



## Department of Health and Human Services

50 Lonsdale Street  
Melbourne Victoria 3000  
Telephone: 1300 650 172  
GPO Box 4057  
Melbourne Victoria 3001  
[www.dhhs.vic.gov.au](http://www.dhhs.vic.gov.au)  
DX 210081

Our ref: F18/0567

Sent via email to: [foi+request-4469-65dd6c02@righttoknow.org.au](mailto:foi+request-4469-65dd6c02@righttoknow.org.au)

Dear Mr Maynes

### NOTICE OF DECISION FREEDOM OF INFORMATION REQUEST

I refer to your application made pursuant to the *Freedom of Information Act 1982* (the Act) cited below and re-scoped in writing on 14 June 2018:

*'I respectfully request copies of the following documents which became effective in 2017:*

- *VV Agreement / Visit Victoria Agreement*
- *Deed of Agreement between the DHHS and Australian Rugby Union*
- *Victorian Rugby Partnership*

*as well as correspondence:*

- *Justin Burney and Bill Pulver in June 2017 Re: Updated Term Sheet*
- *Christina Smith and Gary Gray in July 2017 Re: Transfer of Shares in MRRUPL to Victorian Rugby*
- *Richard Lativy and Gary Gray in July 2017 Re: REBELS - VV revised draft letter'*

#### ***Freedom of Information Act 1982 (Vic)***

The Act establishes a general right of access to documents held by the department. To protect essential public interests and the private and business affairs of individuals, the right of access does not apply to a document identified in the Act as exempt. A fact sheet is enclosed which briefly describes the available exemptions.

If a document contains exempt material the Act allows for an edited copy to be released after the exempt matter has been deleted and where it is practicable to do so.

#### **Documents**

On the basis of your request, the Housing, Infrastructure, Sport and Recreation division conducted a thorough and diligent search and located the documents that are relevant to

your request. The division provided 19 pages of documents including a deed of agreement, emails and attachments matching those requested.

Please note, in relation to the documents requested in the first part of your request, the relevant program area advised that the only agreement that came into effect in 2017 was the '*Deed of Agreement between the DHHS and Australian Rugby Union*'.

### **Decision**

I assessed the documents in accordance with the Act and have decided to deny access in full to the documents.

Material withheld from you has been removed on the basis of the following exemptions under the Act:

#### *Cabinet-in-confidence documents*

Section 28(1)(c) provides that a document is exempt if it is a copy or a draft of a document that was prepared for the purpose of briefing a Minister in relation to issues to be considered by the Cabinet.

Section 28(1)(d) provides that a document is exempt if it discloses any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.

#### *Internal working documents*

Section 30(1) exempts from disclosure documents that are internal working documents. For this section to apply, the documents must:

- disclose an opinion, advice or recommendation prepared by an officer, or relate to a consultation or deliberation that has taken place between officers and/or a Minister, in the course of, or for the purpose of, deliberative processes involved in the functions of an agency; and
- release must be contrary to the public interest.

This section has been used to exempt a draft document and emails, as they contain preliminary advice, opinions and recommendations intended for deliberative processes only. It is considered that the release of the material would be contrary to the public interest as the relationship between recommendations and final actions taken remains an ongoing process and as a result the release of the material could lead to ill-informed debate among the public.

#### *Personal affairs information*

Section 33(1) exempts from disclosure any document (or any part thereof) that would unreasonably disclose information relating to the personal affairs of another person (including a deceased person).

For this exemption to apply to a document, two parts must be satisfied:

- the information contained in the document must relate to the personal affairs of a person; and
- the release of the information would be an unreasonable disclosure.

Section 33(9) defines 'information relating to the personal affairs of any person' to include information that identifies any person or discloses their address or location, or information from which any person's identity, address or location can reasonably be determined.

This section has been used to remove names and contact details of departmental employees and third parties, as well as information from which their identities could be ascertained.

#### *Business, commercial or financial information of third parties*

Section 34(1)(b) provides that a document is exempt if its release would disclose information that relates to matters (other than trade secrets) of a business, commercial or financial nature of an undertaking and the disclosure would be likely to expose the undertaking unreasonably to disadvantage.

Business, commercial and financial material relating to third parties has been removed using this section on the basis that the release of this material would expose the entities to unreasonable disadvantage in their business dealings.

#### *Business, commercial or financial information of the department*

Section 34(4)(a)(ii) provides that a document is exempt if its release would disclose information that relates to matters (other than trade secrets) of a business, commercial or financial nature of an agency and the disclosure would be likely to expose the agency unreasonably to disadvantage.

Business, commercial and financial material relating to the department's ongoing contract management processes has been removed using this section on the basis that the release of this material would expose the department to unreasonable disadvantage in its business dealings.

### **Review rights**

If you are not satisfied with my decision you have the right to apply to the Office of the Victorian Information Commissioner for review. This request needs to be made in writing within 28 days of the date you receive this notice of decision.

You can also complain to the Commissioner if you are dissatisfied with the way in which the request has been managed or in situations where documents do not exist or cannot be located.

The enclosed fact sheets contain more information about these processes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kerry Sayburn', with a long horizontal flourish extending to the right.

**Kerry Sayburn**  
Assistant Director, Executive and Information Services  
Corporate Services

20 / 08 / 2018

Enc.

1. Fact Sheet – Exemptions
2. Fact Sheet – Office of the Victorian Information Commissioner – Review
3. Fact Sheet – Office of the Victorian Information Commissioner – Complaints

# Freedom of Information Exemptions

## Factsheet

The *Freedom of Information Act 1982* (the Act) provides a general right of access to documents of a government agency, unless an exemption applies.

A full explanation of the information that can be exempt from being released is listed in the Act. As part of processing a freedom of information (FOI) request, the department reviews all documents relevant to your request to determine if they contain exempt material.

Access to documents can be refused if the documents contain information of a particular type. This does not mean that you will not get the document, as the Act allows for an edited copy of the document to be provided in some circumstances. For a full explanation of these exemptions please refer to part IV of the *Freedom of Information Act 1982*.

## What exemptions can be applied to documents?

Documents that may be deemed fully or partially exempt from release under the Act include the following:

### **Cabinet documents (section 28)**

Documents that were considered or prepared for Cabinet, including those prepared for committees and subcommittees of Cabinet, may be considered exempt.

### **Documents affecting national security, defence or international relations (section 29A)**

A document may be an exempt document if disclosure of the document could reasonably be expected to cause damage to:

- the security of the Commonwealth or any State or Territory; or
- the defence of the Commonwealth; or
- the international relations of the Commonwealth.

### **Documents containing matter communicated by any other State (section 29)**

Documents that contain matter communicated by any other State may be exempt if disclosure would be contrary to the public interest, and disclosure would prejudice relations between the State and the Commonwealth or any other State or Territory, or would divulge matter communicated in confidence.

### **Internal working documents (section 30)**

A document may be exempt if its release would disclose matter in the nature of opinion, advice, or recommendation, prepared by an officer in the course of the deliberative processes involved in the functions of the agency and release of the document would be contrary to the public interest.

### **Law enforcement documents (section 31)**

A document is exempt if its disclosure would:

- prejudice the investigation of a breach of the law or prejudice the enforcement of the law;

- prejudice the fair trial of a person, or the impartial adjudication of a particular case;
- disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law;
- disclose methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law; or
- endanger the lives or physical safety of persons engaged in the enforcement of the law, or persons who have provided confidential information in relation to the enforcement or administration of the law.

## **Documents affecting legal proceedings (section 32)**

A document may be an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the grounds of legal professional privilege or client legal privilege.

## **Documents affecting personal privacy (section 33)**

A document is exempt if its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person, including a deceased person. If you are requesting documents that contain the personal information of persons other than yourself this exemption will need to be considered.

## **Documents relating to trade secrets etc. (section 34)**

A document is exempt if its release would disclose information acquired by the department, from a business, commercial, or financial undertaking, and if the information relates to trade secrets (or other matters of a business, commercial, or financial nature) and if the disclosure of the information would be likely to expose the undertaking to disadvantage.

## **Documents containing material obtained in confidence (section 35)**

A document is exempt if its disclosure would divulge any information or matter communicated in confidence, by or on behalf of a person, or a government, to an agency and the disclosure of that information would be reasonably likely to impair the ability of an agency, or a minister, to obtain similar information in the future.

## **Documents where disclosure is contrary to the public interest (section 36)**

A document may be exempt an document if its premature disclosure would be contrary to the public interest as disclosure would be reasonably likely to have a substantial adverse effect on the economy of Victoria.

## **Certain documents arising out of companies and securities legislation (section 37)**

A document may be an exempt document if its disclosure would reveal the deliberations of Ministerial Council for Companies and Securities.

## **Documents to which secrecy provisions of enactments apply (section 38)**

A document is exempt if its release would disclose information that is protected from release under other Acts. For example, sections 191(1) and 209(1) of the *Children, Youth and Families Act 2005* prohibit the disclosure of the identity of any person who has made a report regarding a child who they believe is in need of protection.

To receive this publication in an accessible format phone (03) 9096 8449, using the National Relay Service 13 36 77 if required, or email [foi@dhhs.vic.gov.au](mailto:foi@dhhs.vic.gov.au)

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Department of Health and Human Services, September 2017.

This fact sheet was created by the Department of Health and Human Services for information purposes only. It is not a replacement for independent legal advice.

# Freedom of Information Reviews

## Factsheet

If you are not satisfied with the department's decision under the *Freedom of Information Act 1982*, you have the right to seek a review of this decision by the Office of the Victorian Information Commissioner (the Commissioner).

## Decisions which can be reviewed

The Commissioner can review the following decisions:

- refusal to grant access to documents or parts of documents
- deferral of access to documents
- the amendment of personal records
- refusal to waive an application fee.

Please note that the Commissioner is unable to review exemptions under section 29A (documents affecting national security, defence or international relations). Reviews of decisions made under section 29A are conducted by the Victorian Civil and Administrative Tribunal (VCAT). Contact details are:

Victorian Civil and Administrative Tribunal (VCAT)  
55 King Street  
Melbourne Vic 3000  
Tel: [1300.01.8228](tel:1300.01.8228)

## Timeframes for reviews

An application for review must be made within 28 days of you receiving the decision. The only exception to this is where the agency has denied access under section 36 of the Health Records Act 2001. Requests for reviews of these decisions must be made within 70 days.

## How to request a review

Requests for review must be made in writing within 28 days of receiving the department's decision and addressed to:

Victorian Information Commissioner  
Office of the Victorian Information Commissioner  
PO Box 24274  
Melbourne Victoria 3001  
Phone: 1300 006 842  
[enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)

Review application forms are available on the Commissioner's website: [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au)

## If you are not satisfied with the Commissioner's decision

If you are not satisfied with the outcome of the Commissioner's review, you may appeal to VCAT for review.

# Freedom of Information Complaints

## Factsheet

If you are not satisfied with the way that the department processed your freedom of information request, you may lodge a complaint with the Office of the Victorian Information Commissioner (the Commissioner).

## Types of Complaints

The Commissioner can investigate actions taken by agencies in processing requests.

Examples include:

- if the department advises you that the documents cannot be located or that the documents do not exist
- if you feel that the department's response to a freedom of information request has been unreasonably delayed beyond the statutory time period.

## Timeframe for making a complaint

A complaint must be made within 60 days of the action or conduct which is the subject of the complaint.

## How to make a complaint

Complaints must be made in writing and addressed to:

Victorian Information Commissioner  
Office of the Victorian Information Commissioner  
PO Box 24274  
Melbourne Victoria 3001  
Phone: 1300 006 842  
[enquiries@ovic.vic.gov.au](mailto:enquiries@ovic.vic.gov.au)

Complaint application forms are available on the Commissioner's website: [www.ovic.vic.gov.au](http://www.ovic.vic.gov.au)

To receive this publication in an accessible format phone (03) 9096 8449, using the National Relay Service 13 36 77 if required, or email [foi@dhhs.vic.gov.au](mailto:foi@dhhs.vic.gov.au)

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Department of Health and Human Services, September 2017.

This fact sheet was created by the Department of Health and Human Services for information purposes only. It is not a replacement for independent legal advice.