

Notice of Decision and Reasons for Decision

Applicant:	'DX3'
Agency:	Victorian WorkCover Authority
Decision date:	30 December 2021
Exemptions considered:	Sections 32(1), 33(1)
Citation:	'DX3' and Victorian WorkCover Authority (<i>Freedom of Information</i>) [2021] VICmr 333 (30 December 2021)'DX3'

FREEDOM OF INFORMATION – documents affecting legal professional privilege – referral letters to the Director of Public Prosecutions – consideration of whether to prosecute a matter – *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)

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

I am satisfied information in the documents is exempt under section 32(1) and 33(1). However, I have decided to release additional information in certain documents where I am satisfied the information is not exempt or irrelevant to the terms of the Applicant's request.

Therefore, my decision on the Applicant's request differs from the Agency's decision.

The Schedule of Documents in **Annexure 1** sets out my decision in relation to each document.

My reasons for decision follow.

Sven Bluemmel
Information Commissioner

30 December 2021

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency for access to the following documents:

All written documents or electronic communications involving [named person] and [named person] and the office of the DPP (Department of Public Prosecutions). Involving [Applicant] v [a specified company]...
2. Without having identified any, or all, documents, the Agency refused access to documents in accordance with the Applicant's request under section 25A(5).
3. On review, the Public Access Deputy Commissioner was not satisfied it is apparent from the nature of the documents, as described in the request, that all documents to which the request relates would be exempt under section 32(1). As the Agency did not appeal the Deputy Commissioner's decision, the Agency was 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.
4. The Agency identified 20 documents falling within the terms of the Applicant's request. It decided to refuse access to 12 documents in full, release four documents in part, and release four documents in full.
5. The Agency relied on the exemptions under sections 30(1), 32(1), 33(1) to refuse access to information in the documents.
6. The Agency's decision letter sets out the reasons for its decision.

Review application

7. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
8. I have examined copies of the documents subject to review.
9. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
10. I have considered all communications and submissions received from the parties.
11. 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.
12. I note Parliament's intention the FOI Act must 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.

Review of exemptions

Section 32(1) – Documents subject to legal professional privilege

13. Section 32(1) provides a document is an exempt document 'if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege'.

14. A document will be subject to legal professional privilege and exempt under section 32(1) where it contains a confidential communication:¹
 - (a) between the client (or the client's agent) and the client's professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice or is referable to pending or contemplated litigation; or
 - (b) between the client's professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
 - (c) between the client (or the client's agent) and third parties that was made for the purpose of obtaining information to be submitted to the client's professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation.

15. The High Court of Australia has held the purpose of legal professional privilege or client legal privilege, ensures a client can openly and candidly discuss legal matters with their legal representative and seek legal advice:

The rationale of this head of privilege, according to traditional doctrine, is that it promotes the public interest because it assists and enhances the administration of justice by facilitating the representation of clients by legal advisers, the law being a complex and complicated discipline. This it does by keeping secret their communications, thereby inducing the client to retain the solicitor and seek his advice, and encouraging the client to make a full and frank disclosure of the relevant circumstances to the solicitor.²

16. Where a question of legal privilege arises, the Agency must satisfy me that the dominant purpose for which the document was prepared was either for legal advice, or alternatively for anticipated litigation.³ These are referred to as advice privilege and litigation privilege respectively.

17. The dominant purpose for which the confidential communication was made determines whether the exemption applies.⁴ The dominant purpose test applies to both communications for the purpose of obtaining or giving legal advice.

18. The relevant time at which a claim for privilege is to be determined is the time when the document came into existence.⁵

19. The question of whether litigation was reasonably contemplated or reasonably anticipated at the relevant time is a question of fact, determined by reference to objective criteria.⁶

20. Whether legal proceedings are anticipated requires consideration of whether there was, at the relevant time, a real prospect of litigation, as distinct from a mere possibility.⁷

21. Legal privilege exists to protect the confidentiality of communications between a lawyer and a client. Privilege will be lost where the client has acted in a way that is inconsistent with the maintenance of that confidentiality – for instance where the substance of the information has been disclosed with the client's express or implied consent (**waiver of privilege**).⁸

22. The documents subject to review concern a referral from the Agency to the Director of Public Prosecutions (**DPP**) under the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic) (**WIRC**

¹ *Graze v Commissioner of State Revenue* [2013] VCAT 869 at [29]; *Elder v Worksafe Victoria* [2011] VCAT 1029 at [22]. See also *Evidence Act 2008* (Vic), section 119.

² *Grant v Downs* (1976) HCA 63; 135 CLR 674 at [19].

³ *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49.

⁴ *Ibid.*

⁵ *Telstra Corporation Limited v Minister for Communications, Information technology and the Arts (No.2)* [2007] FCA 1445 at [28].

⁶ *Mitsubishi Electric Australia Pty Ltd v Victorian Workcover Authority* (2002) 4 VR 332; [2002] VSCA 59 at [20].

⁷ *Ibid* at [19]; *In the matter of Southland Coal Pty Ltd* [2006] NSWSC 899 at [49].

⁸ *Mann v Carnell* (1999) 201 CLR 1 at [28].

Act). Pursuant to sections 577 and 607 of the WIRC Act, if a person considers an offence has occurred under the specified provisions of the WIRC Act, and no prosecution has been brought by the Agency within six months of its occurrence, the person may request in writing that the Agency bring a prosecution.⁹ Where the Agency decides that a prosecution will not be brought, the Agency must refer the matter to the DPP, if the person requests in writing that the Agency do so.¹⁰ The DPP must consider the matter and advise the Agency in writing whether or not the DPP considers a prosecution should be brought.¹¹ The Agency must ensure a copy of the advice is sent to the person who made the request, and if the Agency declines to follow the DPP's advice to bring proceedings, the Agency must give the person written reasons for its decision.¹²

23. The Victorian Civil and Administrative Tribunal (**VCAT**) has considered the application of section 32(1) to documents referred to the DPP in similar circumstances to the present matter.
24. In *Styles v Victorian Workcover Authority (Styles)*,¹³ a matter was referred to the DPP pursuant to section 131 of the *Occupational Health and Safety Act 2004* (Vic) (**OH&S Act**). The DPP considered the matter and advised the respondent that the DPP did not consider a prosecution should be brought. The applicant sought access to various documents, including the referral letter to the Office of Public Prosecutions (**OPP**).
25. VCAT found the referral letter was exempt under section 32(1), because it would be privileged from production in legal proceedings on grounds of legal professional privilege, for the following reasons:
 - (a) it contained a confidential communication between the client's agent (the Director, Legal Services and Investigations, Victorian WorkCover Authority) and the client's professional legal adviser (the DPP);
 - (b) that was made for the dominant purpose of obtaining legal advice which was referable to possible pending litigation.¹⁴
26. In reaching this conclusion, VCAT considered the DPP, in this situation, was the respondent's legal adviser because:

As the then Administrative Appeals Tribunal of Victoria observed in *Re Easdon and Director of Public Prosecutions; Minister for Police and Emergency Services and Victoria Police* (No 1) 2 VAR (1987) 102 at 115,

The Director is a lawyer, subject to the discipline of the Supreme Court, and he provided legal advice in his capacity as a lawyer, as a lawyer would. It is clearly established that the doctrine [of legal professional privilege] operates in respect of lawyers in public service so long as they are carrying out a lawyer's function.¹⁵

27. With respect to whether legal professional privilege had been waived by the Agency in providing a copy of the DPP's advice to the applicant, VCAT decided it had not been waived, as providing the advice to the applicant as required under section 131(5) of the OH&S Act was not inconsistent with the respondent retaining legal privilege.¹⁶
28. *Duffy v Victorian Workcover Authority (Duffy)*¹⁷ also concerns a request for documents sent to the DPP from the respondent, in circumstances which the respondent decided not to prosecute a matter under the OH&S Act. In that matter, the respondent refused access to documents under section 25A(5) as it

⁹ Section 577(1) and 607(1) of the WIRC Act.

¹⁰ 577(3) and 607(3) of the WIRC Act.

¹¹ Sections 577(4) and 607(4) of the WIRC Act.

¹² Sections 577(5) and 607(5)

¹³ (general) [2010] VCAT 1815.

¹⁴ Ibid at [59].

¹⁵ Ibid at [60].

¹⁶ Ibid.

¹⁷ (Review and Regulation) [2013] VCAT 545.

considered all requested documents would be exempt under section 32(1). Section 25A(5) allows an agency to refuse to process a request, where it is apparent from the nature of the request, that all documents would be exempt and it would not be possible to provide an edited copy of the documents with exempt information deleted.

29. VCAT did not accept the applicant's submission the DPP was engaging in a form of administrative review where a request is referred to the DPP under section 131 of the OH&S Act.¹⁸ VCAT determined it was apparent the documents would be exempt under section 32(1) because the documents provided to the DPP are analogous to a brief to counsel, and in reference to *Styles*, the DPP, in this particular situation, is the respondent's professional legal adviser.¹⁹
30. With respect to this review, I am satisfied the relationship between the DPP and Agency, in the circumstances of referrals pursuant to section 577(3) and 607(3) of the WIRC Act, is that of a client-lawyer relationship. It follows that the written communications between the Agency and the OPP are confidential communications between a client and legal adviser that was made for the dominant purpose of obtaining legal advice which is referable to possible pending litigation.
31. In accordance with VCAT's decisions in *Styles* and *Duffy*, I do not consider legal professional privilege was waived by the Agency providing a copy of the DPP's advice to the Applicant in accordance with sections 577(5) and 607(5) of the WIRC Act.
32. Therefore, I am satisfied certain documents are exempt under section 32(1).
33. I note the Applicant's strong interest in obtaining access to the documents. However, section 32(1) does not permit me to have regard to other matters, such as the extent to which an applicant's personal interest in the documents would be served by granting access, or any other public interest in favour of release. Rather, the provision is confined to establishing whether the documents would be prohibited from disclosure in legal proceedings on the ground of legal professional privilege.
34. My decision on the application of section 32(1) to the relevant documents is outlined in the Schedule of Documents in **Annexure 1**.

Section 33(1) – Documents affecting personal privacy of third parties

35. Given my decision on section 32(1) to certain documents, it is only necessary to consider the application of section 33(1) in Documents 14 to 17.
36. 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 (**a third party**);²⁰ and
 - (b) such disclosure would be 'unreasonable'.

Do the documents contain personal affairs information of individuals other than the Applicant?

37. Information relating to an individual's 'personal affairs' 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.²¹
38. A document will disclose a third party's personal affairs information if it is capable, either directly or indirectly, of identifying that person. As the nature of disclosure under the FOI Act is unrestricted and

¹⁸ Ibid at [42].

¹⁹ Ibid at [35], [38] – [41].

²⁰ Sections 33(1) and (2).

²¹ Section 33(9).

unconditional, this is to be interpreted by reference to the capacity of any member of the public to identify a third party.²²

39. Documents 14 to 17 contain names, emails addresses, telephone numbers, facsimile numbers, workplace addresses and position titles of agency officers, which is personal affairs information for the purposes of section 33(1).

Would disclosure of the personal affairs information be unreasonable in the circumstances?

40. The concept of 'unreasonable disclosure' involves determining whether the public interest in the disclosure of official information is outweighed by the interest in protecting a person's personal privacy in the circumstances.
41. In *Victoria Police v Marke*,²³ the Victorian Court of Appeal held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others'. Further, the exemption under section 33(1) 'arises only in cases of unreasonable disclosure' and '[w]hat amounts to an unreasonable disclosure of someone's personal affairs will necessarily vary from case to case'.²⁴
42. VCAT has generally accepted there is nothing particularly sensitive about matters occurring or arising out of the course of one's official duties.²⁵
43. Subject to an agency demonstrating that special circumstances apply, it is generally not unreasonable to disclose certain personal affairs information of agency officers in official documents of an agency where it relates to those persons in their professional capacity.
44. Whether the personal affairs information of Agency officers is exempt under section 33(1) must be considered in the context of the particular circumstances of each matter.²⁶
45. In determining whether disclosure of the personal affairs information of third parties in the document would be unreasonable in the circumstances, I have considered the following factors:

(a) The nature of the personal affairs information and circumstances in which it was obtained

The personal affairs information records Agency officers carrying out their usual employment responsibilities with respect to a referral of a matter to the DPP in accordance with the WIRC Act. The identity of the third parties whose information appears in the documents is not sensitive. However, I consider their direct professional contact details, in most instances, is personal information that is not generally available to the public.

I accept a number of third parties whose information appears in the documents have not been in contact with the Applicant with respect to the referral of the matter to the DPP or were not directly involved in the subject matter of the Applicant's request.

(b) Whether any public interest would be promoted by disclosure of the information

The Applicant submits disclosure of the documents would be in the public interest, as they consider the Agency has failed to perform its statutory functions and there is a lack of transparency and accountability.

²² *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].

²³ [2008] VSCA 218 at [76].

²⁴ *Ibid.*

²⁵ *Re Milthorpe v Mt Alexander Shire Council* (1997) 12 VAR 105.

²⁶ *Coulson v Department of Premier and Cabinet (Review and Regulation)* [2008] VCAT 229.

I am not satisfied there is a broader public interest that would be promoted by disclosure of the personal affairs information of third parties in the documents. Rather, the Applicant's interest in the information would serve a personal interest only.

(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.²⁷

As noted above, the Applicant seeks access to the documents as they consider there has been a lack of transparency and accountability with respect to their matter. The Applicant seeks to understand the reasons for the decisions made with respect to their matter.

(d) The likelihood of further disclosure of information, if released

The nature of disclosure under the FOI Act is unconditional and unrestricted, which means an applicant is free to disseminate widely or use a document as they choose once disclosed.²⁸

Therefore, I have considered the likelihood of the personal affairs information in the documents being further disseminated by the Applicant, if disclosed, and the effects such disclosure would have on the privacy of the third parties given the nature of the documents and their content.

Noting the Applicant's interest in holding the Agency to account, I consider it is reasonably likely the Applicant may further disseminate the documents.

(e) Whether the third parties to whom the information relates object, or would be likely to object, to release of their personal affairs information

There is no information before me concerning the views of third parties on disclosure of their personal affairs information.

On the information before me, I consider the relevant third parties would be likely to object to disclosure of their personal affairs information, particularly their direct contact details, if consulted. However, third parties who have directly corresponded with the Applicant may not have any concern.

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

In determining whether the disclosure of a document would involve the unreasonable disclosure of information relating to the personal affairs of any person, I must take into account whether the disclosure of the information would, or would be reasonably likely to, endanger the life or physical safety of any person.²⁹

In considering this factor, I note the Victorian Civil and Administrative Tribunal (**VCAT**) has held physical safety is not concerned solely with actual safety, but also with the perception of the relevant person as to whether they are safe.³⁰ Similarly, VCAT has found the maker of the

²⁷ *Victoria Police v Marke* [2008] VSCA 218 at [104].

²⁸ *Ibid* at [68].

²⁹ Section 33(2A).

³⁰ *O'Sullivan v Police (Vic)* (2005) 22 VAR 426; [2005] VCAT 532 at [19].

documents in question may have a perception of fear if their personal affairs information were disclosed.³¹

46. I acknowledge the Applicant's personal interest in obtaining access to all information in the documents and that redactions can create a sense of disappointment and frustration for an applicant, regardless of whether only a small amount of information is withheld.
47. However, in weighing up the above factors, on balance, I am satisfied it would be unreasonable to disclose the names and contact details of most of the third parties in the particular circumstances of this matter. However, I have decided it would not be unreasonable to disclose the names and position titles of certain third parties in the documents, where on the information before me, they were involved in the Applicant's matter and the Agency released their names in other documents.
48. My decision on the application of section 33(1) to each relevant document is outlined in the Schedule of Documents in **Annexure 1**.

Section 25 – Deletion of exempt or irrelevant information

49. Section 25 requires an agency to grant access to an edited copy of a document where it is practicable for the agency or Minister to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
50. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'³² and the effectiveness of the deletions. Where deletions would render the document meaningless, they are not 'practicable', and release of the document is not required under section 25.³³
51. I have considered the information the Agency deleted from the documents as irrelevant. In certain documents, I agree it falls outside the scope of the Applicant's request because the information relates to matters or people that have no relevance to the matter involving the Applicant.
52. In other documents, I do not agree the information falls outside of the scope of the Applicant's request, because the information is communications of persons specified in the Applicant's request in relation to the matter involving the Applicant.
53. I am satisfied some of the documents subject to review are exempt from release under section 32(1) in full and there is no obligation under section 25 to provide the Applicant with edited copies of those documents with any exempt or irrelevant information deleted.
54. I have decided it is practicable to provide the Applicant with edited copies of Documents 14 to 17, as the edited documents will retain meaning and editing the documents will not require substantial time and effort.
55. My decision on section 25 for each document is outlined in the Schedule of Documents in **Annexure 1**.

³¹ *Morse v Building Appeals Board (No 2)* [2007] VCAT 2344 at [15].

³² *Mickelborough v Victoria Police (General)* [2009] VCAT 2786 [31]; *The Herald and Weekly Times Pty Limited v The Office of the Premier (General)* [2012] VCAT 967 at [82].

³³ *Honeywood v Department of Human Services* [2006] VCAT 2048 [26]; *RFJ v Victoria Police FOI Division (Review and Regulation)* [2013] VCAT 1267 at [140], [155].

Conclusion

56. On the information before me, I am satisfied the exemptions in sections 32(1) and 33(1) apply to information in the documents. Given my decision on section 32(1), it was unnecessary to consider the application of section 30(1) to the same documents.
57. However, I have decided to release additional information in the documents to the Applicant, where I am satisfied the information is not exempt or irrelevant.
58. My decision on each document is outlined in the Schedule of Documents in **Annexure 1**.

Review rights

59. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.³⁴
60. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.³⁵
61. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.³⁶
62. 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.
63. 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.³⁷

Third party review rights

64. As I have determined to release documents that contain the personal affairs information of persons other than the Applicant, if practicable, I am required to notify those persons of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.³⁸
65. In this case, I am satisfied it is practicable to notify the relevant third parties of their review rights and confirm they will be notified of my decision.

When this decision takes effect

66. My decision does not take effect until the third parties' 60-day review period expires.
67. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

³⁴ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

³⁵ Section 52(5).

³⁶ Section 52(9).

³⁷ Sections 50(3F) and (3FA).

³⁸ Sections 49P(5), 50(3) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
1.	[date]	Letter	1	Refused in full Sections 30(1), 32(1), 33(1)	Refuse in full Section 32(1)	<p>Section 32(1): I am satisfied the document (including any attachments) is exempt under section 32(1) for the reasons provided in the Notice of Decision, above.</p> <p>Given my decision on section 32(1), it is unnecessary to consider the additional exemptions applied by the Agency in its decision.</p> <p>Section 25: I have considered the effect of deleting exempt information from the document. I am satisfied it is exempt in full and there is no obligation under section 25 to provide the Applicant with an edited copy of the document with exempt information deleted.</p>
2.	[date]	Letter	1	Refused in full Sections 30(1), 32(1), 33(1)	Refuse in full Section 32(1)	Sections 32(1) and 25: See comments for Document 1.
3.	[date]	Letter	1	Refused in full	Refuse in full Section 32(1)	Sections 32(1) and 25: See comments for Document 1.

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
				Sections 32(1), 33(1)		
4.	[date]	Letter	1	Refused in full Sections 32(1), 33(1)	Refuse in full Section 32(1)	Sections 32(1) and 25: See comments for Document 1.
5.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1), 25	Refuse in full Section 32(1)	<p>Section 32(1): See comments for Document 1.</p> <p>Section 25: Certain information in this document relates to a third party and has no relevance to the Applicant's matter that was before the Agency and the DPP. I am satisfied it is irrelevant information that is to remain deleted.</p> <p>In my view, it is not practicable for the Agency to delete the irrelevant and exempt information, because the remaining non-exempt information would be minimal and limited in meaning, given the majority of the information in the documents is exempt.</p> <p>Accordingly, access to the document is refused in full.</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
6.	[date]	Email thread	3	Refused in full Sections 32(1), 33(1)	Refuse in full Section 32(1)	Sections 32(1) and 25: See comments for Document 1.
7.	[date]	Email thread	4	Refused in full Sections 32(1), 33(1)	Refuse in full Section 32(1)	Sections 32(1) and 25: See comments for Document 1.
8.	[date]	Email thread	4	Refused in full Sections 32(1), 33(1), 25	Refuse in full Section 32(1)	<p>Section 32(1): I am satisfied the top email within the email thread is a confidential communication between Agency officers, which was made for the dominant purpose of obtaining information to be submitted to its legal adviser (DPP), for the dominant purpose of obtaining advice on pending litigation.</p> <p>The remainder of the email thread contains confidential communications between the Agency and the OPP, made for the dominant purpose of obtaining legal advice which is referable to possible pending litigation. I am</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						satisfied it is exempt under section 32(1). Section 25: See comments for Document 1.
9.	[date]	Email thread	5	Refused in full Sections 32(1), 33(1), 25	Refuse in full Section 32(1)	Section 32(1): See comments for Document 8. Section 25: See comments for Document 1.
10.	[date]	Email thread	5	Refused in full Sections 32(1), 25	Refuse in full Section 32(1)	Section 32(1): See comments for Document 8. Section 25: See comments for Document 1.
11.	[date]	Email thread with attachments	40	Refused in full Sections 32(1), 33(1), 25	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
12.	[date]	Email thread	5	Refused in full Sections 32(1), 33(1), 25	Refuse in full Section 32(1)	Section 32(1): I am satisfied the document is a confidential communication between the Agency and its legal adviser made for the dominant purpose of

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>obtaining legal advice which is referable to possible pending litigation.</p> <p>I am satisfied the document also contains confidential communications between Agency and a third party, which was made for the dominant purpose of the Agency obtaining information to be submitted to its legal adviser (DPP) for the dominant purpose of obtaining advice on pending litigation.</p> <p>Accordingly, I am satisfied the document is exempt under section 32(1).</p> <p>Section 25: See comments for Document 1.</p>
13.	[date]	Letter	1	Released in full	Not subject to review	
14.	[date]	Email and attachment	2	Released in part Section 33(1), 25	Release in part Section 33(1), 25 The name exempted by the Agency is exempt under section	Section 33(1): I am satisfied it would be unreasonable to disclose the exempted personal affairs information for the reasons

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					33(1) and is to remain deleted in accordance with section 25.	provided in the Notice of Decision, above. The attachment: The Agency released the attachment to the Applicant in full.
15.	[date]	Email thread and an attachment	2	Released in part Sections 33(1), 25	<p>Release in part Sections 33(1), 25</p> <p>The email and its attachment are to be released, except for the following information in the email, which is exempt under section 33(1) and is to be deleted in accordance with section 25:</p> <p>(a) names of third parties who are not named in the Applicant's FOI request; and</p> <p>(b) the telephone numbers and workplace address in the email signature of the Agency officer in the email dated [date].</p>	<p>Section 25: I am not satisfied the information deleted by the Agency as irrelevant information is irrelevant. Rather, I am satisfied it involves the relevant persons and concerns the Applicant's matter.</p> <p>Section 32(1): I have considered whether the information deleted by the Agency as irrelevant information contains information exempt under section 32(1). In my view, the document does not contain a confidential communication made for the dominant purpose of obtaining or providing advice on pending litigation. Therefore, it is not exempt under section 32(1).</p> <p>Section 33(1): I am satisfied it would be unreasonable to release some of the personal affairs information in this document for</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
						<p>the reasons provided in the Notice of Decision, above.</p> <p>The attachment: The Agency released the attachment to the Applicant in full.</p>
16.	[date]	Email thread and attachment	4	Released in part Sections 33(1), 25	<p>Release in part Sections 33(1), 25</p> <p>The email thread and attachment are to be released, except for the following information in the email thread, which is exempt under section 33(1) and is to be deleted in accordance with section 25:</p> <p>(a) names of third parties who are not named in the terms of the Applicant's request; and</p> <p>(b) contact details of all third parties, which includes direct email addresses, telephone numbers,</p>	<p>The Agency only provided OVIC with one page of this email thread for review. The complete email thread is provided in Document 17, below.</p> <p>Sections 32(1), 33(1) and 25: See comments for Document 15.</p> <p>The attachment: The Agency released the attachment, comprising of two pages, to the Applicant in full.</p>

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
					facsimile numbers and workplace addresses.	
17.	[date]	Email thread	5	Released in part Sections 33(1), 25	<p>Release in part Sections 33(1), 25</p> <p>The email thread and attachments are to be released, except for the following information in the email thread, which is exempt under section 33(1) and is to be deleted in accordance with section 25:</p> <p>(a) names of third parties who are not named in the terms of the Applicant's request; and</p> <p>(b) contact details of all third parties, which includes direct email addresses and telephone numbers, facsimile numbers and workplace addresses.</p>	<p>Sections 32(1), 33(1) and 25: See comments for Document 15.</p> <p>The attachments: The Agency released the attachments to the Applicant in full.</p>
18.	[date]	Email	1	Released in full	Not subject to review	

Document No.	Date of Document	Document Description	No. Of Pages	Agency's Decision	OVIC Decision	OVIC Comments
19.	[date]	Email thread	1	Released in full	Not subject to review	
20.	[date]	Email thread	4	Released in full	Not subject to review	