The Document was therefore obtained by the Agency as part of its usual monitoring of CCTV cameras.

(c) The Applicant's interest in the information, and whether their purpose for seeking the information is likely to be achieved

The FOI Act provides a general right of access that can be exercised by any person, regardless of their motive or purpose for seeking access to a document. However, the reasons why an applicant seeks access to a document is a relevant consideration in determining whether disclosure would be unreasonable.¹²

In this case the Applicant, through their legal representative, seeks access to the Document to inform the conduct of a civil dispute stemming from a motor vehicle incident. As such, it is the Applicant's legal representative, who have requested the Document, to assist in conducting a legal proceeding on the Applicant's behalf. There is nothing before me to suggest the Applicant intends to or would widely distribute the Document beyond its use in the legal proceeding.

(d) Whether any public interest would be promoted by release of the information

There is no information before me to suggest the public interest would be promoted by the release of the personal information of any third parties captured by the CCTV footage.

(e) Whether the individuals to whom the information relates would be likely to object to its release

As stated above, I accept the CCTV footage is captured by the Agency for the purposes of safety and security measures and to detect crime and other unlawful activities in public places.

While I consider it is reasonably likely individuals attending the relevant intersection were aware they were being filmed by CCTV cameras, I accept they would expect the Document would not be disclosed under the FOI Act without any restrictions or conditions on its use or further dissemination.¹³

Having regard to the nature and circumstances of the Document, I am of the view the individuals, whose personal information is captured in the footage, would be reasonably likely

¹² *Victoria Police v Marke* [2008] VSCA 218 at [104].

¹³ See *Willner v Department of Economic Development, Jobs, Training and Resources (Review and Regulation)* [2015] VCAT 669 at [22]-[25].

to object to the release of the information for reasons other than law enforcement or health and safety purposes.

- (f) Whether the disclosure of the information would, or would be reasonably likely to endanger the life or physical safety of any person¹⁴

There is no information before me to suggest this is a relevant factor in this case.

50. Having weighed up the above factors, I am satisfied it would be unreasonable to release certain personal affairs information of third parties that would likely be captured by the CCTV footage, as set out above. However, I am not satisfied it is apparent from the face of the request and considering the nature and likely content of the Document disclosure of certain parts of the CCTV footage would be unreasonable. Rather, I consider it is a matter that requires consideration of the content of the CCTV footage and the particular circumstances of this matter.
51. Accordingly, I am not satisfied all personal affairs information in the Document would be exempt from release in full under section 33(1).

Application of section 38 in conjunction with section 125 of the LG Act

52. A document is exempt under section 38 if the following three requirements are met:
- (a) there is an enactment in force;
 - (b) the enactment applies specifically to the kind of information in a document; and
 - (c) the enactment prohibits persons, referred to in the enactment, from disclosing that specific kind of information (either absolutely or subject to exceptions or qualifications).
53. For section 38 to apply to a document, an enactment must be formulated with such precision that it specifies the actual information sought to be withheld.

Is there an enactment in force?

54. Section 125 of the LG Act concerns 'confidential information' and provides:
- (1) Unless subsection (2) or (3) applies, a person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, must not intentionally or recklessly disclose information that the person knows, or should reasonably know, is confidential information.
Penalty: 120 penalty units.
 - (2) Subsection (1) does not apply if the information that is disclosed is information that the Council has determined should be publicly available.
 - (3) A person who is, or has been, a Councillor, a member of a delegated committee or a member of Council staff, may disclose information that the person knows, or should reasonably know, is confidential information in the following circumstances—
 - (a) for the purposes of any legal proceedings arising out of this Act;
 - (b) to a court or tribunal in the course of legal proceedings;
 - (c) pursuant to an order of a court or tribunal;
 - (d) in the course of an internal arbitration and for the purposes of the internal arbitration process;
 - (e) in the course of a Councillor Conduct Panel hearing and for the purposes of the hearing;

¹⁴ Section 33(2A).

- (f) to a Municipal Monitor to the extent reasonably required by the Municipal Monitor;
- (g) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- (h) to a Commission of Inquiry to the extent reasonably required by the Commission of Inquiry;
- (i) to the extent reasonably required by a law enforcement agency.

55. I am satisfied the LG Act is an enactment in force for the purpose of section 38 of the FOI Act.

Does the enactment apply specifically to the kind of information in the documents?

56. 'Confidential Information' in section 125 of the LG Act is defined in section 3(1)(f) of that Act to include:

personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;¹⁵

...

57. The definition of 'confidential information', which includes 'personal information' as set out above, is similar to the exemption under section 33(1) of the FOI Act, which concerns 'personal affairs information' and provides a document is exempt from release if:

- (a) its disclosure would 'involve' the disclosure of information relating to the 'personal affairs' of a person other than the Applicant (or personal affairs information);¹⁶ and
- (b) disclosure of the personal affairs information would be 'unreasonable' in the circumstances.

58. Information relating to the 'personal affairs' of a person includes information that identifies any person or discloses their address or location. It also includes any information from which such information may be reasonably determined.¹⁷

Does the Document contain 'personal information' for the purposes of section 125 of the LG Act?

59. In determining whether the Document contains a third party's 'personal information', and whether its disclosure would be unreasonable for the purpose of section 125 of the LG Act, I have had regard to the similar considerations that arise under section 33(1) of the FOI Act.

60. I accept 'personal information' encompasses a broad range of information concerning an individual. For example, their name, address, correspondence or details about their property, or other personal details.

61. For the reasons stated above, I am satisfied the Document would contain personal affairs information of persons other than the Applicant, which I am satisfied is 'personal information' for the purposes of section 125 of the LG Act.

¹⁵ Subsection 3(1)(f) of the LG Act 2020.

¹⁶ Sections 33(1) and 33(2).

¹⁷ Section 33(9).

Would disclosure be unreasonable in the circumstances?

62. I have considered the following factors in determining whether disclosure of the personal information in the Document would be unreasonable in the circumstances:
- (a) the nature of the personal information and the circumstances in which it was obtained by the Agency;
 - (b) the Applicant's interest in the information, and whether their purpose for seeking access to the information is likely to be achieved by its disclosure;
 - (c) the likelihood of further disclosure of the information, if released under the FOI Act;
 - (d) whether any public interest would be promoted by release of the information;
 - (e) whether the third party to whom the personal information relates object or would be likely to object to the release of the information; and
 - (f) whether the disclosure of the personal information would or would be reasonably likely to endanger the life or physical safety of any person.¹⁸
63. Having considered the nature of the Document and the circumstances of this matter, I am not satisfied disclosure of all information in the Document would be unreasonable for the reasons set out at paragraphs 48 to 5050 above.
64. Having weighed up the above factors, on balance, I am not satisfied disclosure of all personal information in the Document would be unreasonable for the purposes of section 125 of the LG Act or that the Document would be exempt in full under section 38 in conjunction with section 125 of the LG Act.

Is there scope to provide an edited copy of the requested documents?

65. As noted above, the Agency was provided with a preliminary view that at least some information in the Document would not be exempt, and each of the requirements for section 25A(5) are not made out.
66. The Agency did not agree with the preliminary view and responded:
- In circumstances where the applicant has not sought partial access, with respect it is not appropriate for the OVIC to consider partial access given the obligation on an applicant under s 25(c) of the FOI Act to indicate whether or not partial access is sought.
67. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy. As part of the Applicant's request for review of the Agency's decision, they confirmed their agreement to receive the Document in edited form.
68. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁹ and the effectiveness of the deletions. Where

¹⁸ Section 33(2A).

¹⁹ *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 at [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

deletions would render a document meaningless, they are not 'practicable', and release of the document is not required under section 25.²⁰

69. Having considered the circumstances of this matter, I am satisfied there would likely be scope to provide the Applicant with an edited copy of the Document with exempt information deleted in accordance with section 25. I am also satisfied it would be practicable to do so as it would likely not require substantial time and effort, and the edited copy of the Document would likely retain sufficient meaning.
70. Accordingly, I am not satisfied the requirement under section 25A(5) for there to be no scope to provide the Applicant with an edited copy of the Document is met in this case.

Conclusion

71. As stated above, the power for an agency to refuse a request under section 25A(5) is carefully circumscribed and will apply to a limited category of cases only.
72. Having carefully considered the application of section 25A(5) to the Document and for the reasons set out above, I am not satisfied it is apparent from the nature of the requested document, as described in the Applicant's request, would be exempt from release under sections 29A(1C), 31(1)(a), 31(1)(d), 33(1), and 38 in conjunction with section 125 of the LG Act
73. I am also satisfied it would be practicable to provide the Applicant with an edited copy of the Document with exempt information deleted in accordance with section 25.
74. Accordingly, I am not satisfied each of the requirements of section 25A(5) are met such that the Applicant's request for access to the Document can be categorically refused.
75. The effect of my decision is the Agency is required to search for and identify all documents relevant to the terms of the Applicant's request and assess those documents in accordance with the FOI Act.

Review rights

76. If either party to this review is not satisfied with my decision, they are entitled to apply to the VCAT for it to be reviewed.²¹
77. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²²
78. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²³
79. Information about how to apply to VCAT is available online at www.vcat.vic.gov.au. Alternatively, VCAT may be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.
80. 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.²⁴
81. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

²⁰ *Honeywood v Department of Human Services* [2006] VCAT 2048 at [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140] and [155].

²¹ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²² Section 52(5).

²³ Section 52(9).

²⁴ Sections 50(3F) and (3FA).