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OVIC Newsletter

Office of the Victorian Information Commissioner

FOI | Privacy | Information security

October/November 2026

In this issue

- OVIC's 2025-26 annual report now available!
- Are you receiving AI-generated correspondence from members of the public?
- New research study into AI procurement in the Victorian public sector
- Add the uniform access to information icon to your agency's website
- New guidance on smart wearable devices
- New guidance on machinery of government changes
- Investigation into the data breach of student information at the Department of Education
- Inquiries into information breach relating to Global Address List
- Changes to the Information Security Incident Notification Scheme form
- Latest VCAT review decisions



OVIC's 2025-26 annual report now available!

OVIC's 2025-26 annual report was tabled in Parliament on 30 October, and is now available to view and download from the OVIC website.

This year's report demonstrates the continued increasing demand for OVIC's services and the positive impact of delivering our legislated obligations.

The report contains a breakdown of results from our annual FOI survey, showing the number of FOI requests received in Victoria for 2025-26 increasing by 7% and the number of FOI requests outstanding at 30 June 2026 increasing by 21.8%.

In the 2025-26 financial year, OVIC focused on delivering improved services in line with our core functions, accompanied by new and updated resources for both the public and regulated entities.

This renewed focus on addressing industry trends has allowed OVIC to prioritise the growing demand for basic services whilst encouraging organisations to take a new approach to their own service delivery.

Adapting to the changing information environment whilst advocating for important reform will continue to be a focus for OVIC in 2026-27.

You can read and download the full report via the OVIC website.

Are you receiving AI-generated correspondence from members of the public?

OVIC is aware that some government agencies are receiving FOI requests, complaints and other correspondence from the public that appear to be drafted with the assistance of generative AI tools.

AI-generated content can sometimes be lengthy, vague, overly legalistic, inaccurate or lacking the context an agency needs to help the individual with their matter.

We understand that AI-generated content can add complexity to government processes and require further engagement with the individual to understand what they are seeking.

To help address these issues, OVIC has released written guidance and a short animation for the public. We strongly encourage you to share and promote these educational resources, to help improve community understanding about the use of AI.

The animation and written guidance can be viewed on our page '[before you rely on AI: what to know]'. The animation is also available from [OVIC's Vimeo] site.

If your agency is finding it difficult to process AI-generated requests, we encourage you to make use of the mechanisms currently available under the FOI Act for handling complex requests:

- for guidance on what to do if a request is unclear, see [section 17 of the FOI Guidelines].
- if you are concerned about the impact of a request on your agency's resources or functions, see [section 25A of the FOI Guidelines].

Under the FOI Act, a request needs to be made by 'a person'. This means an individual, a body politic or corporate. Most requests will be made by 'a person', even where they have used AI to help them draft or lodge the request. However, there may be circumstances where it is not clear whether 'a person' has made a request.

For example, a person may instruct an AI agent to find them information on specific subject matter. In executing that task, an AI agent may decide to write and submit an FOI request without the person instructing it to take this step, or the person even being aware that the AI agent has done this. If an agency is not sure whether 'a person' has been involved in making the FOI request, they can

contact the applicant to confirm their request and their identity.

We are always looking to improve our guidance and education for organisations and the public. If you have feedback you would like to share, or you believe your agency is receiving FOI requests from AI agents or 'bots', we want to hear from you. Please contact policyteam@ovic.vic.gov.au.

New research study into AI procurement in the Victorian public sector

OVIC is pleased to support new research undertaken by the ARC Centre of Excellence for Automated Decision-Making and Society (**ADM+S**) into the procurement of artificial intelligence in the Victorian public sector. The report provides an important snapshot into procurement challenges introduced by AI and key areas for further research and policy development.

This research forms part of OVIC's partnership with ADM+S and follows the earlier release of GenAI Concepts, a webpage designed to demystify generative AI.



Add the uniform access to information icon to your agency's website

There is now a readily identifiable **access to information icon** for government websites, to make it easier for people to access information held by government. The icon acts as an easy visual cue for people to click through to a webpage that

explains how they can access information from that government agency.

The icon is endorsed by the Association of Information Access Commissioners for use across all levels of government in Australia - you can see the icon implemented on the footer of the OVIC website.

The icon, instructions for use and implementation guide can be downloaded from the OAIC's Icons for access to information page.



New guidance on smart wearable devices

Smart wearables like smart glasses, smart watches and smart pendants carry privacy and information security risks for organisations and individuals. To find out what your organisation should be doing to manage these risks, check out our new guidance on the OVIC website.

Read the smart wearables guidance

New guidance on machinery of government changes

If you're looking to quickly understand the key privacy, information security and FOI considerations as you navigate a machinery of government change or change of Minister, check out our new guidance on the OVIC website via the link below.

We've also updated section 5 of the FOI Guidelines, inserting new guidance on what to do where there is a change of Minister during an undecided FOI request or review.

Read the machinery of government changes guidance

Investigation into the data breach of student information at the Department of Education

In January 2026, OVIC commenced an investigation into the cyber attack at the Department of Education. The attacker was able to compromise the Information Technology system of one of the Department's schools and access student information. It was later discovered that the attacker was able to obtain the names, school of enrolment, year level and email addresses and passwords of hundreds of thousands of current and former government school students.

OVIC's investigation considered whether the Department contravened the Information Privacy Principles (IPPs) and/or the Victorian Protective Data Security Standards.

The investigation found that the Department had interfered with the privacy of students' information because its security controls were inconsistent with the requirements of IPP 4.1 and its record management practices were inconsistent with the requirements of IPP 4.2.

The full report and findings are available on the OVIC website.

Read the full investigation report

Inquiries into information breach relating to Global Address List

Recently it was reported to OVIC that searching terms such as 'Workcover' in a Global Address List on Outlook returned results of apparent employees of various Victoria Public Sector Agencies that included the term 'Workcover' in their title. Other information was included, such as the employee's name, email and agency.

In some instances, it was clear that the term 'Workcover' in the employee's title referred to their actual job title. For example, some search results had the title 'Workcover Admin Officer' or other variation that clearly indicated the employee's job involved Workcover to some degree.

However, in other results it was less clear whether the term 'Workcover' indicated the employee's job or if the employee has a Workcover claim. In these cases, the terms 'WORKCOVER EMPLOYEE' or simply 'Workcover' were included in the employee's title with no further information about their position.

OVIC wrote to all 11 Victorian departments to determine whether this was an issue affecting all departments or not. Of the 11 Departments, 3 informed OVIC that the issue did impact them.

All 3 departments had varying causes for the breach; however, the takeaway message is the same.

Each breach involved information that was created by the Departments, in this case it was employee profiles, and then transferred to one or more user identity or directory platforms before being uploaded in the Global Address List. In every case, the Department was not aware that the changes that were being made to the information at the Department level were flowing through to the other platforms and the Global Address List.

Once OVIC alerted the departments to the issue they all took steps to ensure that all stages of the information flow were updated appropriately and have implemented assurance programs to ensure that future changes to information are translated through the entire information flow.

Lessons learnt

It is important for departments and agencies to take steps to ensure that when data is created or modified, those updates successfully carry through every system, process, and database accurately.



Changes to the Information Security Incident Notification Scheme form

Under element E9.010, VPS organisations are encouraged to notify OVIC of incidents that have an adverse impact on the confidentiality, integrity and/or availability of public sector information with a business impact level (BIL) of 2 (limited) or higher.

OVIC recently retired the online incident notification webform and replaced it with an accessible Word form. For organisations that have previous iterations of the incident notification form saved, please download the October 2026 Word version from OVIC's website.

To learn more about the scheme or to notify OVIC of incidents, please visit the link below.

Access the form on the OVIC website

OVIC
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Events

Upcoming FOI and Privacy training

We offer free monthly training webinars for Victorian public sector staff on freedom of information and privacy in Victoria.

See below for the next available sessions.

Please note this training is for Victorian Public Sector (VPS) and organisations with obligations under the *PDP Act and the FOI Act*. You may be contacted to confirm your agency prior to this training.

Introduction to Information Privacy and the Privacy and Data Protection Act 2014 (PDP Act) - December

Introduction to Information Privacy and the Privacy and Data Protection Act 2014 (PDP Act) looks at interpreting information privacy and the Act, whilst also providing public sector employees with a detailed understanding of each stage of the information lifecycle.

Key details

When: Wednesday 16 December, 2026 (Module 1-3)
Time: 10:00am - 3:30pm AEST
Where: Online
Audience: Victorian public sector (**VPS**) staff only

Click here to register your attendance.

Administering the Freedom of Information Act 1982 (Vic) (FOI Act) – February

The Administering of the Freedom of Information Act 1982 (Vic) (FOI Act) webinar has been developed to provide VPS employees with a general understanding of the FOI Act and guide them through how to process a request. These sessions include live chats, polls and surveys to enhance the interactivity and ensure positive learning outcomes.

Key details

When: Module 1 & 2: Tuesday 9 February | Module 3 & 4: Thursday 11 February 2027
Time: 10:00am - 1:30pm AEST
Where: Online
Audience: Victorian public sector (**VPS**) staff only

Click here to register your attendance.

Latest VCAT review decisions

Department of Treasury and Finance v Rowswell [2026] VCAT 719

The Applicant made an FOI request for five ministerial briefings about the Suburban Rail Loop (SLR). The Agency granted access in part to two briefs:

- The SRL Authority Corporate Plan Brief (Corporate plan brief) and
- The SRL: Initial works and early works managing contractor power works variation brief (variation brief)

The Applicant sought review of the Agency's decision at OVIC. OVIC released further information. The Agency and a third party (Laing O'Rourke Australia Construction Pty Ltd) sought review of OVIC's decision at VCAT. The two proceedings were joined.

First SM Cohen considered the corporate brief. Only paragraph 7 was claimed as exempt under section 30. This paragraph concerned items DTF noted required additional refinement to improve the corporate plan. SM Cohen found that the information was expressed at a high level and was not contentious or sensitive; some of it had already been disclosed; it was advice of a type to be expected from an agency such as DTF to a new agency to improve its corporate planning; the brief was final and SM Cohen was not satisfied that the disclosure would prevent DTF from providing full and frank advice in the future. SM Cohen's decision on the corporate brief was that para 7 was not exempt, affirming OVIC's decision.

SM Cohen then considered the variation brief. This brief was directed to the Treasurer and provided an assessment of a proposed variation of the SRLR Initial Works and Early Works (IWEW) Managing Contractor Agreement Power Works Package and included two recommendations, three key points and 26 paragraphs of additional information. The IWEW are works to enable the project to continue, the third party is the managing contractor. The brief notes that the SRLA had undertaken a variation process for IWEW and outlines the variation negotiation and assessment process.

Para 11 table 1 of the brief showed the change in prising following adjustments. This was released by OVIC but claimed as exempt under 30 by the Agency and 34 by the third party. Other information in the brief was also claimed as exempt under sections 30, 28 and 34.

SM Cohen found that table 1 was exempt under section 34(1). He found that disclosure would be likely to expose the third party to a disadvantage. It would harm their market position and give their competitors an advantage.

Additionally, Para 20 was found under 30(1) because it contained financial and cabinet information that was highly sensitive and its release would impact the ability of SRLA to obtain best value for money for the SRL project.

It was additionally exempt under 34(4) because it included financial information provided by the third party, and Cabinet information. Release would expose SRLA unreasonably to disadvantage because it contained actual price or budget information and would harm SRLA and Victoria's ability to negotiate and achieve value for money in the future.

SM Cohen found that other information was exempt under 30(1) and 34(4).

Read the full VCAT decision on the AustLII website [external link].

Davis v Department of Transport and Planning [2026] VCAT 740

The Applicant requested briefs created since 1 Dec 2022 to then Minister Allen concerning corruption in construction or the CFMEU. The Agency did not make a decision in time and so the Applicant went to VCAT on the Agency's deemed refusal. The Agency later made a decision to partially release 2 documents, relying on section 33 and then 33(2A) at hearing.

Doc 1 was a briefing for then Minister Allen recommending she note a draft decision in response to an FOI request made by an unrelated FOI Applicant, attaching three emails, two with attachments.

Doc 2 was a briefing for then Minister Allen recommending she note a decision made by OVIC on the unrelated FOI request. The briefing attached a copy of the FOI request, the agency's decision, a copy of the email attached to Doc 1 and OVIC's decision.

Member de Zilwa decided to release further information. In both cases the documents contained complaints about construction or the CFMEU. The Agency did not produce evidence as to:

- Whether the author would wish the document to be disclosed;
- The current relevance of the document;
- Whether disclosure would lead to endangering life or physical safety.

Read the full VCAT decision on the AustLII website [external link].

Davis v Department of Energy, Environment and Climate Action [2026] VCAT 765

By way of background, in June 2025 the Victorian Government announced measures to electrify Victoria's residential and commercial premises and appliances. This decision followed the publication of the Victorian Government's Gas Substitution Roadmap and therelease of the Building Electrification Regulatory Impact Statement (RIS) and draft regulations.

The Applicant made an FOI request for reports of:

- Contract entitled 'Fossil gas substitution'
- The cost benefit analysis (CBA) of the electrification of new and existing buildings; and
- Contract entitled 'Residential Appliances fuel transition'

The Agency confirmed three reports had been located, they were authored by Deloitte. The Agency refused access under sections 28(1)(b) and 28(1)(d). The Agency also consulted with Deloitte who objected to disclosure under 34(1).

The Agency's evidence was that the reports were commissioned to inform the RIS and Cabinet's consideration of the proposed building electrification reforms, and that Deloitte was aware that the reports would be attached to a Cabinet submission for consideration by Cabinet. It was determined that the RIS and supporting analysis would be brought back to Cabinet before public release, additionally, much of the analysis was not reproduced in the RIS. The Agency submitted that the reports were prepared to facilitate Cabinet's consideration of a significant regulatory reform concerning Victoria's transition away from reliance on natural gas and disclosure would reveal cabinet deliberations because the reports informed the RIS and Cabinet's approval of the RIS required consideration of the CBA, modelling and policy options contained in the reports.

Deloitte submitted that the documents should not be disclosed because they contained trade secrets of Deloitte including their analysis, inputs and workings that led to conclusions stated in the RIS which are not generally available to competitors. The evidence was that they were aware the RIS was intended to be a public document which formed the basis of their reasoning to omit certain material from the RIS. Disclosure would expose Deloitte to disadvantage because competitors could use the material to understand, replicate or derive advantages from Deloitte's

processes.

VP Judge Daly found that the evidence established that the documents were exempt under 28(1)(b) and 34, however they were not exempt under 28(1)(d) because there was no evidence that the reports were actually the subject of deliberation or discussion by cabinet.

Read the full VCAT decision on the AustLII website [external link].

Department of Treasury and Finance v Newbury MP [2026] VCAT 845

This decision concerned a Ministerial Brief B22/300 – Suburban Rail Loop: Tunnelling Packages Expression of Interest High Value Risk Assessment (OVIC ref: C/25/00162). The brief relates to arrangement for the release of the SRL East Tunnelling Packages Invitation for Expressions of Interest documents to the market. The Agency claimed the following exemptions over the following parts of the brief that OVIC had released:

- Heading above para 19 and the para itself – sections 30 and 34(4)(a)
- Heading above para 22 – section 28(1)(d)
- Part of para 23 – sections 30 and 34(4)(a)(ii)

Member Nyabally found it was not necessary to consider section 30.
The Agency put on evidence from the Director of the Infrastructure Delivery Group in the Infrastructure Division of DTF. In relation to each part of the brief she said the following:

- Para 19 was commercial information that showed a certain component included in the contracts. If disclosed, it would set an expectation that it is commonplace to include the element in these contracts which would impact how prospective bidders formulate their bids. This would expose SRLA unreasonably to disadvantage
- The Heading to Para 22 could not be disclosed without disclosing the subject matter of what the Cabinet committee deliberated on; and
- The disputed information in Para 23 was the Total Estimated Investment (TEI) for the tunnelling packages which, if disclosed, would disadvantage the SRLA because the market could ascertain the contingency value by subtracting the value of the existing contracts from the TEI.

This was an issue because there are two further packages in live procurement where prospective bidders could glean information about how the government approaches contingency and the broad value of the project.

Member Nyabally agreed with OVIC's view that the heading in para 22 did not disclose a deliberation or decision of cabinet, it revealed only the subject matter of the deliberation or decision. The heading was not exempt under section 28.

However, Member Nyabally found that paragraphs 19 and 23 were exempt under 34(4). Based on the Agency evidence she considered that disclosure would be likely

to expose DTF and SRLA unreasonably to disadvantage even though the EOI process had been completed and the East Tunnelling Package awarded.

Read the full VCAT decision on the AustLII website [external link].

Myers v Department of Transport and Planning [2026] VCAT 870

The Applicant sought review of the Agency's two refusals to amend psychiatrists' reports to assess his fitness to drive. The reports recorded a history of schizophrenia treatment, which the Applicant said he had never had.

The Applicant said he had never had schizophrenia. The Applicant's concern was that the disputed record would influence future decisions, since other doctors "treat prior opinions as indisputable". The Applicant claimed a change in medication had stopped his psychiatric symptoms and that he had no psychiatric illness altogether.

The Agency submitted the reports recorded medical opinions at a particular point in time and that later differences do not establish that the prior reports were misleading or inaccurate.
Member Cohen found that:

- The evidence before VCAT was that Myers had been diagnosed with schizophrenia. Therefore, the facts underlying the opinion had not been discredited.
- There was no evidence that the psychiatrists had a wrong motivation or insufficient experience
- The reports were not based on trivial facts
- The reports were not based on misapprehended facts. The psychiatrist's views were consistent with medical reports from that period
- VCAT did not have any evidence establishing that the information was inaccurate. They did not have any medical, treatment, medication or other health records for the period and none of the psychiatrists gave evidence.
- The reports provided a point-in-time assessment by medical specialists and were consistent with other medical information from that time.

Member Cohen refused the s39 amendment. He noted that the Applicant has the option to record his disagreement under s46.

Read the full VCAT decision on the AustLII website [external link].

Houghton v Victoria Police [2026] VCAT 898

The Applicant was the victim of a scam where an invoice was doctored so that he paid a significant amount of funds to an incorrect bank account. This was reported to the police and an investigation was commenced. The police informed the Applicant that the bank account was held by two persons (**POI**s). The investigation concluded in 2019 with no charges. The Applicant was refunded some, but not all, of the money

he had paid into the account.

The document in dispute was a bank statement for the CBA account to which the applicant had paid the funds. The Applicant requested this document to be able to pursue the remaining funds that had not been refunded to him. The Agency refused access under sections 33(1) and 35(1)(b). The Applicant sought review at OVIC where the Agency's decision was affirmed. The Applicant then sought review at VCAT.

VCAT affirmed OVIC's decision.

In relation to section 33, Member Slater had regard to the fact that the statement was a confidential document obtained from the bank by police and would have remained confidential but for the investigation; the investigation concluded with no charges and there was no evidence or information about the criminal wrongdoing of the POIs; and that the Applicant had stated that he would pursue the POIs for the repayment of the outstanding funds. Member Slater found that disclosure would be unreasonable. For completeness he found that it was not practicable for the Agency to notify the POIs.

In relation to section 35(1)(b), Member Slater found that the document was communicated in confidence because it was communicated by the bank to police in response to an enquiry made as part of a police investigation and provided on an understanding that it would not be on-disclosed. Member Slater then found that disclosure would impair the Agency's ability to collect information in a similar manner in future because the bank had provided the statement to the Agency for the purpose of an investigation and did not otherwise waive the confidentiality in it and the Agency had demonstrated that disclosure would impair them from obtaining similar evidence in future. The Agency had given evidence that generally financial institutions will voluntarily provide information in these circumstances, but disclosure might mean that voluntary cooperation might be rescinded and the Agency would have to use search warrants to obtain information.

Read the full VCAT decision on the AustLII website [external link].

Mestiola v Melbourne Water Corporation [2026] VCAT 857

The Complainant claimed Melbourne Water breached IPP2.1. She had made FOI request about a stormwater calculator to the respondent. On the day her FOI request had been lodged with the Respondent, she found that her LinkedIn profile had been viewed by the general counsel for the Respondent. C complained to OVIC her first name was used for a secondary purpose. OVIC referred the C to VCAT on 11 March 2025.

At VCAT, the Respondent's FOI officer gave evidence that they had asked the General Counsel if the complainant, by reference to her first name only, was involved in a legal matter concerning the stormwater calculator.

The Complainant argued that the General Counsel, must have known her full name

to search her LinkedIn profile, thereby interfering with her privacy. The Respondent contended that the General Counsel merely clicked on C's profiles in the "people you may know section". They also said it they had searched for their name, clicked on the profile and, realising they did not know the person, closed the profile.

The issue was whether the internal use of the complainant's personal information (her first name) in the in the conversation between the FOI officer and General Counsel was a breach of the complainant's privacy OR whether that use falls within the IPP2.1 (a) exception.

It was found that the complainant's name was used when the FOI Officer told General Council her first name. However, Member Steele was not satisfied that by searching for the Complainant's name or clicking on her profile, that the General Counsel had done so because the FOI Officer asked them about the Complainant. Therefore, there was no use of the complainant's personal information in this instance.

Member Steele found that the use was not for the primary purpose of collection as the purpose of collection was to answer the complainant's FOI request. Finding out whether the complainant was involved in a related legal matter was a secondary purpose.
Therefore, the complainant's first name was used for a secondary purpose which was finding out whether the complainant was someone involved in a related legal matter concerning the stormwater calculator.

Firstly, Member Steele found it was related to the primary purpose of answering her FOI request. The legal matter concerned the stormwater calculator which the complainant was asking about and the FOI request, which was part of the legal matter had asked similar questions – so both purposes concern the same subject matter and ask similar questions.

Secondly, Member Steele found that a person should reasonably expect their personal information to be used in this way because a person making an FOI request about a current legal matter which had been the subject of an FOI request in similar terms, would check whether the complainant was involved in the matter.

Therefore, Member Steele found no IPP 2.1 breach.

Read the full VCAT decision on the AustLII website [external link].

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