

Notice of Decision and Reasons for Decision

Applicant:	'DM7'
Agency:	Department of Education and Training
Decision date:	12 August 2021
Exemptions considered:	Sections 30(1), 33(1), 35(1)(b)
Citation:	'DM7' and Department of Education and Training (Freedom of Information) [2021] VICmr 242 (12 August 2021)

FREEDOM OF INFORMATION – school records – school incident – student – incident notification form – incident report – witness statement – parent request for information – reports by teachers

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 a document requested by the Applicant under the FOI Act.

My decision on the Applicant's request differs from the Agency's decision in that I have decided to release additional information in the document.

I am satisfied certain information in the document is exempt from release under sections 30(1) and 33(1).

However, I am not satisfied information in the document is exempt under section 35(1)(b).

As I am satisfied it is practicable to delete irrelevant and exempt information in the document in accordance with section 25, I have granted access to the document in part.

A marked-up copy of the document showing information that I am satisfied is not exempt has been provided to the Agency with this decision.

Joanne Kummrow
Public Access Deputy Commissioner

12 August 2021

Reasons for Decision

Background to review

1. The Applicant made a request to the Agency seeking access to a report concerning an incident involving their child that occurred at school.
2. The Agency identified one document falling within the terms of the Applicant's request and granted access to the document in part, relying on the exemptions under sections 30(1), 33(1) and 35(1)(b) to refuse access to certain information in the document. The Agency's decision letter sets out the reasons for its decision.

Review

3. The Applicant sought review by the Information Commissioner under section 49A(1) of the Agency's decision to refuse access.
4. The Applicant seeks review of the third and fourth pages of the document only and does not seek access to the names of third parties.
5. I have examined a copy of the document subject to 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. During the review, OVIC staff provided the Agency with a preliminary view that certain information, which the Agency determined is exempt, is not exempt.
9. The Agency disagreed with the preliminary view and provided a confidential submission to OVIC in response.
10. 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.
11. 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.

Review of exemptions

Section 30(1) – internal working documents

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;
 - (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 material in a document.¹

Were the documents prepared by an officer of the Agency?

14. The term 'officer of an Agency' is defined in section 5(1). It includes a member of an agency, a member of an agency's staff, and any person engaged by or on behalf of an agency whether or not they are subject to the *Public Administration Act 2004* (Vic).
15. The document subject to review is an Incident Notification Form and attached statement concerning an incident that involved the Applicant's child being injured while at school.
16. I am satisfied the document was created by an Agency officer.

Do the documents contain information in the nature of opinion, advice, recommendation, consultation or deliberation?

17. For section 30(1) to apply, a document must contain matter in the nature of opinion, advice or recommendation prepared by an officer of the agency, or consultation or deliberation between agency officers.
18. It is not necessary for a document to be in the nature of opinion, advice or recommendation. Rather, the issue is whether release of the document would disclose matter of that nature.²
19. Section 30(3) provides purely factual information is not exempt under section 30(1). This provision must be considered in conjunction with section 25, which provides for an edited copy of a document to be released with exempt or irrelevant information deleted, where it is practicable to do so.
20. Having reviewed the document, I am satisfied certain information exempted by the Agency under section 30(1) is in the nature of opinion. However, it also contains an Agency officer's recollection of the incident, which given the information recorded, is largely factual in nature.

Were the documents made in the course of, or for the purpose of, the deliberative processes involved in the functions of the Agency?

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.³
22. In *Re Waterford and Department of Treasury (No.2)*,⁴ the Administrative Appeals Tribunal held:
- ... "deliberative processes" [is] wide enough to include any of the processes of deliberation or 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 certain information was provided in the course of the Agency's deliberative processes in responding to incidents involving a student at a school.

¹ Section 30(3).

² *Mildenhall v Department of Education* (1998) 14 VAR 87.

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

⁴ (1981) 1 AAR 1.

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

24. In determining if disclosure of the document would be contrary to the public interest, I must consider all relevant facts and circumstances remaining mindful the object of the FOI Act is to facilitate and promote the disclosure of information. In doing so, I have given weight to the following factors:⁵
- (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 of 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.
25. Having reviewed the document and considered the Agency's reasons for decision and submission, I am satisfied disclosure of certain information in the document would be contrary to the public interest for the following reasons:
- (a) I consider issues and incidents are a relatively common occurrence in the school environment, and incident reports are routinely created by Agency officers where an incident or issue occurs. However, I note the sensitivity of the information in this document and the surrounding circumstances.
 - (b) While Agency officers are professionally obliged as public sector employees to provide frank advice and opinions, I accept disclosure of certain information in the document would be reasonably likely to discourage or inhibit Agency officers from recording similar communications in a detailed manner in the future. This would be contrary to the public interest as it would have a detrimental effect on the ability of the Agency to conduct a thorough and considered process, which in turn would compromise the provision of educational services and the management of incidents in Victorian government schools. Therefore, I accept any diminution in written records as a result of the routine release of similar opinions would generally have adverse consequences for the Agency, schools and members of the community.
 - (c) I acknowledge a parent is entitled to information so as to understand a school's response to an incident at school involving their child. However, this does not necessarily equate to a right of

⁵ *Hulls v Victorian Casino and Gambling Authority* (1998) 12 VAR 483.

access to all documents prepared by a school where disclosure of a document would undermine the integrity of the Agency's internal processes designed specifically to examine and respond to sensitive issues for which a school is responsible for handling and resolving.

- (d) I acknowledge the Applicant has a strong personal interest in obtaining access to the document subject to review in full. However, I am not satisfied there is a broader public interest in the release of certain information in the document in the circumstances of this matter.
26. The document also contains an Agency officer's recollection of events concerning the Applicant's child. I consider this information is factual in nature and is not exempt under section 30(1) by virtue of section 30(3).
27. In any case, even if I were satisfied this information is deliberative in nature, having carefully considered all information before me, I am not satisfied the disclosure of this information would be contrary to the public interest for the following reasons:
- (a) The information concerns an Agency officer's observations of the Applicant's child following them sustaining an injury. Having reviewed the document, I do not consider this information is particularly sensitive or controversial in the circumstances of this matter. As stated above, given the information recorded, I consider it is largely factual in nature.
 - (b) I acknowledge the document would have been created shortly after the incident and may not necessarily record all facts and circumstances considered during a subsequent investigation and resolution of the incident. Regardless, I do not consider disclosure of this information would be reasonably likely to mislead the Applicant or cause confusion about the Agency's investigation. I consider the Applicant is capable of understanding the document forms part of the information that would have been considered by the Agency during the investigation and many not reflect the Agency's official findings or reasons for its final position or decision.
 - (c) I am satisfied the integrity of the Agency's decision making processes concerning incidents of this nature, including its ability to undertake similar investigations in the future, would not be impaired by the disclosure of the relevant information.
 - (d) While I accept Agency officers provide information of this nature with a general expectation of confidentiality, I am satisfied its disclosure would not be reasonably likely to inhibit Agency officers from engaging in similar communications or recording similar information in the future. This is addressed in more detail regarding the application of section 35(1)(b) below.
 - (e) There is insufficient information before me to suggest disclosure of this information would create 'mischief'.
28. Accordingly, I am satisfied certain information exempted by the Agency is not exempt under section 30(1).
29. My decision is outlined in the Schedule of Documents in **Annexure 1**.

Section 33(1) – Documents affecting an individual’s personal privacy

30. 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 (**third parties**);⁶ and
 - (b) such disclosure would be ‘unreasonable’.

Do the documents contain personal affairs information?

31. 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.⁷
32. 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.⁸
33. The document subject to review is a statement attached to the Incident Notification Form. Although the Applicant does not seek access to the names of third parties, I consider other information in the document is capable of identifying third parties.
34. Also, certain information to which the Agency refused access contain personal affairs information relating to the Applicant’s child. However, this information is intertwined with the personal affairs information of third parties.

Would disclosure of the personal affairs information be unreasonable?

35. In deciding whether the exemption applies, it is necessary to determine whether disclosure of personal affairs information in the documents would be unreasonable in the circumstances.
36. The concept of ‘unreasonable disclosure’ involves balancing the public interest in the disclosure of official information with the interest in protecting an individual’s personal privacy in the circumstances of a matter.
37. 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.⁹
38. The Victorian Court of Appeal has held there is ‘no absolute bar to providing access to documents which relate to the personal affairs of others’.¹⁰ 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’.
39. I consider the following factors are relevant in determining whether disclosure would be unreasonable in the circumstances of this matter:

⁶ Sections 33(1) and (2).

⁷ Section 33(9).

⁸ *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].

⁹ *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263 at [58]; *Akers v Victoria Police* [2003] VCAT 397.

¹⁰ *Victoria Police v Marke* [2008] VSCA 218 at [76].

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

The document relates to a school incident involving the Applicant's child and other third parties, including other students. The information in the document was provided and documented for the purpose of maintaining a record of the incident.

In these circumstances, I accept certain personal affairs information in the document is sensitive in the context of disclosure under the FOI Act being without restrictions or conditions on its future use or dissemination.

However, I am satisfied information that records an Agency officer's recollection of events and observations concerning the Applicant's child is not sensitive in the circumstances. I do not accept the seniority of the Agency officers is a determinative factor as to whether disclosure of their personal affairs information would be unreasonable.

While I accept this information is capable of identifying Agency officers, it constitutes a record of them carrying out their usual professional responsibilities in responding to an incident involving a student at a government school. The nature of such information is to be contrasted with personal affairs information concerning an Agency officer in their personal life or in a private capacity. I consider the identity of the officers and their involvement in the incident is not sensitive and is likely known to the Applicant. I consider this approach accords with the object and purpose of the FOI Act and the Victorian Parliament's intention that the maximum amount of government-held information be disclosed under the FOI Act.

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

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.¹¹

The Applicant seeks access to the document to gain a better understanding of how their child was injured in a school incident. As such I consider their purpose for seeking access to the document is likely to be achieved through disclosure of further information in the document.

(c) Whether the individuals to whom the information relates object, or would be likely to object, to the release of their personal affairs information in the documents

I have considered the views of a third party concerning disclosure of their personal affairs information. While the view of a third party is a relevant consideration, it is not determinative as to whether disclosure of a third party's personal affairs information would be unreasonable in the circumstances.

While I do not have information before me concerning the views of other third parties, having considered the sensitivity of the document, the identity of the third parties, and the circumstances in which the document was created, I am satisfied the relevant third parties would be reasonably likely to object to disclosure of their personal affairs information.

¹¹ *Victoria Police v Marke* [2008] VSCA 218 at [104].

(d) The likelihood of further disclosure of the information, if released under the FOI Act, which provides for the unrestricted and unconditional release of document

As stated above, the nature of disclosure under the FOI Act is unconditional and unrestricted. This means an applicant is free to further disseminate or use a document as they choose once it is released.¹²

Accordingly, I have considered the likelihood of the personal affairs information in the documents being further disseminated, if disclosed, and the effects broader disclosure of this information would have on the personal privacy of the relevant third parties.

There is information before me that indicates the Applicant may intend to disseminate information in the documents, which I accept would have an impact on the personal privacy of certain third parties.

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

I acknowledge the Applicant's personal interest in obtaining access to all information concerning their child. I also appreciate redactions made to a document in these circumstances can create a sense of disappointment and frustration for an applicant, regardless of whether only a small amount of material is exempted from release.

While I consider the Applicant's interest in the information would likely serve their personal interest, I do not consider disclosure would serve a broader public interest. Where an applicant's motivation for seeking access to the personal affairs information of a third party is more closely related to their personal interest in obtaining access to the information without a broader public interest, access is more likely to be unreasonable.¹³

In relation to the personal affairs information of other students, I am of the view the public interest lies in the Agency maintaining the confidentiality of such information, particularly where it has not been widely disclosed and concerns information pertaining to minors.

(f) Whether the disclosure of information would be, or be reasonably likely to endanger the life or physical safety of any person¹⁴

I am also required to take into account whether or not disclosure of the personal affairs information would be reasonably likely to endanger the life or physical safety of any person.¹⁵

In considering this factor, I note in *O'Sullivan v Police*,¹⁶ Morris J held physical safety is not concerned solely with actual safety, but also with the perception of the relevant person as to whether they are safe. Similarly, in *Morse v Building Appeals Board (No 2)*,¹⁷ the Victorian Civil and Administrative Tribunal (**VCAT**) found the creator of the relevant documents in that matter may have a perception of fear if their personal information were disclosed.

I consider this is a relevant factor in the circumstances of this matter.

40. Having considered the above factors, on balance, I am satisfied it would be unreasonable to disclose certain personal affairs information in the document. However, I am satisfied it would not be unreasonable to disclose parts of an Agency officer's recollection of events. While I acknowledge this

¹² *Victoria Police v Marke* [2008] VSCA 218 at [68].

¹³ *Gunawan v Department of Education* [1999] VCAT 665.

¹⁴ Section 33(2A).

¹⁵ Section 33(2A).

¹⁶ *O'Sullivan v Police (Vic)* (2005) 22 VAR 426; [2005] VCAT 532 at [19].

¹⁷ [2007] VCAT 2344 at [15].

information is capable of identifying Agency officers, I am not satisfied the disclosure of such information would be unreasonable in the circumstances as:

- (a) the information is not particularly sensitive or contentious in the circumstances of this matter;
- (b) it concerns Agency officers in the performance of their professional responsibilities;
- (c) the seniority of the Agency officers is not a determinative factor as to whether disclosure of their personal affairs information would be unreasonable; and
- (d) disclosure will fulfil the Applicant's purpose for seeking access to the documents to an extent and promotes the objects of the FOI Act and the disclosure of the maximum amount of information.

41. My decision is set out in the Schedule of Documents in **Annexure 1**.

Section 35(1)(b) – Information provided in confidence to the Agency

42. 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 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.

43. The Agency applied this exemption to the statement attached to the Incident Notification Form.

Would disclosure divulge information communicated in confidence?

44. Whether information communicated by an individual was communicated in confidence is a question of fact.¹⁸

45. When determining whether information was communicated in confidence, it is necessary to consider the position from the perspective of the communicator.¹⁹

46. Confidentiality can be express or implied from the circumstances of a matter.²⁰

47. The document contains information that was communicated to the Agency from an internal source. Generally, the exemption under section 35(1)(b) only applies to information communicated from an external source and does not apply to information generated by an agency's own officers.

48. VCAT considered this issue in *Birnbauer and Davies v Inner and Eastern Health Care Network*,²¹ and concluded:

...in my view, where an officer of an agency records a matter and reports it to his superior or makes the information available through some established reporting channel within the agency, the information in question is properly to be regarded as "*communicated*" to the agency. ...

Section 35(1)(b) is capable of operating with respect to information communicated to an agency not only by outsiders but also by its own officers.²²

¹⁸ *Ryder v Booth* [1985] VR 869 at 883; *XYZ v Victoria Police* [2010] VCAT 255 at [264].

¹⁹ *Ibid*, XYZ at [265].

²⁰ *Ibid*.

²¹ [1999] VCAT 1363.

²² *Ibid* at [14]-[15].

49. In this case, I consider section 35(1)(b) can apply to this type of information given the information was recorded by an Agency officer and it is reasonably likely it was reported to the school's leadership team or persons investigating the incident.
50. In my view, the position of the Agency officer, who communicated the information, is analogous to that of an external information source.²³ Having viewed the document and considered the circumstances in which it was obtained by the Agency, I am satisfied the relevant information was provided to the Agency in confidence.

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

51. Section 35(1)(b) also requires I be satisfied that, if the confidential information were to be disclosed, others in the position of the communicator would be reasonably likely not to provide similar information to the Agency in the future.
52. In making my decision, I have also considered decisions made by VCAT concerning information provided in confidence in similar educational contexts.²⁴
53. Whenever an incident occurs, it is imperative the Agency can thoroughly investigate the incident and any surrounding circumstances. Such investigations rely on the free and fulsome flow of information by all persons involved to ensure as much relevant, accurate and detailed information is obtained.
54. I acknowledge the Agency often relies on information provided by third parties to ensure the ongoing health and safety of its staff and students and there is a public interest in the Agency being able to obtain fulsome and timely information from third parties, including its own staff, in relation to school incidents and investigations.
55. I accept third parties, including Agency officers, are generally encouraged to voluntarily cooperate with an investigation or response to a school incident, and their participation in or provision of information is not mandatory nor compellable beyond their mandatory reporting obligations.
56. However, I do not accept in circumstances where a child is injured that Agency officers would not communicate similar information in the future so as to adequately record, investigate and respond to a school incident, including addressing any behavioural or misconduct issues identified. To do otherwise would be contrary to the duty of care that exists between schools and teachers to students, namely to provide a safe learning environment and the professional obligation on teachers to record and provide information to the Agency concerning student safety and wellbeing.
57. I also consider there is an expectation from parents that there will be transparency around school incidents involving an injury to their child to whom the school owes a duty of care. Teachers would be reasonably aware of this expectation from parents. In my view, where an incident involves an injury to a child while under a school's care, teachers are reasonably likely to provide fulsome information about their knowledge of what occurred, regardless of any concern as to whether such information will be subsequently provided to a parent under the FOI Act.
58. On balance, I do not accept disclosure of the document would inhibit the Agency from obtaining similar information in future. As such, I am not satisfied the document is exempt under section 35(1)(b).
59. My decision is set out in the Schedule of Documents in **Annexure 1**.

²³ See VCAT's remarks in *Sportsbet Pty Ltd v Department of Justice (General)* [2010] VCAT 8 at [77] (noting this case was decided differently on the facts).

²⁴ *AB v Department of Education and Early Childhood Development* [2011] VCAT 1263; *PJE v Department of Education and Training* [2016] VCAT 751; *O'Sullivan v Department of Education, Employment and Training* (unreported, VCAT, Megay SM, 1 November 2002).

Section 25 – Deletion of exempt or irrelevant information

60. 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.
61. Determining what is ‘practicable’ requires consideration of the effort and editing involved in making the deletions ‘from a resources point of view’²⁵ 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 25.²⁶
62. As the Applicant does not seek access to the names of third parties, such information is irrelevant information that is to be deleted in accordance with section 25.
63. I have considered whether it is practicable to provide an edited copy of the document with irrelevant and exempt information deleted in accordance with section 25. I am satisfied it is practicable to delete the irrelevant and exempt information as to do so would not require substantial time and effort, and the edited document would retain meaning.

Conclusion

64. On the information before me, I am satisfied certain information in the document is exempt under sections 30(1) and 33(1). However, I am not satisfied the document is exempt under section 35(1)(b). Accordingly, I have decided to release additional information in the document where I am not satisfied it is exempt.
65. As I am satisfied it is practicable to provide the Applicant with an edited copy of the document with exempt and irrelevant information deleted in accordance with section 25, I have granted access to the document in part.
66. My decision in relation to information in the document is set out in the Schedule of Documents in **Annexure 1**.
67. A marked-up copy of the document showing information that I am satisfied is not exempt has been provided to the Agency with this decision.

Review rights

68. If either party to this review is not satisfied with my decision, they are entitled to apply to VCAT for it to be reviewed.²⁷
69. The Applicant may apply to VCAT for a review up to 60 days from the date they are given this Notice of Decision.²⁸
70. The Agency may apply to VCAT for a review up to 14 days from the date it is given this Notice of Decision.²⁹
71. 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.

²⁵ *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].

²⁶ *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].

²⁷ The Applicant in section 50(1)(b) and the Agency in section 50(3D).

²⁸ Section 52(5).

²⁹ Section 52(9).

72. 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.³⁰

Third party review rights

73. If I decide to disclose a document exempted by an agency under sections 33(1) and 35(1)(b), if practicable, I must notify any person who has a right to apply to VCAT for a review of my decision of their right to do so.³¹
74. I am satisfied it is practicable to notify one third party, with whom the Agency consulted, of their review rights.
75. The Agency is requested to forward a letter notifying the relevant third party of my decision and their third party review rights following receipt of this decision.
76. Having carefully considered the practicability of notifying other third parties of their review rights, I have determined it is not practicable to do so given the nature of the information I have determined to release, and my view that to do so could cause them unnecessary stress.
77. In any case, the Agency is at liberty to advise any relevant Agency officers of my decision and their right to seek review by VCAT of my decision to release their personal affairs information.

When this decision takes effect

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

³⁰ Sections 50(3F) and (3FA).

³¹ Section 49P(5).

Annexure 1 – Schedule of Documents

Document No.	Date of Document	Document Description	No. of Pages	Agency Decision	OVIC Decision
1.	[Date]	Incident Notification Form and attached statement	4	<p>Released in part</p> <p>Sections 30(1), 33(1), 35(1)(b), 25</p>	<p>Release in part</p> <p>Sections 30(1), 33(1), 25</p> <p>I am not satisfied the information marked up in the copy of the document provided to the Agency is exempt under sections 30(1), 33(1) or 35(1)(b) and is to be released to the Applicant with the remaining exempt information deleted in accordance with section 25.</p>