

Notice of Decision and Reasons for Decision

Applicant:	'EP5'
Agency:	Victoria University
Decision date:	17 June 2022
Exemptions and provisions considered:	Sections 30(1), 33(1), 35(1)(b), 25
Citation:	'EP5' and Victoria University (Freedom of Information) [2022] VICmr 168 (17 June 2022)

FREEDOM OF INFORMATION – workplace enquiry – employment matters – complaint – statements – email correspondence – information communicated in confidence – internal working documents – release in the public interest – personal affairs information

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 10 documents requested by the Applicant under the FOI Act.

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

I am satisfied certain information in the documents is exempt from release under section 30(1), 33(1), and 35(1)(b).

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

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

My reasons for decision follow.

Joanne Kummrow
Public Access Deputy Commissioner

17 June 2022

Reasons for Decision

Background to review

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

A complete copy of the investigation in relation to allegations of misconduct and bullying raised by [name] against [name]
2. The Agency identified 10 documents falling within the terms of the Applicant's request and decided to refuse access to all documents in full. The Agency relied on the exemptions under sections 30(1), 33(1), and 35(1)(b) to refuse access to information in the documents. The Agency's decision letter sets out the reasons for its decision.

Review application

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. During the review, the Agency sought to apply an additional exemption to Document 3. Accordingly, the Agency submits the document is exempt under section 33(4) and 33(1).
5. I have examined copies of the documents subject to review. I note that Document 2 is a duplicate of Document 1. Accordingly, I am satisfied that Document 2 is irrelevant for the purposes of review.
6. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
7. I have considered all communications and submissions received from the parties.
8. 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.
9. 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.
10. In conducting a review under section 49F, section 49P requires that I make a new or 'fresh decision'. Therefore, my review does not involve determining whether the Agency's decision is correct, but rather requires my fresh decision to be the 'correct or preferable decision'.¹ This involves ensuring my decision is correctly made under the FOI Act and any other applicable law in force at the time of my decision.

Review of exemptions

Section 30(1) – Internal working documents

11. The Agency relied upon this exemption in relation to Document 5 which contains the notes taken in the Agency's meeting with the Applicant during the fact-finding process. Although the Agency has not relied upon this exemption in relation to Documents 4 and 10, I consider that these documents also contain information regarding recommendations of the Agency in the context of the deliberative workplace enquiry. Accordingly, I have considered the application of section 30(1) to those documents.

¹ *Drake v Minister for Immigration and Ethnic Affairs* (1979) 24 ALR 577 at 591.

12. 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; and
 - (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.
13. The exemption does not apply to purely factual information in a document.²

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

14. It is not necessary for a document to be in the nature of opinion, advice or recommendation. Rather, it is enough that release of the document would disclose matter of that nature.³
15. I note the following do not constitute matter in the nature of opinion, advice, or recommendation:
- (a) the recitation of present existing facts;⁴
 - (b) the recording of events such as a conversation with the applicant;⁵ and
 - (c) a statement of intention.⁶
16. As noted above, Document 5 contains notes taken during the Agency's meeting with the Applicant.
17. Document 4 contains the Agency's investigation and findings into a complaint involving the Applicant.
18. Document 10 contains a letter to a third party regarding the outcome of the Agency's investigation.
19. Having carefully considered the documents, I am satisfied certain information constitutes the opinion, advice consultation and deliberation of Agency officers.
20. However, I am not satisfied all information exempted by the Agency meets the first limb of the exemption. In some instances, I consider the information constitutes a recitation of facts and a recording of a conversation with the Applicant and not matter in the nature of opinion, advice or recommendation for the purposes of section 30(1).

Was the information communicated in the course of the Agency's deliberative processes?

21. The term 'deliberative process' is interpreted widely and includes any of the processes of deliberation or consideration involved in the functions of an agency, Minister or government.⁷
22. In *Re Waterford and Department of Treasury (No.2)*,⁸ former Victorian Administrative Appeals Tribunal held:
- ... "deliberative processes" [is] wide enough to include any of the processes of deliberation or

² Section 30(3).

³ *Mildenhall v Department of Education* (1998) 14 VAR 87.

⁴ *Pullen v Alpine Resorts Commission* (unreported, AAT of Vic, Macnamara DP, 23 August 1996).

⁵ *Re City Parking Pty Ltd* (1996) 10 VAR 17.

⁶ *Ibid.*

⁷ *Brog v Department of Premier and Cabinet* (1989) 3 VAR 201 at 208.

⁸ [1984] AATA 67; (1984) 5 ALD 588; 1 AAR 1 at [58].

consideration involved in the functions of an agency... In short, ...its thinking processes — the processes of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

23. I am satisfied the information was provided in the course of the Agency's deliberative processes in relation to the investigation of a workplace matter.

Would disclosure of the documents be contrary to public interest?

24. In deciding if release is contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful that the object of the FOI Act is to facilitate and promote the disclosure of information.
25. In deciding whether the information in Documents 4, 5 and 10 would be contrary to the public interest, I have given weight to the following relevant factors:⁹
- (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 documents and the broader context giving rise to the creation of the documents;
 - (c) the stage or a decision or status of policy development or a process being undertaken at the time the communications were made;
 - (d) whether disclosure of the documents 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 documents 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 documents;
 - (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
 - (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. Certain communications subject to review in this matter were recorded during a workplace investigation or inquiry at a point at which Agency officers were being informed about, overseeing and deliberating on potential steps and actions to be taken by the Agency.
27. Other communications were part of the Agency's actions following the conclusion of the workplace inquiry.
28. I accept there is a public interest in the Agency's workplace investigation processes being as transparent as possible to ensure its compliance with its policies and procedures and other statutory obligations.
29. It appears the Applicant was provided with the outcome of the complaint and the Agency's findings. The Applicant was also provided with each allegation in the complaint as part of their meetings with the Agency. Accordingly, I consider this information is less sensitive.

⁹ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

30. On the balance, I consider that it would not be contrary to the public interest to disclose information from the documents which is already known to the Applicant, has been obtained from the Applicant or is not sensitive in nature. In these instances, I consider that the public interest in transparency of process and the Applicant's interest would be served without the disclosure being misleading or compromising the Agency's ability to conduct workplace enquiries in the future.
31. Accordingly, I am not satisfied certain information is exempt under section 30(1).
32. Where the information has been communicated to a third party Agency employee or relates to an Agency officers' opinion or recommendations regarding this third party, I consider that release of the information is more sensitive and would impact the effectiveness of future workplace inquiries. Further, I consider disclosure of this information would be reasonably likely to inhibit communications between Agency officers essential for the Agency to fully and thoroughly undertake a workplace investigation.
33. In these instances, disclosure would be contrary to the public interest and therefore the information is exempt under section 30(1).
34. My decision regarding section 30(1) is set out in the Schedule of Documents at **Annexure 1**.

Section 35(1)(b) – Information obtained in confidence

35. Where information is already exempt under section 30(1), I have not considered the application of section 35(1)(b).
36. 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.

Was the information obtained in confidence by a person to a government agency?

37. Whether information communicated by an individual to an agency was communicated in confidence is a question of fact.¹⁰
38. In doing so, it is necessary to consider the position from the perspective of the communicator, noting confidentiality can be expressed or implied from the circumstances of a matter.¹¹
39. Generally, section 35(1)(b) applies to information communicated to an agency from an external source rather than internal communications between agency staff carrying out their usual duties and responsibilities. However, section 35(1)(b) may apply to information communicated in confidence between agency officers in certain circumstances. For example, where an agency officer provides confidential information to their employer, which is an agency for the purpose of the FOI Act, to assist in the investigation of a workplace incident or dispute.¹²
40. The Agency relied upon section 35(1)(b) in relation to documents 1 and 2 which contain email correspondence initiating the enquiry in addition to documents 6, 7, 8 and 9 which are statements made by third parties in relation to the enquiry. I am satisfied that confidentiality was expressly agreed upon

¹⁰ *Ryder v Booth* [1985] VR 869 at [883]; *XYZ v Victoria Police* [2010] VCAT 255 at [264].

¹¹ *XYZ v Victoria Police* [2010] VCAT 255 at [265].

¹² See *Sportsbet v Department of Justice* [2010] VCAT 8 at [71]-[78]; *XYZ v Victoria Police* [2010] VCAT 255 at [287]-[288]; and *Birnbauer v Inner and Eastern Health Care Network* [1999] VCAT 1363 at [14]-[15].

in these communications and where the content of the document relates to the enquiry, I consider disclosure would therefore divulge information communicated in confidence.

41. The Agency also relied upon the exemption in section 35(1)(b) in Document 4 which details the findings of the enquiry. I am satisfied that certain information in the document was communicated to the Agency by Agency officers as part of their involvement in a workplace inquiry.
42. However, I note some of the information in this document was communicated by an Agency staff member who is not a subject of the enquiry and was engaged in their regular professional duties. Further, this information is procedural and administrative in nature. Accordingly, I am not satisfied information of this nature is exempt under section 35(1)(b).
43. There is no information before me to suggest that the Agency has conducted third party consultation in relation to this matter.

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

44. Section 35(1)(b) also requires I consider whether the Agency would be impaired from obtaining similar information in the future if the information were to be disclosed under the FOI Act. This involves considering whether others in the position of the communicator would be reasonably likely to be inhibited or deterred from providing similar information to the Agency in the future should the information be disclosed.
45. The public interest test in section 35(1)(b) is narrow, in that it is directed toward the impact 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 documents would be served by granting access.
46. I note the exemption will not be made out if an agency's impairment goes no further than showing potential communicators of the information may be less candid than they would otherwise have been.¹³
47. The Agency states the following in their decision letter:

It would be contrary to the public interest to disclose the document, as disclosure when there is an expectation of confidentiality is likely to deter people from providing similar information or impair the ability of the University to obtain similar information from similar sources and of similar quality in the future. This would greatly affect the way enquiries are undertaken by the University and their overall effectiveness given the University relies on frank and candid disclosures under the umbrella of confidentiality.

48. The Applicant seeks the documents for the purpose of determining whether the university should have pursued a frivolous and vexatious claim in relation to the third party complainant.
49. In relation to the information obtained directly from Agency staff during the workplace enquiry, I consider this information to be sensitive in nature and reveals the subjective experiences of the third parties in relation to the subject matter of the complaint. Accordingly, I am of the view that the level of candour provided by third parties would be impacted in the event that expressly agreed upon confidentiality could be diminished by the release of these documents under FOI.
50. Without an open information flow, an investigation may not be successful in obtaining accurate and sufficiently detailed information, potentially resulting in flawed or inconclusive findings. It is in the public interest to ensure information provided during an investigation into workplace safety is communicated

¹³ *Smeaton v Victorian WorkCover Authority* [2012] VCAT 1549 at [69], approving *Birnbauer v Inner and Eastern Health Care Network* [1999] 16 VAR 9.

freely, is adequately documented by Agency staff, and is treated with the necessary degree of confidentiality.

51. I consider disclosure of the documents would likely inhibit Agency officers from voluntarily participating in workplace investigations. This includes the provision of information and the making of complaints out of concern information provided to the Agency could be disclosed under the FOI Act. This would be a significant and detrimental outcome that would impede the integrity and efficacy of the Agency's workplace investigations.
52. Document 1 contains information from Agency instruments which are likely already available to the Applicant. I consider that in isolation this information is not subjective or sensitive in nature. However, I note that it was provided by a third party in the context of their complaint and it would also be exempt for the reasons described above.
53. Although Document 4 was produced by an Agency officer who was conducting the inquiry as part of their professional obligations, where it contains extracts which paraphrase information from other documents exempt under section 35(1)(b), these extracts are also exempt.
54. My decision regarding section 35(1)(b) is set out in the Schedule of Documents at **Annexure 1**.

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

55. 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;¹⁴ and
 - (b) such disclosure would be 'unreasonable'.
56. Where I have found information to be exempt under sections 35(1)(b) and 30(1), I have not considered the application of section 33(1) to this information.

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

57. Information relating to a person's 'personal affairs' includes information that identifies any person, or discloses their address or location. It also includes any information from which this may be reasonably determined.¹⁵
58. 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.¹⁶
59. A third party's opinion or observations about another person's conduct can constitute information related to the third party's personal affairs.¹⁷
60. I also note the Victorian Civil and Administrative Tribunal (**VCAT**) has interpreted the scope of 'personal affairs information' broadly to include matters relating to health, private behaviour, home life or personal or family relationships of individuals.¹⁸

¹⁴ Sections 33(1) and (2).

¹⁵ Section 33(9).

¹⁶ *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].

¹⁷ *Richardson v Business Licensing Authority* [2003] VCAT 1053, cited in *Davis v Victoria Police* [2008] VCAT 1343 at [43]; *Pritchard v Victoria Police* [2008] VCAT 913 at [24]; *Mrs R v Ballarat Health Services* [2007] VCAT 2397 at [13].

¹⁸ *Re F and Health Department* (1988) 2 VAR 458 as quoted in *RFJ v Victoria Police FOI Division* [2013] VCAT 1267 at [103].

61. The Agency relied upon section 33(1) in relation to Documents 1, 3, 6, 7, 8, 9 and 10. These documents include the names, contact details, health information and submissions of third parties in relation to the enquiry. I consider this to constitute personal affairs information under the circumstances where there is an overlap between the personal and professional duties of the third parties.
62. I am also of the view that even if names were removed from the documents, given the Applicant's knowledge of the process and its participants, that individuals could be identified from it.

Would disclosure of the personal affairs information be unreasonable?

63. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the personal interest in privacy in the particular circumstances of a matter.
64. In *Victoria Police v Marke*,¹⁹ 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'.²⁰ 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'.²¹
65. The concept of 'unreasonable disclosure' involves balancing the public interest in the disclosure of official information with the personal interest in privacy in the particular circumstances of a matter.
66. In determining whether disclosure of the personal affairs information would be unreasonable in the circumstances, I have considered the following factors:

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

The information includes the subjective views and evidence of impact submitted by third parties in relation to a series of events, which I consider to be sensitive and personal in nature. This information was provided as part of an enquiry which is now closed and has not been shared publicly or with the Applicant in its entirety.

In this case, I acknowledge the Applicant is reasonably likely to be aware of the identity of certain third parties whose information appears in the documents. However, even in circumstances where a person named in a document is known to an applicant, it may still be unreasonable to release such information under the FOI Act.²²

Where the information relates to an Agency employee who was conducting the workplace inquiry, I consider their personal information to be more professional than personal in nature. I also note this individual had a substantial role in the decision making and management of this matter.

(b) The applicant's interest in the information and, if appropriate, whether their purpose for seeking access to 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

¹⁹ [2008] VSCA 218 at [76].

²⁰ *Ibid.*

²¹ *Ibid* at [79].

²² *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

seeks access to a document is a relevant consideration in determining whether disclosure would be unreasonable.²³

On the information before me, I consider that the Applicant seeks information in relation to whether their own complaint should have been pursued. I consider that certain information in the documents would provide information regarding the Applicant's own complaint.

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

As noted above, I accept there is public interest in transparency around the conduct of workplace enquiries. However, I also accept it is not necessary for the Applicant to know the entirety of the personal affairs information in the documents to achieve this purpose.

Given the unrestricted and unconditional nature of release under the FOI Act, I also consider that there is an interest in maintaining the integrity of such notifications and investigations.

Where the nature of the information in the documents is sensitive, the public interest weighs in favour of maintaining the privacy of other individuals to whom its content relates.

(d) Whether a third party to whom the information relates objects, or would be likely to object to disclosure of the information; and

There is no information before me regarding whether third parties would object to the release of this information, however I consider it likely they would object to the release of their information to the Applicant. This is based on the information before me, including the purpose for which their details have been recorded in the document and the sensitive circumstances surrounding the workplace investigation.

(e) Whether disclosure of the information could cause a third party undue stress and anxiety.

Given the sensitive nature of the documents, I consider it likely that release of the sensitive information would cause stress and anxiety to the third parties.

67. Section 33(2A) requires that, in deciding 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. However, I do not consider this to be a relevant factor in the circumstances.
68. Having weighed the above factors, I am satisfied that it would not be unreasonable to release the personal affairs information of Agency staff who were not the subject of the investigation and were involved as part of their professional role.
69. Where the information is sensitive in nature and can clearly identify a subject of the investigation, I consider that it is personal affairs information and release would be unreasonable.
70. My decision regarding section 33(1) is set out in the Schedule of Documents at **Annexure 1**.

Sections 33(4)– Appointment of a medical practitioner to determine an FOI request

71. As noted above, the Agency also relies on section 33(4), in conjunction with sections 33(1) to exempt from release certain information in one of the documents subject to the request.

²³ *Victoria Police v Marke* [2008] VSCA 218 at [104].

72. Where I am already satisfied that the information is exempt under section 33(1), I have not considered the application of section 33(4) to the document.

Section 25 – Deletion of exempt or irrelevant information

73. 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. The Applicant's representative has confirmed that they are seeking partial access to the documents.
74. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'²⁴ 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 25.²⁵
75. I am satisfied it is practicable to provide the Applicant with an edited copy of Documents 4 and 5 with exempted information deleted in accordance with section 25, as doing so would not require substantial time and effort and the documents would retain meaning.
76. However, I am not satisfied it would be practicable to delete exempt information from Documents 1,3,6,7,8,9 and 10 as the remaining documents would not retain any meaning.

Conclusion

77. On the information available, I am satisfied the exemptions in sections 30(1), 33(1) and 35(1)(b) apply to some of the documents.
78. Where I am satisfied it is practicable to provide an edited copy of a document with exempt or irrelevant information deleted from the document, I have determined to grant access to the document in part.
79. Where I am not satisfied it is practicable to provide an edited copy of document with exempt and irrelevant information deleted from the document, I have determined to refuse access to the document in full.

Review rights

80. 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.²⁶
81. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²⁷
82. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁸
83. 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.

²⁴ *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].

²⁵ *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].

²⁶ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²⁷ Section 52(5).

²⁸ Section 52(9).

84. 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.²⁹

Third party review rights

85. As I have determined to release documents that contain the personal affairs information of individuals 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.³⁰

86. In this case, I am satisfied it is practicable to notify the third parties of their review rights.

When this decision takes effect

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

²⁹ Sections 50(3F) and (3FA).

³⁰ Sections 49P(5), 50(3) and 52(3).

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
1.	[date]	Email chain	12	<p>Refused in full</p> <p>Sections 35(1)(b) and s33(1)</p>	<p>Refuse in full</p> <p>Sections 33(1), 35(1)(b) and 25</p>	<p>Section 35(1)(b): I am satisfied that the document contains information obtained in confidence as part of the enquiry. I am satisfied it would be contrary to the public interest to release the contents of the information where it would inhibit the future ability of the Agency to receive similar information during workplace enquiries and investigations.</p> <p>However, I consider there is other information in the document which was not communicated in confidence. I do not consider that disclosure of this information would inhibit future Agency enquiries and therefore disclosure would not be unreasonable.</p> <p>Section 33(1): I am satisfied it would be unreasonable to release the names of certain third parties for the reasons outlined in the Notice of Decision.</p> <p>However, I am not satisfied it would be unreasonable to release the name of the Agency officer</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>who was conducting the workplace inquiry.</p> <p>Section 25: Whilst I acknowledge certain information is administrative in nature and not sensitive, I am satisfied it would be impracticable to edit the document to remove exempt information as to do so would render the document meaningless.</p>
2.	[date]	Email chain	11	<p>Refused in full</p> <p>Section 35(1)(b)</p>	<p>Refuse in full</p> <p>Sections 33(1), 35(1)(b) and 25</p>	<p>This document is a duplicate of Document 1.</p> <p>Accordingly, it is irrelevant for the purposes of this review.</p>
3.	[date]	Email and attachment	1	<p>Refused in full</p> <p>Sections 33(1) and 33(4)</p>	<p>Refused in full</p> <p>Sections 33(1)</p>	<p>Section 33(1): I am satisfied that this document contains the personal affairs information of a third party and disclosure would be unreasonable for the reasons outlined in my Notice of Decision above.</p> <p>Section 25: I am not satisfied it is practicable to release an edited copy of the document with exempt information deleted in accordance with section 25.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
4.	[date]	Findings	10	<p>Refused in full</p> <p>Sections 35(1)(b)</p>	<p>Release in part</p> <p>Sections 30(1), 33(1), 35(1)(b)</p> <p>The document is to be released, except for exempt information as recorded in the marked-up version of the document provided to the Agency with this decision, which is to be deleted in accordance with section 25.</p>	<p>Section 30(1): I am satisfied certain information is exempt under section 30(1) for the reasons outlined in the Notice of Decision.</p> <p>However, I am not satisfied other information is exempt for the reasons outlined in the Notice of Decision.</p> <p>Section 35(1)(b): See comments for document 1.</p> <p>Section 33(1): I am satisfied certain information is exempt under section 33(1) for the reasons outlined in the Notice of Decision.</p> <p>However, I am not satisfied other information is exempt for the reasons outlined in the Notice of Decision.</p> <p>Section 25: I am satisfied it is practicable to provide an edited copy of the document with exempt information deleted in accordance with section 25.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
5.	[date]	Meeting notes	9	Refused in full Sections 30(1)	Release in part Section 33(1) The document is to be released, except for exempt information as recorded in the marked-up version of the document provided to the Agency with this decision, which is to be deleted in accordance with section 25.	<p>Section 30(1): I am not satisfied the document is exempt under section 30(1) for the reasons outlined in the Notice of Decision.</p> <p>Section 33(1): I am satisfied it would be unreasonable to release the names of certain third parties for the reasons outlined in the Notice of Decision.</p> <p>However, I am not satisfied it would be unreasonable to release the name of the Agency officer who was conducting the workplace inquiry.</p> <p>Section 25: See comments for Document 4.</p>
6.	[date]	Statement	3	Refused in full Sections 33(1) and 35(1)(b)	Refused in full Sections 33(1) and 35(1)(b)	<p>Section 35(1)(b): I am satisfied that this document contains information provided to the Agency in confidence. I am satisfied it would be contrary to the public interest to release the contents of the information which is exempt material or would inhibit the future ability of the Agency to conduct workplace enquiries and investigations.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>Section 33(1): I am satisfied that the document contains the personal affairs information of third parties and I consider that disclosure would be unreasonable as:</p> <ul style="list-style-type: none"> • the content of the document is sensitive in nature and represents the subjective perspective of a third party on a particular event; • a clear expectation of confidentiality has been set in relation to this information; and • this information is not publicly available and would not be available to the Applicant through documentation released to them as part of the enquiry. <p>Section 25: See comments for Document 3.</p>

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
7.	[date]	Statement	3	Refused in full Sections 33(1) and 35(1)(b)	Refused in full Sections 33(1) and 35(1)(b)	Section 35(1)(b): See comments for Document 6. Section 33(1): See comments for Document 6. Section 25: See comments for Document 3.
8.	[date]	Statement	11	Refused in full Sections 33(1) and 35(1)(b)	Refused in full Sections 33(1) and 35(1)(b)	Section 35(1)(b): See comments for Document 6. Section 33(1): See comments for Document 6. Section 25: See comments for Document 3.
9.	[date]	Statement	4	Refused in full Sections 33(1) and 35(1)(b)	Refused in full Sections 33(1) and 35(1)(b)	Sections 35(1)(b): See comments for Document 6. Section 33(1): See comments for Document 6. Section 25: See comments for Document 3.
10.	[date]	Outcome letter	2	Refused in full Sections 33(1)	Refuse in full Sections 30(1), 33(1)	Section 33(1): I am satisfied that the outcome letter contains personal affairs information and I consider that release would be unreasonable for the reasons

Document No.	Date of Document	Document Description	No. of pages	Agency Decision	OVIC Decision	OVIC Comments
						<p>outlined in my Notice of Decision above.</p> <p>Section 30(1): I am satisfied that this document contains information produced by an Agency officer in the nature of opinion, advice or recommendations in the process of the workplace inquiry. I consider that release of this information would be contrary the public interest for the reasons outlined in my Notice of Decision above.</p> <p>Section 25: See comments for Document 3.</p>