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Information Commissioner

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Notice of Decision and Reasons for Decision

Applicant: 'CR3'
Agency: Bairnsdale Regional Health Service
Decision date: 17 February 2021
Exemptions and provision considered: Sections 32(1), 33(1), 6AA
Citation: *CR3 and Bairnsdale Regional Health Service* (Freedom of Information) [2021] VICmr 48 (17 February 2021)

FREEDOM OF INFORMATION – internal email correspondence – email chains – legal professional privilege – dominant purpose – provision of legal advice – litigation – documents held by the Information Commissioner - section 6AA

All references to legislation in this document are to the *Freedom of Information Act 1982 (Vic)* (**FOI Act**) unless otherwise stated.

Notice of Decision

I have conducted a review under section 49F of the Agency's decision to refuse access to documents requested by the Applicant under the FOI Act.

I am satisfied certain information in the documents is exempt under section 32(1). However, I am not satisfied certain information is exempt under section 33(1).

Where I am satisfied it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25, I have determined to grant access to those documents 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 February 2021

Reasons for Decision

Background to review

1. The Applicant, via their representative, made a request to the Agency seeking access to the following documents:
 1. The context of this item is twofold. First BRHS Records Management (Operations) Policy and the requirements of the Public Records Office with respect to the creation and maintenance of public records and ... the investigation report with the date [date] on its face prepared by [name], which I hold. I request the document which evidences the date of preparation of an initial draft of the said investigation report, in the event that such a draft was prepared.

Intra Agency emails to and from either [name] over the period [date range]
 2. Intra Agency emails to and from either [name] over the period [date range] mentions any of the following words:
 - [name] or some derivation thereof
 - [name] or some derivation thereof
 - [name] or some derivation thereof
 - Investigation
 - Dismissal
 - Form 8A
 - [another Victorian government agency]
 - Solicitor
 - [another Victorian government agency]
 - Claim
 3. Intra Agency emails to and from either [name] over the period [date range] mentions any of the following words:
 - Settlement
 - Risk
 - [name] or some derivation thereof
 - [another Victorian government agency]
 - Solicitor
 - [another Victorian government agency]
 - Claim
 - [name] or some derivation thereof
 4. Emails to and from [name] and to and from [name] and to or from [name] over the period [date range] which mention my name or the word [contextual information]. Please note that this request does not relate to the investigation, given that it was completed on [date].
 5. Emails to and from [name] and to and from [name] and to or from [name] over the period [date range] which mention my name or the word [contextual information] or derivations of those words. Please note that this request does not relate to the investigation, given that it was completed on [date].
2. In its decision, the Agency identified certain documents falling within the terms of the Applicant's request and granted access to one document in full and refused access to all other documents in full under section 32(1).

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. I have examined copies of the documents subject to review.

5. The Applicant and the Agency were invited to make a written submission under section 49H(2) in relation to the review.
6. I have considered all verbal and written communications from the parties including:
 - (a) correspondence and submissions received from the Applicant's representative on [dates] and information provided with the Applicant's review application; and
 - (b) the Agency's responses to inquiries made by OVIC staff throughout the review.
7. The documents subject to review are emails exchanged between Agency officers and solicitors from the [another Victorian government agency] and the [another Victorian government agency] service.
8. Initially, the Agency did not provide OVIC with copies of the attachments to certain emails within the scope of the review. Following inquiries from OVIC staff, the Agency provided copies of the attachments to the emails. In its response, the Agency claimed the attachments are exempt under section 32(1).
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.
11. Finally, I note several pages of documents, including attachments, captured by the Agency were generated and sent to the Agency by OVIC staff. As such, I have considered whether or not these pages are subject to the FOI Act by virtue of section 6AA, which states:

6AA Act not to apply to access to certain documents of Office of Victorian Information Commissioner

This Act does not apply to access to a document that is in the possession of—

- (a) the Information Commissioner or the Public Access Deputy Commissioner; or
- (b) a member of staff of the Office of the Victorian Information Commissioner; or
- (c) a contractor, agent or other person acting for or on behalf of the Information Commissioner or the Public Access Deputy Commissioner—

to the extent that the document is the subject of, or discloses information that relates to—

- (d) a review under Part VI; or
- (e) a complaint to the Information Commissioner under Part VIA; or
- (f) an investigation.

12. Having reviewed these pages, I am satisfied they are authored by and in the possession of the Information Commissioner or myself or other OVIC staff members. As such, I am satisfied the FOI Act does not apply to these pages by virtue of section 6AA.

Complaint regarding document provided in full

13. As noted above, in its decision letter, the Agency granted access to one document in full in response to item 1 of the Applicant's request. The document is a screenshot of the document properties of an investigation report.

14. During the review, the Applicant raised concerns the Agency sent two documents with one superimposed over another.
15. Following inquiries made by OVIC staff, the Agency provided the Applicant with a clear and legible copy of the document.
16. This document is not subject to review and is not included in the Schedule of Documents in **Annexure 1**.

Review of exemptions

Section 32(1) – legal privilege

17. Section 32(1) provides a document is an exempt document ‘if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege or client legal privilege’ (**legal privilege**).
18. A document will be subject to legal privilege and exempt under section 32(1) where it contains a confidential communication:
 - (a) between the client (or the client’s agent) and the client’s professional legal advisers, that was made for the dominant purpose of obtaining or providing legal advice or is referable to pending or contemplated litigation;
 - (b) between the client’s professional legal advisers and third parties, that was made for the dominant purpose of pending or contemplated litigation; or
 - (c) between the client (or the client’s agent) and third parties that was made for the purpose of obtaining information to be submitted to the client’s professional legal advisers for the dominant purpose of obtaining advice on pending or contemplated litigation
19. The purpose of legal privilege ensures a client can openly and candidly discuss legal matters with their legal representative and seek legal advice:

The rationale of this head of privilege, according to traditional doctrine, is that it promotes the public interest because it assists and enhances the administration of justice by facilitating the representation of clients by legal advisers, the law being a complex and complicated discipline. This it does by keeping secret their communications, thereby inducing the client to retain the solicitor and seek his advice, and encouraging the client to make a full and frank disclosure of the relevant circumstances to the solicitor.¹

20. The dominant purpose for which a confidential communication was made will determine whether the exemption applies.² Where mixed purposes exist, the paramount purpose of the communication will be relevant.³
21. In establishing a document is subject to litigation privilege, for a proceeding to be ‘anticipated or pending’ for the purposes of section 119 of the *Evidence Act 2008* (Vic), there must be more than a mere possibility of litigation. As a general rule, there must be a real prospect of litigation, but it does not have to be more likely than not.⁴

¹ *Grant v Downs* (1976) 135 CLR 674 at [19].

² *Thwaites v DHS* [1998] VCAT 580 at [22]-[24].

³ *Martin v Melbourne Health (Review and Regulation)* [2019] VCAT 1190 at [35].

⁴ *Mitsubishi Electric Australia Pty Ltd v Victorian Workcover Authority* (2002) 4 VR 332.

22. Part of a document may be subject to legal privilege. As such, the fact a document contains non-privileged material does not mean the document, in its entirety, ceases to be subject to privilege.⁵ In this respect, the High Court of Australia has held:

If a communication satisfies the description of a document brought into existence for the sole purpose of enabling a confidential professional communication between a client and his legal adviser in connexion with pending or anticipated legal proceedings then in our opinion it follows that it is an exempt document within the meaning of s. 42 of the Act. In such a case it is not to the point that the document may contain advice which relates to matters of policy as well as of law. It is the connexion between the document and legal proceedings that establishes its character and thus attracts the privilege.⁶

23. The Applicant made the following submission, addressing case law relevant to the dominant purpose test:

1. The dominant purpose (Refer S118(c) of The Evidence Act) of a communication must be determined objectively, with regard to all of the circumstances in which it was made and its nature (*Grant v Downs* (1976) 135 CLR 674 at 689 per Stephen, Mason and Murphy JJ). It is necessary to take an objective view of all of the evidence and to take into account the evidence of not only the author but also that of the person or authority under whose direction the document was prepared.
2. If the document would have been prepared irrespective of the intention to obtain professional legal services, then it will not satisfy the test (*Grant v Downs* (1976) 135 CLR 674 at 688 per Stephen, Mason and Murphy JJ).
3. However, a 'but for' test is not determinative – if two purposes are of equal weight, one would not dominate the other. 'More important purpose' does not necessarily mean it was the 'dominant purpose' (see discussion in Odgers, *Uniform Evidence Law in Victoria* (2010) at [1.3.10520]).
4. A claim for privilege will not succeed if all that emerges is that the document is a commercial document or has been brought into existence in the ordinary course of business (unless the court is satisfied there is a dominant purpose in accordance with s118 or s119) (*Re Southland Coal Pty Ltd (rec & mgrs apptd) (in liq)* [2006] NSWSC 899 at [14] per Austin J).
5. There is a two step approach to determining dominant purpose:
 - first, the subjective purpose/s of the person/s making or commissioning the particular communication must be determined; and
 - second, if the court determines that there was more than one purpose, and at least one of those purposes was capable of attracting legal professional privilege, the court must determine whether the party claiming the privilege has established that the privileged purpose was the dominant purpose (*Matthews v SPI Electricity Pty Ltd & Ors (No 6)* [2013] VSC 422 at [57] per Derham AsJ, citing *Carter Holt Harvey Wood Products Australia Pty Ltd v Auspine Ltd* [2008] VSCA 59 at [3] per Maxwell P (for the Court)).
6. The word 'dominant' has been interpreted as meaning that there must be 'a "clear paramountcy" of purpose' (*Perry v Powercor Australia Ltd* [2011] VSC 308 at [55] per Robson J, citing *AWB Ltd v Cole (No 5)* (2006) 155 FCR 30 at 45 per Young J; [2006] FCA 1234; *Mitsubishi Electric Pty Ltd v Victorian Workcover Authority* (2002) 4 VR 332 at 337; [2002] VSCA 59 at [10] per Batt JA (Charles and Callaway JJA agreeing); *Waugh v British Railways Board* [1980] AC 521 at 543 per Edmund-Davies LJ; *Dick Smith Electronics Pty Ltd v Westpac Banking Corp* [2002] FCA 1040 at [34]-[35] per Beaumont J; *Sydney Airports Corporation Ltd v Singapore Airlines Ltd & Qantas Airways Ltd* [2005] NSWCA 47 at [7] per Spigelman CJ (Sheller JA and M W Campbell AJA agreeing)).
7. Upon the basis of points 1-6 above, BRHS cannot satisfy Section 32 of the FOI Act on the balance of probabilities and so all exemption claims must fail.

⁵ *Waterford v Commonwealth* (1987) 163 CLR 54 at [66–7].

⁶ *Waterford v Commonwealth* (1987) 163 CLR 54 at [67].

24. On [dates], the Applicant provided further submissions detailing their history with the Agency and views on OVIC's application of section 32(1) to documents subject to a previous review application lodged by the Applicant. Specifically, the Applicant submits the following information regarding email chains and the dominant purpose test:

... it may be that only part of a document meets the dominant purpose test. A particular document may contain or consist of many communications, such as an email chain, only some of which were made for the requisite purpose. (Refer *Asahi Holdings (Australia) Pty Ltd v Pacific Equity Partners Pty Limited (No 4)* [2014] FCA 796.)

25. Having reviewed the documents, I am satisfied each comprises:
- (a) a communication between Agency officers and the Agency's legal advisors in the context of seeking instructions regarding pending litigation or litigation in progress;
 - (b) a communication between Agency officers and the Agency's legal advisors in the context of seeking instructions in relation to FOI applications received from the Applicant;
 - (c) internal emails between Agency officers forwarding legal advice or instructions received from the Agency's legal advisors; and
 - (d) an internal email between Agency officers where no legal advice or instruction is forwarded.
26. I am satisfied certain documents are exempt under section 32(1) for the following reasons:
- (a) Certain emails within the email chains contain legal advice provided to the Agency in circumstances in which litigation was pending or was in progress.
 - (b) Other emails within the email chains contain communications where Agency officers seek legal advice for pending litigation or litigation in progress.
 - (c) In my view, an email chain is a 'document' within the meaning of the FOI Act and each email within the chain is not a separate document for the purposes of the FOI Act. I consider the sender of an email chain should be taken to intend for the preceding emails to be included as part of an email. For example, they may provide context to their response to the email chain or to avoid the need to repeat content in previous emails in the email chain.
 - (d) The legal advice and confidential communications concerning active litigation in certain emails is intertwined with preceding and proceeding emails within the email chain, such that the legal advice concerns the preceding emails and the proceeding emails represent the Agency acting upon legal advice provided by its legal advisors. Where an email does not contain legal advice, it nevertheless has the requisite connection to the legal advice in the email chain.
 - (e) In relation to the email attachments, I consider they were created and forwarded for the purpose of the Agency officers obtaining legal advice from the Agency's legal advisors, or the legal advisors seeking instructions on behalf of the Agency, as their client, on how to proceed with the litigation and FOI applications.
 - (f) Further, I accept legal privilege extends to a draft document or comments provided by a lawyer in relation to a draft document. In such circumstances, the lawyer is regarded as

furnishing advice when preparing or revising a draft communication in which they are providing legal advice.⁷

27. However, I am not satisfied Documents 9 and 10 contain legal advice or instructions forwarded from the Agency's legal advisors.
28. Document 9 is an email chain between Agency officers providing documents relating to an FOI review application made to the Information Commissioner in relation to an FOI matter. It contains attachments from OVIC in relation to that application and does not contain any information provided to or from the Agency's legal advisors. As stated above, administrative documents authored by OVIC, and in the possession of OVIC or the Agency, are not subject to the FOI Act by virtue of section 6AA.
29. Document 10 contains an email chain between Agency officers where one officer is forwarding correspondence sent by OVIC staff relating to the finalisation of a separate FOI complaint matter involving the Applicant. Although the correspondence from OVIC was sent to the Agency's legal advisor, the email chain does not contain any legal advice and there is no information before me to suggest it is connected to ongoing litigation between the parties. Therefore, I am not satisfied this correspondence is exempt under section 32(1). As stated above, documents authored by OVIC, and in the possession of OVIC or the Agency, are not subject to the FOI Act by virtue of section 6AA.
30. My decision in relation to each document is outlined in the Schedule of Documents in **Annexure 1**.

Section 33(1) – personal affairs information

31. As I have determined Documents 9 and 10 are not exempt under section 32(1), I have considered the application of section 33(1) to these documents.
32. 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;⁸ and
 - (b) such disclosure would be 'unreasonable'.

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

33. Information relating to an individual's 'personal affairs' includes information that identifies any person or discloses their address or location. It also includes any information from which such information may be reasonably determined.⁹
34. 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.¹⁰
35. The documents contain the names, email addresses, telephone extension numbers and position titles of Agency officers. I am satisfied this information constitutes personal affairs information for the purposes of section 33.

⁷ See *Conyers v Monash University* [2005] VCAT 2509; *Re Osland and Department of Justice* [2005] VCAT 1648; *Re City Parking Pty Ltd and City of Melbourne* (1996) 10 VAR 170 at [202]; *Re Smith and Directorate of School Education* (unreported, AAT, Macnamara DP, 14 August 1996).

⁸ Sections 33(1) and (2).

⁹ Section 33(9).

¹⁰ *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].

Would disclosure of the personal affairs information be unreasonable?

36. The concept of 'unreasonable disclosure' involves balancing the public interest in disclosure of official information with the protection of a person's right to privacy in the particular circumstances.
37. The Supreme Court of Victoria Court of Appeal has held there is 'no absolute bar to providing access to documents which relate to the personal affairs of others', and 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'.¹¹
38. In determining whether disclosure of personal affairs information in the documents would be unreasonable in this matter, I have considered the following factors:

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

I note it is likely the identity of many of the persons whose information appears in the document is known to the Applicant, [further context]. However, even where an FOI applicant knows the identity of a person, disclosure of the personal affairs information may still be unreasonable in the circumstances.¹²

There may be slight sensitivity with respect to the personal affairs information of Agency staff in the circumstances of this matter, given current legal proceedings between the parties. However, in my view, most of the content of the emails is administrative and innocuous in nature, which reduces any potential sensitivity of the identity of persons involved in discussions concerning the Applicant's employment.

I note certain information was acquired by the Agency in the course of Agency officers' usual work duties and responsibilities. As such, I consider their personal affairs information in the documents concerns these individuals in their professional capacity, rather than in a personal or private capacity in most circumstances.

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

I acknowledge the Applicant's interest in seeking access to the information to further understand the Agency's decision making processes in relation to their employment.

Although the Applicant's interest in the documents would predominantly serve their personal interest, having considered the nature of the personal affairs information and the context of the documents, I consider disclosure of the personal affairs information would promote transparency in decision making by the Agency, both in relation to this matter and future decisions of the Agency.

(c) The Applicant's interest in the information, and whether their purpose for seeking the information is likely to be achieved

The FOI Act provides a general right of access that can be exercised by any person, regardless of their motive or purpose for seeking access to a document. However, the reasons why an applicant seeks access to a document is a relevant consideration in determining whether disclosure would be unreasonable.¹³

¹¹ [2008] VSCA 218 at [76].

¹² *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

¹³ *Victoria Police v Marke* [2008] VSCA 218 at [104].

I have considered the Applicant's extensive submissions containing a detailed history of their employment and serious allegations concerning the Agency.¹⁴

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

The nature of disclosure under the FOI Act is unconditional and unrestricted, which means an applicant is free to disseminate widely or use a document as they choose once it is released.¹⁵

Having considered the circumstances of this matter, I consider it is reasonably likely the Applicant would disseminate the documents for use in legal proceedings. However, there is no information before me to suggest they would disseminate the documents more broadly.

(e) Whether the individuals to whom the information relates object, or would be likely to object, to the release of the information

There is no information before me concerning the views of the Agency officers in relation to the release of their personal affairs information.

(f) Whether disclosure of the information would, or would be reasonably likely to endanger the life or physical safety of any person¹⁶

There is no specific information before me to suggest this is a relevant factor in this matter.

39. In weighing up the above factors, on balance, I am satisfied disclosure of the personal affairs information of Agency officers would not be unreasonable in the circumstances. Ordinarily, I would consider it unreasonable to release individual Agency officer emails addresses. However, [further context], I consider disclosure of this information would not be unreasonable in the circumstances.
40. However, I consider it would be unreasonable to disclose telephone numbers of Agency officers, as such information is not generally provided outside of an agency and the non-disclosure of the telephone numbers would not inhibit the Applicant from contacting the Agency or its officers through appropriate channels.
41. My decision in relation to section 33(1) is outlined in the Schedule of Documents in **Annexure 1**.

Deletion of exempt or irrelevant information

42. Section 25 requires an agency to grant access to an edited copy of a document when it is practicable to delete exempt or irrelevant information and the applicant agrees to receiving such a copy.
43. Determining what is 'practicable' requires consideration of the effort and editing involved in making the deletions 'from a resources point of view'¹⁷ 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 25.¹⁸
44. I have considered whether it is practicable to provide the Applicant with an edited copy of the documents with exempt information deleted in accordance with section 25. I am satisfied it is not practicable to delete most of the exempt information as its' removal would render the documents meaningless. I am satisfied it is practicable to provide the Applicant with an edited copy of

¹⁴ This is recorded in detail in the Applicant's submissions dated 15, 21 and 24 August 2020.

¹⁵ *Victoria Police v Marke* [2008] VSCA 218 at [68].

¹⁶ Section 33(2A).

¹⁷ *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].

¹⁸ *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].

Documents 9 and 10 with exempt information deleted, as to do so would not require substantial time and effort and the edited document would retain meaning.

Conclusion

45. On the information before me, I am satisfied certain information in the documents is exempt under sections 32(1) and 33(1).
46. Where I am not satisfied it would be practicable to delete exempt information from the documents in accordance with section 25, I have determined to refuse access to those documents in full.
47. As it is practicable to edit two of the documents to delete exempt information in accordance with section 25, I have determined to grant access to those documents in part.
48. My decision in relation to each document is outlined in the Schedule of Documents in **Annexure 1**.

Review rights

49. 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.¹⁹
50. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²⁰
51. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²¹
52. 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.
53. 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.²²

Third party review rights

54. As I have determined to release documents that contain information relating to the personal affairs of third parties, if practicable, I am required to notify those individuals of their right to seek review by VCAT of my decision within 60 days from the date they are given notice.²³
55. In this case, I am satisfied it is practicable to notify the relevant third parties about their review rights and confirm they will be notified of my decision on the date of decision.

When this decision takes effect

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

¹⁹ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²⁰ Section 52(5).

²¹ Section 52(9).

²² Sections 50(3F) and (3FA).

²³ Sections 49P(5), 50(3) and 52(3).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency Decision	OVIC Decision	OVIC Comments
1.	[date]	Email chain with attachments	13	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): I am satisfied the email chain and attachments are exempt under section 32(1) for the reasons outlined in the Notice of Decision. Section 25: As I am not satisfied it would be practicable to delete exempt information in accordance with section 25, access to the document is refused in full.
2.	[date]	Email with attachments	16	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
3.	[date]	Email chain with attachments	8	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
4.	[date]	Email chain	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
5.	[date]	Email Chain	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
6.	[date]	Email Chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency Decision	OVIC Decision	OVIC Comments
7.	[date]	Email with attachment	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1. Note: The 1 page attachment to the email is not subject to the Act by virtue of section 6AA. The Applicant may contact OVIC directly regarding access if required.
8.	[date]	Email with attachments	11	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
9.	[date]	Email chain with attachments	8	Refused in full Section 32(1)	Release in part Sections 33(1), 25 The content of the email dated [date] at [time] on page 1 is to be released, except for the Agency telephone and fax numbers, which are exempt under section 33(1) and are to be deleted in accordance with section 25. The remainder of the	Section 32: I am not satisfied the document is exempt under section 32(1) for the reasons outlined in the Notice of Decision above. Section 33(1): I am not satisfied it would be unreasonable to disclose most of the personal affairs information in the document. However, I am satisfied it would be unreasonable to disclose certain personal affairs information for the reasons outlined in the Notice of decision above. Note: The second email in the chain and the attachments to the email are not subject to the FOI Act by virtue of section 6AA. Section 25: As I am satisfied it is practicable to delete exempt information in accordance with

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency Decision	OVIC Decision	OVIC Comments
					document, including the attachments, is not subject to the FOI Act.	section 25, access to the document is refused in full.
10.	[date]	Email chain with attachment	3	Refused in full Section 32(1)	Release in part Section 33(1) The content of the email dated [date] at [time] on page 1 is to be released, except for the Agency telephone and fax numbers, which are exempt under section 33(1) and is to be deleted in accordance with section 25. The remainder of the document, including the attachment, is not subject to the FOI Act.	Section 32(1): See comments for Document 9. Section 33(1): See comments for Document 9. Note: The second email in the chain and the attachment to the email are not subject to the FOI Act by virtue of section 6AA. Section 25: As I am satisfied it is practicable to delete exempt information in accordance with section 25, access to the document is refused in full.
11.	[date]	Email chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
12.	[date]	Email with	7	Refused in full	Refuse in full	Section 32(1): See comments for Document 1.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency Decision	OVIC Decision	OVIC Comments
		attachments		Section 32(1)	Section 32(1)	Section 25: See comments for Document 1.
13.	[date]	Email chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
14.	[date]	Email chain	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): The originating email contains confidential communications concerning ongoing litigation, which is subject to litigation privilege. Although the proceeding emails are administrative in nature, they nevertheless have sufficient nexus to the originating email such that they are also subject to litigation privilege. Accordingly, this document is exempt under section 32(1). Section 25: See comments for Document 1.
15.	[date]	Email chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
16.	[date]	Email with attachments	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
17.	[date]	Email chain with attachment	4	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	Number of Pages	Agency Decision	OVIC Decision	OVIC Comments
18.	[date]	Email chain	1	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
19.	[date]	Email chain with attachments	4	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
20.	[date]	Email chain	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
21.	[date]	Email chain with attachment	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
22.	[date]	Email chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
23.	[date]	Email chain	2	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.
24.	[date]	Email chain	3	Refused in full Section 32(1)	Refuse in full Section 32(1)	Section 32(1): See comments for Document 1. Section 25: See comments for Document 1.