

Notice of Decision and Reasons for Decision

Applicant:	'EL8'
Agency:	Department of Justice and Community Safety
Decision date:	20 May 2022
Exemptions considered:	Sections 33(1), 35(1)(a), 35(1)(b)
Citation:	'EL8' and Department of Justice and Community Safety (Freedom of Information) [2022] VICmr 135 (20 May 2022)

FREEDOM OF INFORMATION – workplace investigation – cultural review – external consultant – information that could identify a participant – information communicated in confidence – removal of personal affairs information – disclosure not contrary to the public interest

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 a document requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision in that I have determined to release additional information in the document where I am satisfied it is not exempt from release under sections 35(1)(a) and 35(1)(b). However, I consider certain information in the document is exempt under section 33(1).

As I am satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt information deleted in accordance with section 25, access to the document is granted in part.

A marked-up copy of the document with information I am satisfied is exempt has been provided to the Agency.

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

20 May 2022

Reasons for Decision

Background to review

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

the full report, including recommendations from [external consultant] submitted to Emergency Management Victoria (**EMV**) and Department of Environment, Land Water and Planning (**DELWP**). The report is titled Safe Landings Cultural Review. The report was undertaken by a third party independent external consultancy to review the culture, capability, and safety practices within the Victorian emergency aviation program. The review was approved by [Position and name] and [Position and name] DELWP.
2. The Agency identified one document falling within the terms of the Applicant's request and refused access to the document in full under sections 33(1) and 35(1)(b). The Agency's decision letter sets out the reasons for its decision.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. In consultation with OVIC staff, the Applicant advised they do not seek access to the personal affairs information of any third party in the document.
5. During the review, the Agency advised it also relies on section 35(1)(a) to refuse access to the document in full.
6. I have examined a copy of the document subject to review.
7. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
8. I have considered all communications and submissions received from the parties.
9. 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.
10. 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.

Preliminary view provided to Agency

11. On [date], the Agency was provided with my preliminary view on its decision that the document is not exempt in full under sections 30(1), 35(1)(a) and 35(1)(b). However certain parts of the document is exempt under section 33(1). The Agency was invited to provide a further submission or make a fresh decision under section 49M.
12. On [date], the Agency advised it disagreed with my preliminary view and maintained sections 30(1), 35(1)(a) and 35(1)(b) apply to the document in part. In doing so, the Agency declined to make a fresh decision under section 49M.

Review of exemptions

Section 35(1)(a) – Confidential information that would be exempt if generated by an agency

13. A document is exempt under section 35(1)(a) if two conditions are satisfied:
 - (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
 - (b) the information would be exempt matter if it were generated by an agency or Minister.
14. To determine if these conditions are met it is necessary to undertake the same analysis as for the exemption in section 30(1).
15. Therefore, I must consider that if the document had been prepared by an agency whether it would be exempt from release under section 30(1), the requirements of which are set out below.

Section 30(1) – Internal working documents

16. Section 30(1) has three requirements:
 - (a) the document must disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister;
 - (b) such matter must be made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government; and
 - (c) disclosure of the matter would be contrary to the public interest.
17. The exemption does not apply to purely factual material in a document.¹
18. The term ‘officer of an Agency’ is defined in section 5(1). It includes a member of an agency, a member of an agency’s staff, and any person engaged by or on behalf of an agency, whether or not they are subject to the *Public Administration Act 2004* (Vic).
19. In relation to section 30(1), the Agency submits:

The workplace review is opinion-based and those who participated in the interviews did so on the assurance of anonymity. It is not in the public interest to release information in the nature of opinion, advice and recommendation, which concerns workplace assessments, interviews with agency officers and external contractors, reviews and short, medium and long term recommendations.

I refer to the matter of *Billinghurst v Department of Industry, Technology and Resources* [1986] 1 VAR 299 at [307] where it was decided that it was not in the public interest to release a report commissioned and prepared for an Agency, especially where release may undermine the implementation of recommendations and cause significant unnecessary disruption to an agency or agencies. A number of findings in the report have been, or are in, the process of being implemented to improve workplace culture.

It is submitted that the disclosure of information obtained from participants in relation to sensitive workplace issues would impair the departments from properly identifying and addressing similar matters in the future.

¹ Section 30(3).

20. As part of their review application, the Applicant [provided personal contextual information about their reason for requesting access to the document]:

[contextual information redacted]

Does the document disclose matter in the nature of opinion, advice or recommendation prepared by an officer or Minister, or consultation or deliberation that has taken place between officers, Ministers or an officer and a Minister?

21. The document is a report authored by an external consultant who was engaged by the Agency and the Department of Environment, Land, Water and Planning (**DELWP**) to conduct an independent review into workplace culture of staff employed within a particular work area within the Agency. In these circumstances, I am satisfied the external consultant is an 'officer' of the Agency for the purposes of the FOI Act.
22. Having reviewed the document, I am also satisfied it contains opinion, advice and recommendations prepared the external consultant.

Was the document made in the course of, or for the purpose of, the deliberative processes involved in the functions of an agency or Minister or of the government?

23. I am satisfied the document was created in the course of the deliberative processes involved in the functions of the Agency, namely as an employer with obligations under workplace legislation to provide for a safe workplace for its employees.²

Would disclosure of the document be contrary to the public interest?

24. In determining if disclosure of the document would be contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of information.
25. In this case, I have given weight to the following factors:
- (a) the right of every person to gain access to documents under the FOI Act;
 - (b) the degree of sensitivity of the issues discussed in the document and the broader context giving rise to the creation of the document;
 - (c) the stage of a decision or status of policy development or a process being undertaken at the time the communications were made;
 - (d) whether disclosure of the document would be likely to inhibit communications between Agency officers, essential for the agency to make an informed and well-considered decision or participate fully and properly in a process in accordance with the Agency's functions and other statutory obligations;
 - (e) whether disclosure of the document would give merely a part explanation, rather than a complete explanation for the taking of a particular decision or the outcome of a process, which the Agency would not otherwise be able to explain upon disclosure of the document;
 - (f) the impact of disclosing documents in draft form, including disclosure not clearly or accurately representing a final position or decision reached by the agency at the conclusion of a decision or process; and

² See, for example, *Occupational Health and Safety Act 2004* (Vic).

- (g) the public interest in the community being better informed about the way in which the Agency carries out its functions, including its deliberative, consultative and decision-making processes and whether the underlying issues require greater public scrutiny.

26. I consider there are factors that weigh both in favour and against disclosure. While I note the Agency views the entire document is exempt from release, having carefully reviewed the document and considered its content and context, I have determined it would not be contrary to the public interest to disclose certain information in the document. As such, I am not satisfied the entire document is exempt from release for the following reasons:

- (a) The document includes background and factual information. It discusses a range of issues including workplace morale, behaviours, grievances, career opportunities and pathways, and governance and safety. Some of these issues are discussed more broadly and are not attributed to any particular person.
- (b) Overall, the document appears to have been carefully drafted by the author so as not to disclose the identity of a particular individual. Although I accept some parts of the document refer to an identifiable group of individuals, I consider the document can be edited so as to remove information that would identify any individual or a small group of individuals.
- (c) Excluding information that identifies, or could be used to identify, a particular individual or a small group of individuals (including direct quotes from an unnamed interviewee), I am satisfied the information to be released would not impair the Agency's ability to undertake a similar workplace review in the future, including obtaining the voluntary cooperation of participants.
- (d) In releasing certain information in the document that confirms general comments and views held by participants in the review, the findings and recommendations made to the Agency by the external consultant, I do not consider disclosure of this information would undermine the provision of similar information to the Agency in the future.
- (e) While I acknowledge independent workplace reviews require the voluntary participation of employees and other relevant persons, it will not always be in the public interest to release sensitive documents of this nature. However, I consider the release of certain information in this particular document would build trust in the Agency's fulfilment of its obligations as a public sector employer and its ability to meet its workplace safety obligations.
- (f) I consider this approach is consistent with the object of the FOI Act, which is to create a general right 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'. Given the content and context of the document, I consider the public interest weighs in favour of disclosure rather than secrecy.
- (g) While public interest considerations are often finely balanced, I am satisfied disclosure of the document in part would serve the public interest in transparency, especially for persons who participated in the review or work within the relevant area of the Agency. This is particularly so in the absence of other information or communication provided by the Agency to staff as to any steps taken, or to be taken, to address issues identified in the document and raised by the review participants about workplace culture and related issues.
- (h) As discussed below, similar reviews have been undertaken in similar contexts where, while sensitive and sometimes critical in nature, a final document was published in the interests of transparency for participants, the agency's staff and the public more generally. In such cases, the health and safety of a public sector workplace can be critical to an agency carrying out its important public functions.

- (i) I consider members of the public are capable of understanding that documents of this nature are created at a particular point in time where actions may not have been completed or where a course of decision making is not ultimately pursued.
 - (j) If the Agency considers there is a risk information in the document to be released being misinterpreted by the Applicant or others, it is open to the Agency to provide additional information to inform the content to be released or any actions taken, or being taken, by the Agency in response to the document.
27. For the above reasons, I am satisfied disclosure of the document would not be contrary to the public interest, and the document is not exempt under section 30(1).
28. Accordingly, I am satisfied the requirements of section 35(1)(a) have not been met.

Section 35(1)(b) – Confidential information that would be contrary to the public interest to disclose

29. A document is exempt under section 35(1)(b) if two conditions are satisfied:
- (a) disclosure would divulge information or matter communicated in confidence by or on behalf of a person or a government to an agency or a Minister; and
 - (b) disclosure would be contrary to the public interest as it would be reasonably likely to impair the ability of an agency or a Minister to obtain similar information in the future.
30. Similarly to section 35(1)(a), whether information communicated by an individual was communicated in confidence is a question of fact.³
31. In relation to section 35(1)(b), the Agency submits:

The Department maintains the view that it is clearly the case that the interviews which informed the creation of the report were undertaken in a confidential manner with the express purpose of fostering greater candour so that the relevant agencies would have a higher chance of successfully resolving the issues experienced in that workplace.

To understand the public interest in terms of this section and the report at hand, consideration should be given to the prospects that people would continue to provide information of this type in the future if the report was released. The simple answer to this is no, staff would not engage in the same way at all. While it might be that some staff would still choose to participate, it is the clear view of DELWP and EMV that, if released, staff would either not participate or would only participate in a very perfunctory way as to avoid additional detriment.

This would significantly impact on both agencies to manage the workplace effectively or to develop a full and proper understanding of the core issues. The express provision of confidentiality was to foster greater candour to reduce the risk of issues not being raised or not being raised to the fullest extent possible. Putting this process and the outcomes in jeopardy would significantly hinder the smooth, effective, and efficient operation of the emergency service function that is carried out.

While it is acknowledged there is an inherent public interest in knowing that an emergency services workplace is managed effectively and operating smoothly, the specific nature of the information at hand, how it was gathered, and specifically how it was communicated to staff on its usage would in fact have the opposite effect. The Department maintains that it is contrary to the public interest for the information contained in the Document to be released in its current form. This is especially true due to the nature of how it was obtained from employees and that release would reasonably jeopardise and erode trust in DELWP and EMV by those employees.

³ *Ryder v Booth* [1985] VR 869 at 883; *XYZ v Victoria Police* [2010] VCAT 255 at [264].

Was the information obtained in confidence?

32. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.⁴ I have carefully considered the material in the document, and in particular, the perspectives of the third parties who were interviewed as part of the investigation.
33. I do not accept the Agency's submission the interviews were conducted on a strictly confidential basis. It is clear on the face of the document that some further disclosure was contemplated, as set out in the 'interview methodology' section:

At the start of each interview, the Reviewer explained to the interviewee the protocol under which it was expected that the interviews be conducted. This included confidentiality and open disclosure. It was noted, however, that to the extent reasonably practicable information provided by Interviewees would be de-identified excluding where such information raised a serious complaint or occupational, health and safety concern.

34. In the context of this matter, I am satisfied that those who made statements to the external consultant did so in circumstances in which a certain degree of confidentiality can reasonably be implied based on the nature and context of the review. Therefore, I am satisfied disclosure of the document in full would divulge information communicated in confidence.

Would disclosure of the document be contrary to the public interest as it would be reasonably likely to impair the ability of the Agency to obtain similar information in the future?

35. The second limb of section 35(1)(b) requires an FOI decision maker to determine whether the disclosure of a document would be reasonably likely to impair the Agency's ability to obtain similar information in the future.
36. The public interest test in section 35(1)(b) is narrow, in that it is directed toward the impact that release would have on an agency's ability to obtain the same type of information in the future. The provision does not permit me to have regard to other matters, such as any public interest in favour of release, or the extent to which the Applicant's personal interest in the document would be served by granting them access to the document.
37. I note the recent independent review undertaken by the Victorian Equal Opportunity and Human Rights Commission (**Commission**) at the request of the Agency into workplace equality in Ambulance Victoria, 'following reports of alleged discrimination, sexual harassment, victimisation and bullying in the organisation' is evidence of the continuing occurrence of workplace reviews.⁵ Following the Commission's review, it published two final reports. While the scope of the Commission's review covered the whole of Ambulance Victoria and the report the subject of this review examines the Agency's workforce in a particular work area, I consider the document is written in such a way so as not to disclose the identity of any particular individual or source of confidential information.
38. Similar workplace reviews have also been conducted into Victoria Police.⁶ As such, I consider reviews of this nature are not uncommon and rely on the voluntary participation of agency officers who are almost always provided with assurances of confidentiality in exchange for relevant information to inform a workplace review.

⁴ Ibid.

⁵ See *Final Document into Independent Review into Workplace Equality in Ambulance Victoria* (Volumes 1 and 2) (published by the Victorian Equal Opportunity and Human Rights Commission at <https://www.humanrights.vic.gov.au/legal-and-policy/research-reviews-and-investigations/ambulance-victoria-review/about/>).

⁶ See for example the Victorian Equal Opportunity and Human Rights Commission's independent review of Victoria Police at <https://www.humanrights.vic.gov.au/legal-and-policy/research-reviews-and-investigations/police-review/>.

39. I also acknowledge the fine balance between encouraging the voluntary participation of agency officers in exchange for assuring a certain degree of participants' confidentiality with the need to synthesise and report on evidence obtained and make appropriate findings and recommendations.
40. In most instances, the views and experiences of participants are communicated from a broad or general perspective rather than recording a specific opinion provided by an individual. Accordingly, where I consider information in the document could not be used to reidentify a specific individual or participant, I consider its disclosure would not impair the Agency's ability to obtain similar information in the future given the nature and importance of workplace reviews of this nature.
41. Where I have identified information that could be used to identify a specific individual or individuals, I consider that information is more appropriately characterised as 'personal affairs information' and is discussed below.
42. Given the above and the context in which the information was provided to the Agency, I am not satisfied disclosure of the document in part would impair the ability of the Agency to obtain similar information in the future. Accordingly, I am satisfied disclosure of certain information in the document would not be contrary to the public interest, and the document is not exempt under section 35(1)(b).

Section 33(1) – Personal affairs information

43. The Agency also relies on section 33(1) to refuse access to the document in full.
44. For completeness, I have further considered the application of section 33(1) to the information I have determined is not exempt under section 35(1)(a) or 35(1)(b).
45. 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**);⁷ and
 - (b) such disclosure would be 'unreasonable'.

Does the document contain personal affairs information of third parties?

46. Information relating to the 'personal affairs' of another person includes information that identifies any person or discloses their addresses or location. It also includes and information from which such information may be reasonably determined.⁸
47. 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 unconditional, this is to be interpreted by reference to the capacity of any member of the public to identify a third party.⁹
48. A third party's opinion or observations about another person's conduct can constitute information related to the personal affairs of a third party.¹⁰

⁷ Sections 33(1) and 33(2).

⁸ Section 33(9).

⁹ *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].

¹⁰ *Richardson v Business Licensing Authority* [2003] VCAT 1053, cited in *Davis v Victoria Police (General)* [2008] VCAT 1343 at [43], *Pritchard v Victoria Police (General)* [2008] VCAT 913 at [24], *Mrs R v Ballarat Health Services (General)* [2007] VCAT 2397 at [13].

49. The Applicant does not seek access to certain personal affairs information, such as an individual's name or position title. However, the nature of personal affairs information is broader than this information. As such, where I am satisfied there is potential for the identity of an individual to be deduced, this information would constitute personal affairs information for the purpose of section 33(1).
50. [Contextual information redacted], I have interpreted this [being what constitutes personal affairs information for the purposes of section 33(1)] broadly to include:
- (a) where the opinions disclosed relate to a small, identified part of the overall work group;
 - (b) where the opinions disclosed are specific to a work area or issue, such that the persons who expressed those views could be deduced;
 - (c) similarly, where the language used in the report could lead to the identification of an individual or small group of individuals;
 - (d) where the report refers to direct quotes – where the language used could be identified by the Applicant [redacted].
51. Accordingly, I will further consider whether the disclosure of the personal affairs information identified above would be unreasonable.

Would disclosure of the personal affairs information be unreasonable?

52. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the interest in protecting a third party's personal privacy in the particular circumstances.
53. Whether the disclosure of a third party's personal affairs information would be unreasonable may not be apparent from a document. Rather, it needs to be considered in the context of other information already known to an applicant or publicly available, and when considered in totality, would involve the unreasonable disclosure of a third party's personal affairs information.¹¹
54. In *Victoria Police v Marke*,¹² 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'.¹³ The Court further held, '[t]he protection of privacy, which lies at the heart of [section] 33(1), is an important right that the FOI Act properly protects. However, an individual's privacy can be invaded by a lesser or greater degree'.¹⁴
55. In determining whether disclosure of personal affairs information in the document would be unreasonable, I have considered the following factors:

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

The review conducted by the external consultant relied on the voluntary provision of free and fulsome information from Agency officers within a small cohort of Agency officers working in a specialised area. In this case, I accept the participants provided their personal affairs

¹¹ [2008] VSCA 218 at [94].

¹² [2008] VSCA 218 at [76].

¹³ *Ibid.*

¹⁴ *Ibid* at [79].

information to the consultant on the basis they would not be named or identified in the document, and the specific nature of the information they provided would be held in confidence due to its sensitive nature concerning a review of workplace health and wellbeing.

I further acknowledge the Agency's submissions and accept that parts of the document contain individual observations or opinions, often reinforced or demonstrated by a quote provided by a participant, which means the information is sensitive in nature given its content and the context in which it was provided.

(b) The extent to which the information is available to the public

While I note that a copy of the document appears to have been provided to a journalist and the broad findings of the report were made public in an article, I am satisfied the personal affairs information provided to the Agency is not publicly available.

(c) Whether the individuals to whom the personal affairs information relates object or would be likely to object to the release of their personal affairs information

There is no information before me about the views of participants concerning the release of their personal affairs information in the document. I accept consultation with the participants as to their views on disclosure is not practicable given no particular individual is named in the document. In any case, I consider most participants would be reasonably likely to object to the disclosure of their personal affairs information in the document.

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

As discussed above in relation to section 35(1)(b), there is a public interest in Agency officers being sufficiently comfortable and confident to voluntarily participate in a sensitive workplace review. I am satisfied disclosure of the experiences of Agency officers would undermine the confidentiality of participants and their confidence in the conduct and integrity of similar future reviews.

(e) The Applicant's interest in the information

While I acknowledge the Applicant's interest in obtaining access to the document, I do not consider their personal interest overrides the important public interest in the Agency being able to conduct comprehensive and confidential workplace reviews. However, this public interest also needs to be balanced with the public interest in ensuring transparency into the Agency's ability to fulfil its statutory obligations to provide a safe and fair workplace.

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

Consideration of this factor is required under section 33(2A) when determining whether a third party's personal affairs information should be disclosed to an applicant. In this case, there is no information before me to suggest this is a relevant factor.

56. Having considered the above factors, on balance, further to my decision under sections 35(1)(a) and 35(1)(b), I am satisfied the disclosure of any personal affairs information in the document would be unreasonable in the circumstances due to the content and context of the report into a sensitive workplace matter and the public interest in the Agency being able to ensure the confidentiality of participants and their confidence in the conduct and integrity of similar future reviews.

57. However, I am not satisfied certain information in the document is exempt under section 33(1) where it represents the general or collective opinion and observations of participants as such

information does not relate to constitute information relating to the 'personal affairs' of another person for the purposes of section 33(1).

Section 25 – Deletion of exempt or irrelevant information

58. Section 25 requires an agency to grant access to an edited copy of a document where it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
59. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁵ and the effectiveness of the deletions. Where deletions would render a document meaningless, they are not 'practicable', and release of the document is not required under section 25.¹⁶
60. I have considered whether it is practicable to provide the Applicant with an edited copy of the document with irrelevant and exempt information deleted from the document in accordance with section 25.
61. The irrelevant information is the name of the author of the document.
62. The exempt information has been identified in a marked up copy of the document provided with this decision.
63. I am satisfied it is practicable to do so as it will not require substantial time and effort, and the edited document will retain meaning.

Conclusion

64. My decision on the Applicant's request differs from the Agency's decision in that I have determined to release additional information in the document where I am satisfied it is not exempt from release under sections 33(1), 35(1)(a) and 35(1)(b).
65. As I am satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt information deleted in accordance with section 25, access to the document is granted in part.
66. A marked-up copy of the document with information I am satisfied is exempt has been provided to the Agency.

Review rights

67. If either party to this review is not satisfied with my decision, they are entitled to apply to the Victorian Civil and Administrative Tribunal (**VCAT**) for it to be reviewed.¹⁷
68. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.¹⁸
69. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.¹⁹

¹⁵ *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].

¹⁶ *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].

¹⁷ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

¹⁸ Section 52(5).

¹⁹ Section 52(9).

70. 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.
71. 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.²⁰

Third party review rights

72. As I have determined to release information the Agency determined is exempt under sections 35(1)(a) and 35(1)(b), if practicable, I am required to notify the relevant third parties of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.²¹
73. In this case, I am satisfied it is not practicable to notify the third parties of their review rights given they are not directly named in the document.

When this decision takes effect

74. My decision does not take effect until the Agency's 14 day review period expires.
75. If a review application is made to VCAT, my decision will be subject to any VCAT determination.

²⁰ Sections 50(3F) and 50(3FA).

²¹ Sections 49P(5), 50(3B) and 52(3).