

Public Access Agency Reference Group Meeting

Date: Monday 22 August 2022

Time: 2:00 – 3:00pm (Microsoft Teams)

Participants

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

Paul Pittorino, Manager Complaints and Professional Standards, OVIC

Tyrrell Davidson, Manager Reviews and Regulations, OVIC

Andrew Weston, Department of Transport

Bronte Wright, Victorian WorkCover Authority

Cameron Montgomery, City of Ballarat

Delilah Nichols, Transport Accident Commission

Lisa Scholes, Department of Families, Fairness and Housing

Monica Barnes, Country Fire Authority

Peter Gannoni, City of Melbourne

Robin Davey, Victoria Police

Susan Maye, University of Melbourne

Anita Mugo, Secretariat, OVIC

Agenda Items

1. Welcome

- **Meeting start:** 2:03pm
- The Public Access Deputy Commissioner welcomed everyone to the meeting.

Apologies

- Shantelle Ryan, OVIC
- Penny Eastman, OVIC
- Felicity Wright, Transport Accident Commission
- Jude Hunter, Victorian WorkCover Authority
- Elle Maroudas, Department of Education and Training
- Melinda Robinson, Department of Justice and Community Safety

Previous meeting minutes and action items

- Attendees confirmed the meeting minutes of 23 May 2022. There were no action items arising from that meeting.

2. Agency updates

- Reference Group members provided updates on their agency and FOI workloads:
 - **Recruitment and resourcing** – one member noted their agency has recruited new FOI practitioners while another member noted ongoing resourcing challenges at their

agency.

- **Electronic document release** – one member noted their agency has established electronic document release for care leavers with hard copy documents printed on request. This is helping the agency manage its workload.
- **FOI workloads** – some members noted the large volume of FOI requests and complaints at their agencies. One member noted their appreciation for the temporary process OVIC has implemented to help agencies that have a significant number of complaints manage their workload.

3. **FOI Professional Standards Framework**

- The Manager Complaints and Professional Standards noted OVIC published the [Professional Standards Framework](#) in June 2022. The Framework sets out how OVIC regulates compliance with Professional Standards including how OVIC identifies, records and monitors agency compliance with the Standards. It also discusses OVIC's process for handling Professional Standards matters and includes a flowchart of the process.
- The Public Access Deputy Commissioner discussed the Professional Standards as part of OVIC's role as an independent regulator. She advised one role of the Standards is to set out the minimum standard and expectations for agencies when administering the FOI Act, consistent with the requirements of the Act.
- She advised members that much of OVIC's work is proactive and is directed at providing education and guidance to agencies in relation to their statutory obligations under the FOI Act. In this way, OVIC's preference is to assist agencies in meeting their obligations. She noted OVIC encounters a minority of agencies that take an overly technical and legalistic approach to their obligations under the FOI Act and Professional Standards, which is not consistent with the object and purpose of the Act. Further, this likely leads to matters being drawn out for all parties and, where agencies engage legal representation, involves the additional expenditure on legal costs by agencies.
- Agency FOI practitioners are always invited to contact OVIC directly as a first step to progressing a review or complaint matter, and to discuss issues. For example, where an agency may have a difference of opinion on the application or requirements of the FOI act or Professional Standards this can be taken up directly with OVIC.

4. **International Access to Information Day**

- The Public Access Deputy Commissioner noted OVIC will celebrate International Access to Information Day (IAID) from 26 – 29 September. This year's theme is *Artificial intelligence, e-governance and access to information*.
- OVIC will hold a range of virtual events including a launch event, two lightning talks and a panel discussion focusing on proactive and informal release of information. OVIC also plans to release two new animations with one targeted at the public and the other at agencies.
- More details on the IAID events are available on OVIC's website [here](#).

5. OVIC update

- The Manager Reviews and Regulations and Manager Complaints and Professional Standards provided the OVIC operational update.

Reviews

- The Manager Reviews and Regulations noted, as of 22 August 2022, OVIC has 161 open reviews in progress.
- At the end of the 2021/22 financial year, OVIC met its BP3 target of completing 60% of review matters in time.
- OVIC is completing its business planning for the new financial year, which will include updates to procedural documents, templates, etc. The Manager Reviews and Regulations noted members and other agencies are invited to provide feedback on OVIC's processes involving agencies when OVIC is conducting a review.

Informal resolution

- The Manager Reviews and Regulations noted in the 2021/22 financial year, OVIC achieved its BP3 target of closing over 25% of applications informally without the need for a Notice of decision from a commissioner.
- The Manager Reviews and Regulations noted OVIC has restructured its Public Access branch to place the informal resolution function under the Reviews team rather than the Registry and Case support team.

Publication of Notices of Decision

- The Manager Reviews and Regulations noted OVIC has published over 530 NODs on [its website](#) and on [Austlii](#).
- OVIC is working on improving this resource for stakeholders and the Manager Reviews and Regulations noted members and agencies are invited to provide any feedback or suggestions they may have.

Upcoming events

- The Manager Reviews and Regulations noted upcoming events including:
 - **Monday 5 September 2022** – a one-off training webinar for FOI practitioners on document searches when processing an FOI request. This session will be delivered by Marita Dunbar. To attend the event, register [here](#).

Registry & Case support team

- The Manager Complaints and Professional Standards noted the Registry and Case support team received record high numbers of email and telephone enquiries in the 2021/22 financial year.

- The team is continuing to follow up on outstanding agency responses to the Annual Report Survey questions. The data from these responses will be included in OVIC's annual report.
- The Manager Complaints and Professional Standards noted the team delivered two webinar sessions in June and July to help agencies answer questions related to the survey responses. The sessions were well-attended, so OVIC plans to host them again in future years.

Complaints

- The Manager Complaints and Professional Standards noted as at 22 August 2022, OVIC has 223 complaints, with the high majority concerning agency delays. The other complaints cover a range of issues including adequacy of documents searches and a decision that a document does not exist or cannot be located.
- In the current financial year, OVIC has received 93 complaints and closed 103.
- Regarding timeliness in closing complaints, in the 2021/22 financial year the average time taken by OVIC to finalise a complaint was 105 days, and the average time taken to finalise a general handling complaint was 70 days.

Professional standards

- The Manager Complaints and Professional Standards noted the most common Standards engagements concerned:
 - **Standard 2.4** - notifying an applicant within 21 days of the relevant matters in relation to a request that is not valid
 - **Standard 8.2** - an agency must explain the reasons why an exemption or exception applies and address each limb of the relevant exemption or the exception
 - **Standard 8.4(a) & (b)** - an agency decision must summarize the document searches undertaken and may include other search-related matters and an agency must explain in its decision why a requested document does not exist or cannot be located
 - **Standard 10.3** - an agency responding to a request for documents or information from OVIC within requested or agreed timeframes

Description of searches

- The Manager Complaints and Professional Standards noted OVIC recommends that agencies provide detailed descriptions of document searches in their decision and avoid using generic terminology when describing document searches. Particularly, where there is a requirement to keep a record of searches in accordance with Standard 6.1. This would not only ensure compliance with Standard 8.4 but also serve as an additional source of information if there is a complaint.
- The Manager Complaints and Professional Standards noted that, where OVIC receives an adequacy of search complaint and the decision includes generic terminology, OVIC often requires the relevant agency to provide a submission elaborating on the document searches undertaken. An agency may also be requested to provide a copy of its written record of documents searches made in accordance with Standard 6.1.

6. **Other business**

- The Public Access Deputy Commissioner noted OVIC has recently updated its resource on the [FOI Act and section 125 of the Local Government Act 2020 \(LG Act\)](#), following changes to the LG Act that impact on the current and future FOI requests received by a Council. The Commissioner noted local government agency FOI practitioners are encouraged to review this new resource and provide any feedback to OVIC.
- One member acknowledged the willingness of OVIC staff to talk to agencies about FOI matters on phone rather than primarily via email. The member noted this approach gives agencies the opportunity to provide more detailed context on a matter than may otherwise be possible by email.

Meeting close: 3:01pm

Next meeting: 21 November 2022, 2pm – 3pm. Calendar invites have been sent to members.