

4 March 2026

'GI2'

Copy provided to Victorian WorkCover Authority

By email only

Dear 'GI2'

Notice of Decision under section 49P of the *Freedom of Information Act 1982* (Vic)

Agency:	Victorian WorkCover Authority
Agency decision:	Refuse access in full under sections 33(1) and 35(1)(b) of the <i>Freedom of Information Act 1982</i> (Vic)
OVIC review decision:	Release in part, exempting certain information under section 33(1) of the <i>Freedom of Information Act 1982</i> (Vic)
Information requested:	Complaint summary
Citation:	'GI2' and Victorian WorkCover Authority (<i>Freedom of Information</i>) [2026] VICmr 17 (4 March 2026)

FREEDOM OF INFORMATION – disputes and complaints – personal affairs information – material obtained in confidence – anonymous notification – workplace inspection – workplace notification

Thank you for your request for review of a decision made by the Victorian WorkCover Authority (the **Agency**) to refuse you access to information you requested under the *Freedom of Information Act 1982* (Vic) (the **FOI Act**).

I have conducted a review of the decision made by the Agency and made a fresh decision on 4 March 2026 under section 49P of the FOI Act. This letter sets out my decision and the reasons for it.



If you disagree with my decision, you have **60 days** from today to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a further review.

The Agency and a relevant third party also have review rights to VCAT. My decision is subject to a 60-day appeal period. If no application is made to VCAT, the Agency is

required to release the document to you after 60 days.

Background

On [date], you made a request to the Agency for information about a complaint made about your business. Specifically, you sought:

1. The full name and contact details of the individual or party who made the complaint;
2. The exact nature and wording of the complaint submitted;
3. Whether the complainant is or was an employee, contractor, customer, or otherwise associated with our business.

The Agency identified one document relevant to the terms of your request which the Agency refused access to it in full under sections 33(1) and 35(1)(b) of the FOI Act.

On [date], you sought a review by OVIC of the Agency's decision to refuse access to the document.

Where possible, we seek to try to resolve matters informally without the need for me to make a formal review decision.

In line with this, OVIC staff provided the Agency with their initial view that they considered further information in the document may be released, including where it was purely administrative and/or where the identity of the complainant could not reasonably be inferred. The Agency was provided with an opportunity to consider and respond. The Agency maintained that the document was exempt in full and provided me with a confidential submission which I have considered in proceeding to make a formal decision.

I also note during the review, at the request of OVIC staff, that you provided copies of the information and documents the Agency provided to you as part of its investigation into the complaint to assist me with my review.

My decision and reasons for decision

I have considered information provided by you during the course of my review, in addition to the Agency's reasons for decision, submissions and responses to additional OVIC enquiries.

Relevant legislation

Section 33(1) of the FOI Act provides information cannot be released:

- (a) where it relates to the personal affairs of another person and
- (b) disclosure of the personal affairs information is unreasonable in all the circumstances.

Section 35(1)(b) of the FOI Act provides that information cannot be released if:

- (a) it would disclose information or matter that was communicated in confidence to an agency and

- (b) disclosure would be contrary to the public interest because it would impair the ability of the agency to obtain similar information in the future.

Section 25 of the FOI Act provides that a document can be released with exempt and/or irrelevant information deleted if you have agreed to receive an edited copy of the document and the edited copy would retain its meaning.

Is the information you requested exempt under section 33(1) of the FOI Act?

The concept of personal affairs information is broad. A document will indirectly disclose personal affairs information if it contains information from which any person's identity, address or location can reasonably be determined.

This means that a document can be exempt under section 33(1) where the document itself does not contain personal affairs information, but its disclosure would reveal personal affairs information.

Personal affairs information can be revealed or indirectly disclosed by connecting or linking the information in the disclosed document with other information available to the applicant.¹

I am satisfied that the document contains both explicit personal affairs information and information the disclosure of which could reveal personal affairs information.

The document identifies Agency officers by their names. To determine if releasing this content to you would be unreasonable, I have considered the following key factors:

- whether you have had direct contact with Agency officers or are aware of their identity
- the extent of involvement of Agency officers
- information that is already in your possession, specifically, the inspection notices
- that there is nothing sensitive in relation to the involvement of the Agency officers and it concerns them performing their professional roles
- the likelihood that the relevant individuals would object to the release of their personal affairs information to you, noting that disclosure under the FOI Act is unrestricted and unconditional
- whether disclosure would be reasonably likely to cause distress or endanger the safety of any person, which is a mandatory consideration
- whether disclosure could identify disclosing the personal affairs information will only promote your private interests, which is not a public interest or important interest shared by the community more generally.

On consideration of these factors, I have decided it would not be unreasonable to release the name of

¹ **Harrison v Victoria Police** [2022] VCAT 280, [153].

an Agency officer who you had direct contact with.

I am also satisfied that disclosing certain general information about the recording of the complaint by the Agency and its actions would not be unreasonable.

I am however satisfied that releasing certain information about the complaint could potentially identify the source of the complaint. I appreciate that is the purpose of your FOI request and the importance of this to you.

When deciding whether release of this information would be unreasonable, in addition to the last three dot points in the factors above, I have also considered:

- the likely expectation from the complainant that only information necessary to address their concerns would be disclosed to you and that this would be done in a way to not identify them based on their request for anonymity.

On balance, I consider the public interest weighs in favour of maintaining the anonymity and personal privacy of the complainant. As further discussed in my section 35(1)(b) considerations, I also accept the Agency's position that the routine disclosure under FOI of this type of more specific information could impact the volume and level of detail in reports made to the Agency and negatively affect its ability to perform its functions.

Accordingly, while I am not satisfied that the document in its entirety is exempt from release under section 33(1) of the FOI Act, certain information is exempt from release under this section.

I have prepared a marked up version of the document for the Agency illustrating the information I have found exempt under section 33(1) of the FOI Act.

Is the information you requested exempt under section 35(1)(b) of the FOI Act?

For information to be exempt under section 35(1)(b), I must find it was provided to the Agency in confidence and that its disclosure under the FOI Act would be contrary to the public interest as it would impair the Agency from obtaining similar information in the future.

As the complaint was made anonymously, I am satisfied the details of the complaint set out in the document subject to my review reveals information that was communicated to the Agency from the complainant in confidence. I have however already found this content exempt from release in this case under section 33(1). As such, I do not consider there is a requirement for me to further consider the application of the exemption in section 35(1)(b) to this same content.

In relation to the remaining content I have not already found exempt under section 33(1), I consider this is administrative in nature and relates to the Agency's internal processes and record keeping, rather than being information provided to it in confidence by an external party. As such this information is not exempt under section 35(1)(b).

What this means

My decision differs from the Agency's decision. I am not satisfied the document is exempt in full under sections 33(1) and 35(1)(b) of the FOI Act. I am satisfied that only certain information in the document is exempt under section 33(1). Therefore, more information is to be released.

A marked-up copy of the document showing exempt information in accordance with my decision has been provided to the Agency to assist it in putting my decision into effect.

VCAT review rights

If you are not satisfied with my decision, you can apply to VCAT for it to be reviewed.

If you wish to seek review of my decision, you must make a review application to VCAT within 60 days from the date you are given notice of my decision.

Information about how to make an application to VCAT is available at www.vcat.vic.gov.au.

VCAT can also be contacted by email at admin@vcat.vic.gov.au or by telephone on 1300 018 228.

The Agency can also appeal my decision to VCAT, and it must do this within 14 days of receiving my decision.

Third parties also have 60 days to appeal my decision to VCAT.

If an application is made to VCAT, my decision will not take effect. If no applications are made, the Agency is required to release the document to you in accordance with my decision after the 60-day appeal period expires.

Yours sincerely

Penny Eastman

Public Access Deputy Commissioner