

Freedom of Information Act 1982 (Vic)

INSTRUMENT OF DELEGATION

PART A - INTRODUCTION

1. I, Sven Bluemmel, the Information Commissioner appointed under sections 6C and 6E of the *Freedom of Information Act 1982 (Vic)* (**FOI Act**), delegate the powers and functions specified in this document to staff of the Office of the Victorian Information Commissioner (**OVIC**) holding the positions set out below.

PART B - PURPOSE

2. The purpose of this instrument of delegation is to delegate the powers and functions conferred on the Information Commissioner under the FOI Act.

PART C - AUTHORITY

3. This instrument of delegation is made under the powers conferred on the Information Commissioner by section 6R of the FOI Act.

PART D - REVOCATION

4. All previous instruments of delegation that delegate any powers and functions under the FOI Act are revoked and replaced with this instrument of delegation.

PART E - GENERAL CONDITIONS ON DELEGATION

5. This instrument of delegation does not prevent the Information Commissioner nor the Public Access Deputy Commissioner (**Deputy Commissioner**) from exercising, performing or discharging any delegated powers.
6. In any case, where notice is given to a delegate by the Information Commissioner or the Deputy Commissioner that the Information Commissioner or the Deputy Commissioner proposes to exercise, perform or discharge any of the delegated powers, the delegate must not commence, or must immediately cease to exercise, perform or discharge the delegated power.
7. This instrument of delegation is subject to compliance with any specific administrative policies, procedures and guidelines currently in operation or issued from time to time.

PART F - DELEGATION TO THE PUBLIC ACCESS DEPUTY COMMISSIONER

8. The **Deputy Commissioner** has powers and functions under sections 6H, 6I(2), and 6K. In addition to these powers and functions, I also delegate all delegable powers and functions given to me by the FOI Act to the person appointed as the **Deputy Commissioner** except for the following powers:
 - a) **Section 6U**: Development of professional standards.
 - b) **Section 6V**: Publication of professional standards.
 - c) **Section 6X**: Review and amendment of professional standards.
 - d) **Section 61C(3)**: Give notice in writing to a complainant that the Information Commissioner referred a complaint or decided to deal with the complaint under the *Privacy and Data Protection Act 2014*.
 - e) **Sections 61O, 61P, 61Q, 61T, 61TA, 61TB(1), 61TC, 61TD, 61TE, 61TF and 61TG**: Undertaking an investigation.

PART G - DELEGATION TO THE GENERAL COUNSEL AND ASSISTANT COMMISSIONERS

9. To the persons holding the following positions, and any person for the time being acting in or performing the duties of the following positions:

- Assistant Commissioner - Public Access Reviews and Regulation,
- Assistant Commissioner - Public Access Operations and Compliance,
- Assistant Commissioner - Information Security,
- Assistant Commissioner - Privacy and Assurance,
- Assistant Commissioner – Policy, and
- General Counsel

I delegate the following powers and functions:

- a) **Sections 49G(3):** Give notice about a decision not to accept an application.
- b) **Section 49KA(4):** Extend the time for complying with a notice under section 49KA(2).
- c) **Section 49L(1A):** With the agreement of the applicant, refer the matter back to the agency or Minister for reconsideration.
- d) **Section 49MA(1):** Dismiss a review if an applicant agrees with a fresh decision.
- e) **Section 49MA(5):** Extend a period by agreement in writing with the applicant.
- f) **Section 49O(1):** Refer the matter to the relevant authority.
- g) **Section 49O(4):** Notify the applicant in writing of a referral.
- h) **Section 61B(1), (2) and (4):** Accept or decline to deal with a complaint.
- i) **Section 61C(2) and (2A):** Decline to deal with a complaint and refer it to the person or body.
- j) **Section 61D:** Notice of decision to investigate complaint.
- k) **Section 61GA(3):** Extend the time for complying with a notice under section 61GA(1).
- l) **Section 61H(1):** Conciliate complaint.
- m) **Section 61L(5):** Give opportunity to comment on draft recommendation or comment.
- n) **Section 61L(8):** Refer matter for investigation.
- o) **Section 61M:** Accept complaints notified or referred by other bodies.
- p) **Section 61TB(2):** Consult with the Director of Public Prosecutions, the Chief Commissioner of Police, the Independent Broad-based Anti-corruption Commission (IBAC) or the Victorian Inspectorate.
- q) **Section 61TI:** Provide or disclose any information received or obtained during the course of an investigation to a specified person or body.
- r) **Section 61TJ(8):** Issue a confidentiality notice or a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.
- s) **Section 61TK(4):** Issue a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.
- t) **Section 61TL:** Provide the IBAC with a copy of each confidentiality notice, each notice cancelling a confidentiality notice, each application to the Supreme Court to extend a confidentiality notice and

each order of the Supreme Court extending a confidentiality notice.

- u) **Section 61V:** Vary or revoke a notice to produce or attend.
- v) **Section 61ZD:** Report to the Victorian Inspectorate on issue of a notice to produce or attend.
- w) **Section 63E(4):** Copy a document.
- x) **Section 63E(5):** Return a document to an agency and destroy any copies of the document.

PART H - DELEGATION TO OVIC MANAGERS

10. To the persons holding the following positions, and any person for the time being acting in or performing the duties of the following positions:

- **Manager – Registry and Case Support,**
- **Manager – Public Access Reviews and Regulation, and**
- **Manager Complaints and Professional Standards**

I delegate the following powers and functions:

- a) **Sections 49G(3):** Give notice about a decision not to accept an application.
- b) **Section 49L(1A):** With the agreement of the applicant, refer the matter back to the agency or Minister for reconsideration.
- c) **Section 49MA(1):** Dismiss a review if an applicant agrees with a fresh decision.
- d) **Section 49MA(5):** Extend a period by agreement in writing with the applicant.
- e) **Section 61B(1), (2) and (4):** Accept or decline to deal with a complaint.
- f) **Section 61C(2) and (2A):** Decline to deal with a complaint and refer it to the person or body.
- g) **Section 61D:** Notice of decision to investigate complaint.
- h) **Section 61H(1):** Conciliate complaint.
- i) **Section 61M:** Accept complaints notified or referred by other bodies.
- j) **Section 63E(4):** Copy a document.
- k) **Section 63E(5):** Return a document to an agency and destroy any copies of the document.

PART I – DELEGATION TO CASE MANAGERS

11. To the persons holding the following positions, and any person for the time being acting in or performing the duties of the following positions:

- **Principal Case Manager,**
- **Senior Case Manager, and**
- **Case Manager**

in the public access team, I delegate the following powers and functions:

- a) **Sections 49G(3):** Give notice about a decision not to accept an application.
- b) **Section 49L(1A):** With the agreement of the applicant, refer the matter back to the agency or Minister for reconsideration.
- c) **Section 49MA(5):** Extend a period by agreement in writing with the applicant.

- d) **Section 61C(2A):** Communicate information about referral.
- e) **Section 61M:** Accept complaints notified or referred by other bodies.
- f) **Section 63E(4):** Copy a document.
- g) **Section 63E(5):** Return a document to an agency and destroy any copies of the document.

PART J - DELEGATION TO OVIC LEGAL TEAM

12. To the persons holding the following positions, and any person for the time being acting in or performing the duties of the following positions:

- **General Counsel, and**
- **Lawyer**

I delegate the following powers and functions:

- a) **Section 51(1):** Apply to the Tribunal to assist in respect of a review.
- b) **Section 53A(1)(c):** Notification of reviews regarding documents affecting personal privacy.
- c) **Section 61TB(2):** Consult with the Director of Public Prosecutions, the Chief Commissioner of Police, the IBAC or the Victorian Inspectorate.
- d) **Section 61TI:** Provide or disclose any information received or obtained during the course of an investigation to a specified person or body.
- e) **Section 61TJ(8):** Issue a confidentiality notice or a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.
- f) **Section 61TK(4):** Issue a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.
- g) **Section 61TL:** Provide the IBAC with a copy of each confidentiality notice, each notice cancelling a confidentiality notice, each application to the Supreme Court to extend a confidentiality notice and each order of the Supreme Court extending a confidentiality notice.

PART K – DELEGATION TO OVIC INVESTIGATIONS TEAM

13. To the persons holding the following positions, and any person for the time being acting in or performing the duties of the following positions:

- **Assistant Commissioner – Privacy and Assurance,**
- **Manager - Investigations and Assurance,**
- **Principal Investigations Officer, and**
- **Senior Investigations Officer**

I delegate the following powers and functions:

- a) **Section 61TB(2):** Consult with the Director of Public Prosecutions, the Chief Commissioner of Police, the IBAC or the Victorian Inspectorate.
- b) **Section 61TI:** Provide or disclose any information received or obtained during the course of an investigation to a specified person or body.
- c) **Section 61TJ(8):** Issue a confidentiality notice or a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.

- d) **Section 61TK(4)**: Issue a notice cancelling a confidentiality notice by serving a copy on a person in the same manner that a witness summons can be served.
- e) **Section 61TL**: Provide the IBAC with a copy of each confidentiality notice, each notice cancelling a confidentiality notice, each application to the Supreme Court to extend a confidentiality notice and each order of the Supreme Court extending a confidentiality notice.

PART L – DELEGATION TO ALL OVIC STAFF

14. To all OVIC staff employed pursuant to my power to employ staff under section 6Q of the FOI Act, I delegate the following powers and functions:
- a) **Sections 49D**: Give notice and copies of application for review.
 - b) **Sections 49G(3)**: Give notice about a decision not to accept an application.
 - c) **Section 49J(4)**: Extend the 'required period' by agreement in writing.
 - d) **Section 49K**: Preliminary inquiries (Review).
 - e) **Section 49MA(5)**: Extend a period by agreement in writing with the applicant.
 - f) **Section 49N(1)**: Facilitate an agreement between the parties.
 - g) **Section 61C(2A)**: Communicate information about referral.
 - h) **Section 61G**: Preliminary inquiries (Complaint).
 - i) **Section 61M**: Accept complaints notified or referred by other bodies.
 - j) **Section 63E(4)**: Copy a document.
 - k) **Section 63E(5)**: Return a document to an agency and destroy any copies of the document.

PART M - DURATION

15. This instrument of delegation is in force unless and until it is replaced by another instrument.

Sven Bluemmel
Information Commissioner

10 January 2023