

Date: Monday 20 February 2023

Time: 2:00pm – 3:00pm

Location: Microsoft Teams

Attendees:

Joanne Kummrow, Public Access Deputy Commissioner, Office of the Victorian Information Commissioner (OVIC) (Chair)

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

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

Andrew Weston, Manager, Freedom of Information, Department of Transport and Planning

Cameron Montgomery, Executive Manager Safety Governance and Risk, City of Ballarat

Elle Maroudas, Acting Manager, Freedom of Information, Department of Education

Felicity Wright, Information & Privacy Manager, Transport Accident Commission

Lisa Scholes, Manager, Freedom of Information, Department of Families, Fairness and Housing

Paul Pittorino, FOI Manager, Department of Justice and Community Safety

Monica Barnes, Manager FOI and Privacy, Country Fire Authority

Peter Gannoni, Acting Senior Governance Officer, City of Melbourne

Robin Davey, Manager, Freedom of Information Division, Victoria Police

Susan Maye, Manager, Regulatory Advisory Services, University of Melbourne

Stephanie Siomos, PAARG Secretariat, OVIC

Guests:

Anique Owen, Acting Manager of the Privacy Guidance and Dispute Resolution, OVIC

Meeting opened at 2:03pm

OVIC welcomed members to the meeting and thanked them for their ongoing participation in the PAARG.

OVIC noted Stephanie Siomos has replaced Anita Mugo as the PAARG secretariat. Meeting invitations, agenda and minutes will now be sent from the new OVIC email foimeetings@ovic.vic.gov.au.

Agenda Items

1. Apologies

Bronte Wright, Legal Counsel - Freedom of Information & Privacy, WorkSafe Victoria

Raffaella Di Maio, FOI Lead, UoM

2. Previous meeting minutes

Confirmed – All attendees confirmed minutes of 21 November 2022

3. Action items

Nil

4. PAARG 2023

OVIC noted feedback/suggestions from the 2022 Reference Group Survey will be used to shape the format the 2023 PAARG meetings with the following changes/updates being made.

- The meetings will continue to occur on a quarterly basis.
- A standing item for the OVIC Privacy Guidance team to present relevant updates at each meeting has been added to the agenda.
- A hybrid style meeting where members have the option to attend in person or via Teams will be trialled.
- PAARG membership will remain open and invitations will be extended to other agencies to join. Suggestions as to which agencies should be extended an invitation are welcome and can be emailed to foimeetings@ovic.vic.gov.au.

Although there was no clear preference from the group, OVIC will consider trialling themed meetings such as Freedom of Information (FOI) delays, recruitment, third party consultations or proactive and informal release of information.

Further feedback/suggestions can be sent to OVIC via foimeetings@ovic.vic.gov.au.

5. Agency updates

Members provided updates including on the following topics:

- **Machinery of Government (MoG) changes** – several members discussed the impact of the MOG changes; noting various functions are still in the process of being transitioned with memorandums of understanding in place in the interim.
- **FOI workloads** – multiple members reported increases in the volume of FOI requests received in December 2022 followed by a brief drop in early January 2023 and then further

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increases post the holiday period. One member noted their agency had experienced an issue with accessing historical records through Microfiche which has been resolved but temporarily affected the processing of some FOI requests. Another member noted an increased workload resulting from a relevant Redress Scheme and although most of the request are being handled as informal releases, they involve requesting archived, and historical hardcopy documents.

- **Recruitment and resourcing** – one member noted their agency had received additional temporary staffing primarily to assist with document searches; while another member advised of a current vacancy in the FOI space, while an additional resource had been gained in the Privacy space. General commentary provided by group members about the ongoing recruitment and resourcing challenges.
- **Proactive and informal release initiatives** – one member noted their agency was trialling a new process for how the informal release of information is being managed and recorded. Further updates on this will be provided at the next Reference Group meeting.

6. OVIC privacy guidance update

Data breaches

OVIC noted over the Christmas period there was an increase in cyber-attacks. Since that time, there has been a reduction in cyber-attacks, but an increase in the human error incidents that include:

- Correspondence or emails sent to misspelt residential and email addresses.
- The accidental reliance on Outlook's auto-fill function when sending an email; and
- The wrong attachments being sent with personal or sensitive information being disclosed to the wrong person.

OVIC encouraged agencies to reach out to the Privacy Guidance team for ideas on how to mitigate and deal with these issues.

Privacy Complaints

OVIC noted their leading complaint type continues to relate to the way personal information is collected and used or disclosed. There has been an increase in the number of complaints relating to the accuracy of personal information held, used or disclosed. This includes opinions about employee's actions or performance, reports prepared by third parties, or debt collection action taken where there is no known outstanding amount.

Privacy Enquiries.

OVIC has had an increase in the number of formal and informal enquiries regarding MoG changes and IPP 4.1 – the reasonable steps agencies should be taking to protect information held from misuse, unauthorised access, disclosure or modification. Agencies should be regularly reviewing and auditing access to their systems (particularly where they rely on an automated processes to

manage this) to ensure that only the correct authorised staff have access to systems and shared databases.

OVIC's Privacy and Assurance team recently collaborated with the Public Records Office on guidance to help organisations balance their record keeping and privacy obligations (IPP 4). The following links to these resources were provided:

<https://prov.vic.gov.au/recordkeeping-government/a-z-topics/privacy-and-recordkeeping-obligations>

<https://prov.vic.gov.au/recordkeeping-government/document-library/pros-2207-identity-verification-function>

7. OVIC policy and operational update

Key policy projects / initiatives

FOI Guidelines project

Content for 11 Parts of the Overview of the FOI Guidelines has been prepared. Many parts have already gone through public consultation and are now receiving a final internal review. Content for the two final Parts are in the process of being written and will be ready for public consultation soon. The final publication is in the planning process and will be announced via our Twitter handle and newsletter once completed.

Practice Notes

The 'What is a document and what is actual or constructive possession' practice note has been updated and is available on OVIC's [website](#).

Proactive and Informal Release (PAIR) template policy

OVIC are reviewing the feedback received regarding the PAIR template policy, and are considering making changes to the template policy and guide.

Reviews

The Public Access Branch is currently handling 152 reviews and 6 access charges matters.

Due to the high volume of access charge matters and OVIC receiving additional questions in recent months from agencies about access charges, the next Information Access Series on 29 March 2023 will address this topic. Registration is available through the OVIC [website](#).

OVIC noted 316 review applications have been received and 303 closed this financial year.

OVIC have continued to improve the timeliness of decision making and reduce the number of open reviews over 200 days old. At the end of 2022, there were no review files over a year old. OVIC's focus this financial year continues to be on improving overall timeliness in completing reviews, including through informal resolution.

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Informal resolution

Approximately 25% of matters have been informally resolved this financial year.

Publication of Notices of Decision

To date over 720 decisions have been published. A representative selection of OVIC's decisions will be published from now to focusing on getting topical decisions published in a timely fashion. Agencies were encouraged to reach out to OVIC if concerned about information being released.

Upcoming events

OVIC is hosting an FOI and Privacy Regional Roadshow on 23 February 2023 for public sector agencies located in regional and rural Victoria. This event aims to raise awareness of the right to access government-held information, highlight the importance of protecting personal information and to engage with local Victorian government agencies, including public health service providers, to promote the object of the FOI Act and the *Privacy and Data Protection Act 2014 (Vic)*.

The *Administering of the Freedom of Information Act 1982 (Vic) (FOI Act)* and *Introduction to Information Privacy and the Privacy and Data Protection Act 2014 (PDP Act)* monthly training sessions have commenced. Registration is available through the OVIC website.

OVIC reminded agencies that a range of free eLearning modules are available through the online learning portal that can be accessed via the OVIC website.

Registry & case support team

The Registry and Case Support Team continue to receive a high volume of telephone and email enquires about FOI and Privacy.

Following the recent MoG changes, the team has updated OVIC's databases with new contacts, departmental and ministerial changes.

FOI Complaints

OVIC continues to receive a high volume of FOI complaints regarding agency delays in processing requests within statutory timeframes.

OVIC currently has 201 complaints on hand (an increase of 39 cases since the last meeting) made up of:

- a. 162 complaints concerning delays
- b. 48 general handling/docs don't exist complaints

OVIC noted 393 complaints have been received and 425 complaints closed this financial year. The average time taken by OVIC to finalise complaints is 104 days. This remains high due to OVIC keeping delay complaints open until notification that an agency has made its decision has been received. The average time taken to finalise non-delay complaints is 52.8 days.

Professional Standards

Standards 2.4, 8.4 and 10.3 continue to be the most engaged Standards recorded by OVIC. OVIC continues to work with agencies to improve their compliance with the Professional Standards during the handling of FOI reviews and complaints.

8. Other business

OVIC noted the Information Commissioner (IC) made a recommendation in the published *Own Motion Investigation (OMI)* report for the Victorian Government to conduct a public, consultative, and wide-ranging review of the FOI Act. The IC also published a report 1 year after the OMI report noting there had not been any response received regarding this recommendation. To date there has still not been any response from the Victorian Government, nor has any proposed legislative reform been presented in Parliament.

One member thanked OVIC for hosting the Information Access Series: Proactive and Informal Release session held last week and noted it to be the most informative session regarding this topic received in a long time.

Another member noted their agency has developed training articles to create a knowledge base for topical work areas and they intend to incorporate FOI into that space specifically covering proactive and informal release.

OVIC thanked everyone for their attendance.

Meeting closed: 3:03pm

Next meeting scheduled: 22 May 2023