

## Public Access Agency Reference Group Meeting

**Date:** Monday 21 November 2022

**Time:** 2:00 – 3:00pm (Microsoft Teams)

### Participants

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

Penny Eastman, Assistant Commissioner Public Access Reviews and Regulation, OVIC

Shantelle Ryan, Assistant Commissioner Public Access Operations and Compliance, OVIC

Anique Owen, Senior Privacy Advisor & Conciliator, OVIC

Sarah Crossman, Senior Policy Officer, OVIC

Cameron Montgomery, City of Ballarat

Delilah Nichols, Transport Accident Commission

Elle Maroudas, Department of Education and Training

Monica Barnes, Country Fire Authority

Peter Gannoni, City of Melbourne

Robin Davey, Victoria Police

Lia Morgan, University of Melbourne

Anita Mugo, Secretariat, OVIC

### Agenda Items

1.	<p><b>Welcome</b></p> <ul style="list-style-type: none"><li>● <b>Meeting start:</b> 2:03pm</li><li>● The Public Access Deputy Commissioner welcomed everyone to the meeting.</li></ul> <p><b>Apologies</b></p> <ul style="list-style-type: none"><li>● Andrew Weston, Department of Transport</li><li>● Felicity Wright, Transport Accident Commission</li><li>● Jude Hunter, Victorian WorkCover Authority</li><li>● Lisa Scholes, Department of Families, Fairness and Housing</li><li>● Melinda Robinson, Department of Justice and Community Safety</li><li>● Susan Maye, University of Melbourne</li></ul> <p><b>Previous meeting minutes and action items</b></p> <ul style="list-style-type: none"><li>● Attendees confirmed the meeting minutes of 22 August 2022. There were no action items arising from that meeting.</li></ul> <p><b>OVIC own-motion investigation update</b></p> <ul style="list-style-type: none"><li>● The Public Access Deputy Commissioner noted OVIC published its report on '<a href="#">Impediments to timely FOI and information release: twelve months on</a>' on 25 October 2022. This report provides an update to an earlier investigation report '<a href="#">Impediments to timely FOI and information release</a>' which detailed the findings of OVIC's own-motion investigation into the</li></ul>
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	<p>extent and causes of delay in FOI.</p> <ul style="list-style-type: none"> <li>• The Public Access Deputy Commissioner encouraged members to read the report.</li> </ul>
2.	<p><b>Agency updates</b></p> <ul style="list-style-type: none"> <li>• Reference Group members provided updates on their agency and FOI workloads: <ul style="list-style-type: none"> <li>○ <b>FOI workloads</b> – one member noted while they have a large volume of FOI requests, the agency has been able to significantly reduce the number of overdue requests.</li> <li>○ <b>Proactive and informal release of information</b> – one agency noted it has been releasing more information to the public through alternative information release mechanisms and noted there has been an increase in the use of proactive and informal release mechanisms in local government.</li> </ul> </li> </ul>
3.	<p><b>Proactive and Informal Release project update</b></p> <ul style="list-style-type: none"> <li>• The Senior Policy Officer provided an update on new and updated resources OVIC has published to promote the proactive and informal release of information including: <ul style="list-style-type: none"> <li>○ Updated practice notes on <a href="#">proactive release</a> and <a href="#">informal release</a></li> <li>○ <a href="#">Guidance for the public</a> on proactive and informal release of information for the public</li> <li>○ An <a href="#">introduction to public access to information</a> for staff across the Victorian public sector</li> <li>○ A <a href="#">framework for Councils</a> for releasing information proactively and informally under the <i>Local Government Act 2020</i> (Vic) and the FOI Act</li> <li>○ A resource for agencies on <a href="#">releasing health records</a> under the <i>Health Services Act 1988</i> (Vic), <i>Health Records Act 2001</i> (Vic) and FOI Act</li> <li>○ Two webinars on the benefits of proactive and informal release and enhancing access to information through smart defaults. The recorded presentations are available on <a href="#">here</a>. These webinars are part of a four-part series of webinars OVIC is holding on topics related to proactive and informal release. The third webinar will be held on Wednesday 23 November on <a href="#">recordkeeping and access to information</a> and the fourth webinar to be held in early 2023. Members are welcome to provide suggestions for any topics they would like OVIC cover.</li> </ul> </li> <li>• The Senior Policy officer also noted OVIC is developing guidance and a template for preparing a proactive and informal release policy. This resource will be sent to the Reference Group members for their review and feedback.</li> </ul>
4.	<p><b>Privacy Guidance and Dispute Resolution team update</b></p> <ul style="list-style-type: none"> <li>• The Senior Privacy Advisor &amp; Conciliator gave an overview of the functions of the Privacy Guidance and Dispute Resolution team which include handling privacy enquiries, privacy complaints and data breach notifications.</li> </ul>

	<ul style="list-style-type: none"> <li>• The Senior Privacy Advisor &amp; Conciliator discussed the trends the Privacy Guidance and Dispute Resolution team has observed in privacy complaints and data breaches.</li> <li>• The Senior Privacy Advisor &amp; Conciliator noted OVIC will be updating the Guidelines to the Information Privacy Principles over the coming months to ensure they are up-to-date and fit for purpose. OVIC is currently reviewing the Guidelines to understand what content needs to be updated, before beginning a chapter-by-chapter update. Consultation on this initial phase of the review is open until Thursday 8 December 2022. Members are welcome to provide their feedback on the IPP Guidelines <a href="#">here</a>.</li> </ul>
5.	<p><b>OVIC operational update</b></p> <ul style="list-style-type: none"> <li>• The Assistant Commissioner Public Access Reviews and Regulation and Assistant Commissioner Public Access Operations and Compliance provide the OVIC operational update.</li> </ul> <p><u>Reviews and Informal Resolution</u></p> <ul style="list-style-type: none"> <li>• The Assistant Commissioner Public Access Reviews and Regulation noted the Public Access Branch is currently handling <b>155</b> reviews and 2 access charges matters.</li> <li>• The Assistant Commissioner Public Access Reviews and Regulation noted OVIC is continuing to focus on improving the timeliness of its decision-making and in particular reducing the number of open reviews aged over 200 days old.</li> </ul> <p><u>Informal Resolution</u></p> <ul style="list-style-type: none"> <li>• The Assistant Commissioner Public Access Reviews and Regulation noted OVIC aims to resolve review matters informally where possible without the requirement for a formal Notice of Decision. So far, this financial year, OVIC has resolved around 21% of matters informally. OVIC is aiming to resolve 25% of all reviews through informal resolution.</li> <li>• The Assistant Commissioner Public Access Reviews and Regulation thanked all agencies for their engagement in the informal resolution process.</li> </ul> <p><u>Publication of Notices of Decision</u></p> <ul style="list-style-type: none"> <li>• The Assistant Commissioner Public Access Reviews and Regulation noted, as of 21 November 2022, OVIC has published 680 decisions. OVIC makes effort to publish decisions that are current and topical in a timely fashion.</li> </ul> <p><u>Upcoming events</u></p> <ul style="list-style-type: none"> <li>• The Assistant Commissioner Public Access Reviews and Regulation noted upcoming events including: <ul style="list-style-type: none"> <li>○ <b>Wednesday 23 November 2022</b> – Information Access Series seminar on recordkeeping and access to information delivered by Justine Heazlewood, Victoria’s Director and Keeper of Public Records. A recording of the event is available <a href="#">here</a>.</li> <li>○ <b>Tuesday 6 December 2022</b> – an FOI training webinar for FOI practitioners looking at the pre-assessment stage of processing an FOI request, with a focus on clarification</li> </ul> </li> </ul>

under section 17 of the FOI Act. This session will be delivered by Marita Dunbar. To attend the event, register [here](#).

#### Staff movements

- The Assistant Commissioner Public Access Operations and Compliance noted Paul Pittorino, Manager Complaints and Professional Standards, will be departing OVIC on Thursday 1 December 2022. The role is currently advertised on the JSE platform. Members are invited to forward the advertisement to anyone they think may be interested in the position.

#### Registry and Case support team

- The Assistant Commissioner Public Access Operations and Compliance noted the Registry and Case support team has begun its annual document destruction and archiving process, with hard copy documents being destroyed in line with PROV standards and internal policies.
- The team has been working with OVIC's IT Unit to update OVIC's case management system, Resolve, to improve the recording of document destruction data.
- The Assistant Commissioner Public Access Operations and Compliance noted the team continues to receive high volumes of telephone and email enquiries on FOI and Privacy related matters.
- The team also manages OVIC's [Agency FOI Information Service](#), the free service for FOI Practitioners to receive advice and guidance on the administration of the FOI Act. OVIC responds to majority of enquiries received through this service within 24 hours.

#### Complaints

- The Assistant Commissioner Public Access Operations and Compliance noted OVIC continues to receive a high volume of complaints regarding agency delays in processing FOI requests within statutory timeframes.
- OVIC currently has **162** complaints on hand, made up of:
  - 132 complaints concerning delays, and
  - 30 general handling/documents don't exist complaints
- The average time OVIC takes to finalise all complaints is 98 days (down from 104 at the last Reference Group meeting in August 2022). The Assistant Commissioner Public Access Operations and Compliance noted while this has dropped slightly, it remains high due to the number of delay complaints whereby OVIC keeps the complaint open until it is notified of a decision being made by the agency.
- The Assistant Commissioner Public Access Operations and Compliance noted the average time OVIC takes to finalise non-delay complaints is 49 days.

#### Professional Standards

- The Assistant Commissioner Public Access Operations and Compliance noted the most engaged Standards are:

	<ul style="list-style-type: none"> <li>○ <b>Standard 2.4</b> – notifying an application within 21 days of the relevant matters in relation to a request that is not valid</li> <li>○ <b>Standard 8.4</b> – an agency decision must summarise the document searches undertaken and include other search-related matters and an agency must explain in its decision why a requested document does not exist or cannot be located</li> <li>○ <b>Standard 10.3</b> – an agency responding to a request for documents or information from OVIC within requested or agreed timeframes</li> </ul> <ul style="list-style-type: none"> <li>● OVIC is addressing this in the handling of complaints through the following channels: <ul style="list-style-type: none"> <li><b>(i) Direct communication with agencies</b> <ul style="list-style-type: none"> <li>○ Requesting written submissions from agencies regarding searches conducted and making enquires as to why documents do not exist (in the absence of this information being included in the decision letter)</li> <li>○ Reminding agencies that in instances where this information is provided in a decision letter, it is unlikely OVIC will seek a detailed written submission.</li> </ul> </li> <li><b>(ii) Communication with the Complainant</b> <ul style="list-style-type: none"> <li>○ Where OVIC is satisfied that the agency has complied with the Standards and/or adequate information and descriptions are contained in the agency’s decision letter – dismissing the complaint on the basis that there is no basis for OVIC taking further action.</li> <li>○ For complaints not yet formally accepted, after preliminary enquiries are made, OVIC may decide to not accept the complaint on the basis that the agency is not in breach of the FOI Act or the Professional Standards and there is no basis for OVIC to make any further enquiries or to take action.</li> <li>○ Referring to the agency’s compliance with the relevant Standard in the complainant’s dismissal letter or complaint resolution correspondence.</li> </ul> </li> </ul> </li> </ul> <p><u>Annual review of the Reference Group - Member survey</u></p> <ul style="list-style-type: none"> <li>● The Assistant Commissioner Public Access Operations and Compliance noted OVIC will be conducting its annual review of the Reference group. OVIC has prepared a survey which will be sent to members to complete.</li> <li>● The Assistant Commissioner Public Access Operations and Compliance encouraged members to provide their feedback on the Reference group as it will inform OVIC’s planning for 2023.</li> </ul>
6.	<p><b>Other business</b></p> <ul style="list-style-type: none"> <li>● None.</li> </ul>
	<p><b>Meeting close:</b> 3:00pm</p>