

FOIREQ22/00120 081

s22

Nicolaou, Irene
09-May-2022 11:01 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	23-Mar-2012 12:00 AM
Case Type:	Investigation	Received By:	Azevedo, David
How Received:		Registered Date:	05-Apr-2012 10:43 AM
Owned By:	O'Brien, Peter	Registered By:	O'Brien, Peter
		Closed Date:	11-Feb-2013 1:50 PM
		Closed By:	O'Brien, Peter

Case Details

Stage:	Closed
Current File Holder:	Azevedo, David
How Received:	Email
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	11-Feb-2015

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Marshall, Joanna

Summary

10/1/12 request.

Issues - 4

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: processing delay
Issue Outcome: s86 - no recommendations made

Issue Description: Charges
Is Primary Issue: No
Issue Allegation: inadequate explanation of charges

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Issue Outcome: s86 - no recommendations made

Issue Description: Processing Request

Is Primary Issue: No

Issue Allegation: unsatisfactory customer service

Issue Remedy: other systemic remedy |

Issue Comments: Recommended that Agency implement the use of OAIC template letters especially for consultations under s 24AB

Issue Outcome: s86 - recommendations made

Issue Description: Administrative deficiency

Is Primary Issue: No

Issue Remedy: other systemic remedy |

Actions - 46 (All Completed)

Action	Owner	Due	Completed
Record case details and attach documents	Azevedo, David	05-Apr-2012	05-Apr-2012
Move to Triage basket	Azevedo, David	05-Apr-2012	05-Apr-2012
Allocate to Triage Officer (CP)	FOI - Triage	05-Apr-2012	05-Apr-2012, Azevedo, David
Ownership Reassigned Assigned to 'Triage' by 'Azevedo, David'	Azevedo, David	05-Apr-2012	05-Apr-2012
First Check	Azevedo, David	06-Apr-2012	26-Apr-2012
Ownership Reassigned Assigned to 'Azevedo, David' by 'Azevedo, David'	Azevedo, David	05-Apr-2012	05-Apr-2012
Ownership Reassigned Assigned to 'Azevedo, David' by 'Azevedo, David'	Azevedo, David	05-Apr-2012	05-Apr-2012
Move to Mail Assessor basket	Azevedo, David	27-Apr-2012	26-Apr-2012
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	27-Apr-2012	26-Apr-2012, Azevedo, David
Ownership Reassigned Assigned to 'Mail Assessor' by 'Azevedo, David'	Azevedo, David	26-Apr-2012	26-Apr-2012
Assess Path (CP) Prelim inquiries to DVA re:dates and actions on request	Azevedo, David	27-Apr-2012	26-Apr-2012: Valid – Preliminary Inquiry
Ownership Reassigned Assigned to 'Azevedo, David' by 'Azevedo, David'	Azevedo, David	26-Apr-2012	26-Apr-2012
Send Acknowledgement (CP CADM)	Admin Officer	26-Apr-2012	26-Apr-2012, Azevedo, David
Ownership Reassigned	Azevedo, David	26-Apr-2012	26-Apr-2012

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Assigned to 'Allocation' by 'Azevedo, David'

Allocate Complaint	Allocation - FOI Case Management	26-Apr-2012	26-Apr-2012, Azevedo, David
Prepare Plan (CP)	Azevedo, David	05-Jul-2012	05-Jul-2012
Ownership Reassigned	Azevedo, David	26-Apr-2012	26-Apr-2012

Assigned to 'Azevedo, David' by 'Azevedo, David'

Phone call to complainant/applicant	Azevedo, David	07-May-2012	07-May-2012
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Message left for complainant to contact me tomorrow/Wednesday to discuss correspondence received from him since late March.

File Note	Azevedo, David	05-Jul-2012	05-Jul-2012
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Need to speak with s22 to clarify and find the best way forward regarding his correspondence. It would seem he wishes to lodge an IC review against the 10/1/12 request to DVA(deemed refusal, requested internal review 1/4/2012, no response) and 21/2/2012 DVA request (decision dated 30/4/2012). There are also complaints related to both which may be best dealt with as one - related to delays (in processing and using OAIC as a gateway), coverage of requests (11/2011 request) and DVA's anti disclosure culture. I also need another copy of s 47F 4/12 letter as it has come through to me unclear.

Await response from applicant/complainant	Azevedo, David	29-Jun-2012	29-Jun-2012
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Phone call to complainant/applicant	Azevedo, David	05-Jul-2012	05-Jul-2012
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Spoke with complainant. He said he had only 2 matters now he needed dealt with: 1. IC review of the s 47F decision. 2. Complaint about DVA taking 77 days to refuse his 10 Jan request when it was apparent from their dealings with him and the OAIC they were going to refuse it. For the first one, he said that it was the oldest and most difficult, as he was seeking info that should have been provided. He said he had sought internal review, however it had still been refused. For the second, he said he sought IC review and it had been refused. He said that wanted an examination of the behaviour by DVA, which included using the FOI process to delay providing their response. He said they shouldn't seek EOT's when they have already made a decision. He said his matters with s22 had ended. He said s22 had received his response to the s22 and now a lot of his complaints are irrelevant. He said they had to decide how much they would continue the fight when they were not getting anywhere. He went on to say they had sought three things from DVA - apology, investigation of s 47F and compensation. He said they had now received an apology. Also an investigation was occurring, that when they wrote to s22 with their apology they didn't mention anything further about it. s22 said the covering letter said they wouldn't respond to s22 or s 47F anymore. I thanked s22 for his time and said I would be seeking to write to DVA by early next week.

Seek approval of plan (CP)	Harlock, Raewyn	05-Jul-2012	05-Jul-2012, Azevedo, David: Approved
Conduct Preliminary Inquiries (CP)	Azevedo, David	03-Dec-2012	03-Dec-2012

Assess docs received

Await response from respondent	Azevedo, David	02-Aug-2012	02-Aug-2012
Await response from respondent	Azevedo, David	12-Jul-2012	12-Jul-2012

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Respondent - Robert - called, asked for extension of two weeks for supervisor approval of correspondence. I asked if they had addressed the complaint, he said they hadn't, only replied by sending internal review letter. I said on that basis couldn't really approve 2 weeks for a response, he asked until 23/7, I said that was fine.

Phone call to respondent Azevedo, David 10-Aug-2012 10-Aug-2012

Spoke with Robert about s22 - Discussed schedule not showing s 42 exempt docs. Asked that he provide update on those documents. He said he would. s22 - discussed the fact that DVA hadn't responded to the complaint, and asked that they consider doing so, consider apologising for any misunderstanding or processing errors (where applicable) and if they did so there may not be a need for us to formally investigate the complaint. He said he would discuss it internally and get back to me. He asked how long they would have to do that if they agreed, I said I would need to check. He committed to coming back to me by next Tuesday.

Await response from respondent Azevedo, David 27-Sep-2012 28-Sep-2012

Follow up with DVA re:addressing complaint

Phone call to respondent Azevedo, David 31-Aug-2012 31-Aug-2012

Spoke with respondent who queried reference number of matters for s22 - confirmed only the two and the 238 reference number on some correspondence was an error on my part.

Phone call to respondent Azevedo, David 19-Nov-2012 19-Nov-2012

Msg left for Trentre:Friday msg

Phone call to other Azevedo, David 30-Nov-2012 30-Nov-2012

s 22



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s 22

Analyse Preliminary Inquiries	Azevedo, David	03-Dec-2012	03-Dec-2012
Make recommendations to supervisor (CP PI)	Azevedo, David	03-Dec-2012	03-Dec-2012
Decide path (CP PI)	Harlock, Raewyn	03-Dec-2012	03-Dec-2012, Azevedo, David: Investigation Required
Notify Complainant of Investigation	Azevedo, David	03-Dec-2012	03-Dec-2012
Notify Agency of Investigation (CP)	Azevedo, David	03-Dec-2012	03-Dec-2012
Await Agency Response (CP INV)	Azevedo, David	03-Dec-2012	03-Dec-2012
Conduct Investigation (CP)	Azevedo, David	13-Dec-2012	13-Dec-2012: Preliminary View
Prepare s86 letter (CP INV)	Azevedo, David	13-Dec-2012	13-Dec-2012
Review s86 letter (CP INV)	Harlock, Raewyn	13-Dec-2012	13-Dec-2012, Azevedo, David
Commissioner approves s86 letter (CP INV)	Azevedo, David	13-Dec-2012	13-Dec-2012
Send s86 letter (CP)	Azevedo, David	13-Dec-2012	13-Dec-2012

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INV)

Await Response to s86 Azevedo, David 24-Dec-2012 03-Jan-2013, O'Brien, Peter: Agree letter (CP INV)

Await response/update re implementation of recommendation

Notify Complainant of Closure (CP INV) O'Brien, Peter 04-Jan-2013 11-Feb-2013

Notify Agency of Closure(CP INV) O'Brien, Peter 04-Jan-2013 11-Feb-2013

Are there Recommendations? (CP) O'Brien, Peter 12-Feb-2013 11-Feb-2013: Yes

Recommended that Agency implement the use of OAIC template letters especially for consultations under s 24AB

Correspondence from Jelenic, Tina 09-Feb-2015 10-Feb-2015 complainant

Email received from C 5/2/15. Added to documents tab.

Documents - 83

Title	Date Added	By
Re: FW: s22 : Your request for a s 15AB extension of time to process s22 FOI request. [SEC=UNCLASSIFIED]	23-Mar-2012 11:23 AM	Azevedo, David
s 22 complaint.pdf	05-Apr-2012 10:45 AM	Azevedo, David
RE: 2Apr12 let re action on current FOI [SEC=UNCLASSIFIED]	05-Apr-2012 3:44 PM	Azevedo, David
RE: 2Apr12 let re action on current FOI [SEC=UNCLASSIFIED]	05-Apr-2012 4:21 PM	Azevedo, David
RE: Tele conference Tuesday 10.00 a.m. 17 April [SEC=UNCLASSIFIED]	16-Apr-2012 11:51 AM	Azevedo, David
RE: Tele conference Tuesday 10.00 a.m. 17 April [SEC=UNCLASSIFIED]	24-Apr-2012 5:07 PM	Azevedo, David
RE: Tele conference Tuesday 10.00 a.m. 17 April [SEC=UNCLASSIFIED]	24-Apr-2012 5:08 PM	Azevedo, David
23Apr12 teleconference is DURESS	24-Apr-2012 5:48 PM	Azevedo, David
Your OAIC matters [SEC=UNCLASSIFIED]	26-Apr-2012 10:33 AM	Azevedo, David
s22 letter to s22 .pdf	26-Apr-2012 4:35 PM	Azevedo, David
s22 .pdf	04-May-2012 11:11 AM	Bramley, Pamela
s22 7.5.12.pdf	07-May-2012 2:52 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	09-May-2012 2:53 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	10-May-2012 8:17 AM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	28-Jun-2012 2:45 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	28-Jun-2012 10:19 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	29-Jun-2012 7:49 AM	Azevedo, David
CP Case Plan	05-Jul-2012 2:09 PM	Azevedo, David
Complaint summary.pdf	06-Jul-2012 11:35 AM	Azevedo, David
DVA decision letter 30 April 2012.pdf	06-Jul-2012 11:35 AM	Azevedo, David
s22 [SEC=UNCLASSIFIED]	06-Jul-2012 2:22 PM	Azevedo, David

FOIREQ22/00120 087

RE: s22 [SEC=UNCLASSIFIED]	25-Jul-2012 1:10 PM	Azevedo, David
FW: s22 [SEC=UNCLASSIFIED]	01-Aug-2012 4:08 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	10-Aug-2012 2:45 PM	Azevedo, David
RE: s22 [SEC=UNCLASSIFIED]	21-Aug-2012 3:17 PM	Azevedo, David
RE: s22 [SEC=UNCLASSIFIED]	22-Aug-2012 7:23 AM	Azevedo, David
RE: s22 [SEC=UNCLASSIFIED]	29-Aug-2012 8:44 AM	Azevedo, David
Voice Mail Message (48 seconds)	30-Aug-2012 3:03 PM	Azevedo, David
s22 [SEC=UNCLASSIFIED]	30-Aug-2012 4:39 PM	Azevedo, David
s22 - Complaint by s22 [SEC=UNCLASSIFIED]	17-Sep-2012 10:16 AM	Azevedo, David
RE: s22 - Complaint by s22 [SEC=UNCLASSIFIED]	24-Sep-2012 9:17 AM	Azevedo, David
FW: s22 - Complaint by s22 [SEC=UNCLASSIFIED]	24-Sep-2012 4:25 PM	Azevedo, David
FW: s22 - Complaint by s22 [SEC=UNCLASSIFIED]	26-Sep-2012 4:53 PM	Azevedo, David
RE: s22 - Complaint by s22 [SEC=UNCLASSIFIED]	27-Sep-2012 5:05 PM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	27-Sep-2012 11:16 AM	Azevedo, David
s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	28-Sep-2012 9:50 AM	Azevedo, David
RE: Your OAIC matters [SEC=UNCLASSIFIED]	29-Sep-2012 8:43 PM	Azevedo, David
RE: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	30-Sep-2012 4:34 PM	Azevedo, David
RE: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	08-Oct-2012 4:51 PM	Azevedo, David
RE: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	11-Oct-2012 10:28 PM	Azevedo, David
FW: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	14-Oct-2012 10:26 PM	Azevedo, David
s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	19-Oct-2012 11:25 AM	Azevedo, David
RE: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	19-Oct-2012 11:31 AM	Azevedo, David
RE: s22 : Your OAIC complaint [SEC=UNCLASSIFIED]	19-Oct-2012 7:49 PM	Azevedo, David
FW: Major problems with DVA - s22 and myself [SEC=UNCLASSIFIED]	22-Oct-2012 9:12 AM	Azevedo, David
Major problems with DVA - s22 and myself	20-Oct-2012 10:46 AM	Azevedo, David
RE: Major problems with DVA - s22 and myself [SEC=UNCLASSIFIED]	22-Oct-2012 9:22 AM	Azevedo, David
RE: Major problems with DVA - s22 and myself [SEC=UNCLASSIFIED]	23-Oct-2012 8:51 AM	Azevedo, David

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RE: Major problems with DVA - s22 and myself [SEC=UNCLASSIFIED]	23-Oct-2012 5:15 PM	Azevedo, David
FW: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	06-Nov-2012 2:38 PM	Azevedo, David
FW: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	13-Nov-2012 9:49 AM	Azevedo, David
Voice Mail Message (33 seconds)	16-Nov-2012 4:35 PM	Azevedo, David
Voice Mail Message (31 seconds)	19-Nov-2012 12:33 PM	Azevedo, David
RE: FW: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	19-Nov-2012 4:18 PM	Azevedo, David
RE: s22: Your OAIC complaint [SEC=UNCLASSIFIED]	20-Nov-2012 9:16 AM	Azevedo, David
RE: s22: Your OAIC complaint [SEC=UNCLASSIFIED]	21-Nov-2012 12:49 AM	Azevedo, David
FW: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	22-Nov-2012 9:18 AM	Azevedo, David
RE: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	22-Nov-2012 11:19 AM	Azevedo, David
RE: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	26-Nov-2012 11:29 AM	Azevedo, David
RE: Re my complaint [SEC=UNCLASSIFIED]	27-Nov-2012 7:30 PM	Azevedo, David
img-Y29105526-0001.pdf	29-Nov-2012 12:01 PM	Azevedo, David
img-Y29105743-0001.pdf	29-Nov-2012 12:02 PM	Azevedo, David
img-Y29110026-0001.pdf	29-Nov-2012 12:02 PM	Azevedo, David
img-Y29110241-0001.pdf	29-Nov-2012 12:02 PM	Azevedo, David
s22 Processing timeline.xlsx	04-Dec-2012 11:29 AM	Azevedo, David
Consolidated processing docs 10012012 to 27032012.pdf	04-Dec-2012 12:07 PM	Azevedo, David
Consolidated processing docs 29032012 to 30052012.pdf	04-Dec-2012 12:07 PM	Azevedo, David
s22 Decision letter and 24AB notice.pdf	04-Dec-2012 12:07 PM	Azevedo, David
s22 Applicant submission.pdf	04-Dec-2012 12:07 PM	Azevedo, David
s22 Complainant submission.pdf	04-Dec-2012 12:07 PM	Azevedo, David
mr12237 NTP.pdf	05-Dec-2012 8:04 AM	Azevedo, David
s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	13-Dec-2012 3:54 PM	Azevedo, David
s22: Your OAIC complaint [SEC=UNCLASSIFIED]	13-Dec-2012 4:19 PM	Azevedo, David
RE: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	13-Dec-2012 4:58 PM	Azevedo, David
RE: s22: Your OAIC complaint [SEC=UNCLASSIFIED]	13-Dec-2012 6:38 PM	Azevedo, David
RE: s22: Your OAIC complaint [SEC=UNCLASSIFIED]	13-Dec-2012 7:08 PM	Azevedo, David
Your DVA complaints to the OAIC [SEC=UNCLASSIFIED]	21-Dec-2012 3:29 PM	Azevedo, David
RE: s22 - Freedom of Information complaint by s22 [SEC=UNCLASSIFIED]	11-Feb-2013 11:17 AM	O'Brien, Peter

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Complaint Closure Notification to Complainant - s22 - post PV	11-Feb-2013 3:21 PM	O'Brien, Peter
Complaint Closure to Respondent - Joanna Marshall - post PV	11-Feb-2013 3:22 PM	O'Brien, Peter
s22 - Closure notice [SEC=UNCLASSIFIED]	14-Feb-2013 9:31 AM	O'Brien, Peter
s22 - Closure notice [SEC=UNCLASSIFIED]	14-Feb-2013 9:31 AM	O'Brien, Peter
s22 The sad demise of FOI under this government	05-Feb-2015 3:31 PM	Quan, Trish

Cross References - 2

Case	Comments
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s22	
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Comments - 1

Created	By	Comment
11-Feb-2013 1:50 PM	O'Brien, Peter	Case Closed by s 47E(d) on 11-Feb-2013 13:50

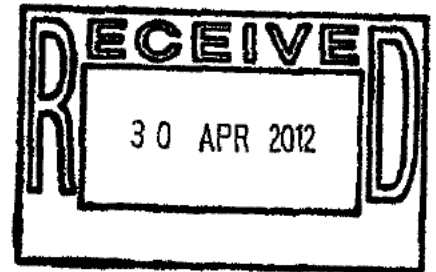
Office of the Australian Information Commissioner

23rd April 2012

GPO Box 2999

Canberra

ACT 2601



Dear Information Commissioner

Re Application under FOI s22

I have recently been denied access to the above s22

Copy of my original request together with the written refusal is attached.

I have also attached my letter requesting a review of the decision.

As you can see the person who made the decision has no concept nor knowledge of adoptions in relation to FOI.

My grounds on which I consider the decision be reversed are all cited in the said letter.

I wish also to lodge a complaint of the handling of this matter by s 47F. Not because she denied access but of her lack of knowledge of adoption matters and the failure by her to investigate same prior to denying access. Her condescending attitude on the telephone and disbelief that s22. Her letter is proof of that attitude and lack of understanding. Surely some decisions need to be made based on common sense, empathy and good judgement. None of these factors were relevant in s 47F decision.

Please review that decision and investigate my complaint of s 47F.

s22

s22



SENT 23/3

Freedom of Information Application

For access to documents held by the Department of Veterans' Affairs

Please use BLOCK letters to fill in this form

Veteran's Details (If applicable)

Veteran's surname

s22

Veteran's given name(s)

s22

Other names by which the veteran may be known

s22

DVA File number

Service number

s22

Branch of service

s22

Address (include postcode)

s22

Date of birth

s22

Date of death

s22

If you have lodged, or intend to lodge, a claim under the Veterans' Entitlements Act 1986 (VEA), there is no application fee or charges for documents relevant to the claim.

If you have lodged, or intend to lodge, an application for your own personal information there is no application fee or charges for documents relating to you.

Document(s) Details

Please describe as clearly as possible the documents you want

s22

s22

Is this request being made in conjunction with a claim under the VEA?

☒ No ☐ Yes

☐ Please arrange for me/my representative to inspect the documents

☒ Please send a copy of the documents to me/my representative

Applicant's Details

Surname

s22

Given name(s)

s22

Your relationship to the veteran (e.g. self, widow, family)

s22

Postal address (include postcode) (must be an Australian address)

s22

Preferred contact number (include area code)

s22

Applicant's signature



s22

Authority to act as Representative (If applicable)

I, the applicant named above, appoint the person named below to act as my representative for my request for access to documents.

I authorise DVA to deal with the representative concerning my application.

Applicant's signature



Representative's surname

Representative's given name(s)

Organisation name

Representative's postal address (include postcode)
(must be an Australian address)

Representative's preferred contact number (include area code)

Representative's sample signature



Please send this form to the Department in your State.
The addresses are on the back of this page.

OFFICE USE ONLY

Received on

Reference No

/ /

Comments

File No

Contact: s 47F
FOI Reference: s22
File Number: s22

Telephone: s22
Facsimile: s22



Australian Government
Department of Veterans' Affairs
NEW SOUTH WALES OFFICE

s22

16 April 2012

Dear s22

Re: s22

I refer to your application under the *Freedom of Information Act 1982* (FOI Act) received on 26 March 2012 s22 in which you sought access to s22 and our phone call on 28 March 2012 about same.

I am authorised under section 23 of the Act to make access decisions. After an examination of all the documents relevant to the request, I have decided to refuse access to all documents. Enclosed is a Statement of Reasons for my decision to exempt the documents from release.

If you are dissatisfied with my decision you may seek an internal review under sections 54 and 54A of the FOI Act, the procedures for which are set out in the attachment. Under sections 54L and 54M of the FOI Act you may make an application to the Information Commissioner for a review of my decision.

There is also provision for you to lodge a complaint with the Office of the Australian Information Commissioner (OAIC) concerning action taken by this Department in the exercise of powers of the performance of functions under the FOI Act.

Please do not hesitate to contact me should you wish to discuss this matter further.

s 47F

Senior Freedom of Information Officer

encl

CENTENNIAL PLAZA
280 ELIZABETH ST
SURRY HILLS NSW 2010

GPO BOX 9998
SYDNEY NSW 2001

METROPOLITAN RESIDENTS 133 254
COUNTRY RESIDENTS 1800 555 254
INTERNET <http://www.dva.gov.au>

Saluting Their Service

STATEMENTS OF REASONS**Pursuant to Section 26 of the *Freedom of Information Act 1982***

Name of Decision Maker:	s 47F
Designation of Decision Maker:	Senior Freedom of Information Officer, NSW Office
Applicant:	s22
Decision:	<input type="radio"/> To refuse access to all records held by the Department relating to s22

Materials on which findings are based:

- Your FOI application;
- The FOI Act;
- The FOI Guidelines; and
- Documents that fall within the scope of your application.

Your request received on 26 March 2012 sought access to s22

I have identified the documents that are relevant to your request. I have decided to exempt all of the documents from disclosure under section 47F of the FOI Act.

Section 47F provided that a document is conditionally exempt from disclosure if there would be an unreasonable disclosure of personal information including a deceased person. I note that the documents contain personal information as they relate to s22

I also note that during a telephone conversation with you on 28 March 2012, I advised you that s22

would be required before any action could be taken on this request. You advised me, however, that s22

As such, I have decided to conditionally exempt the documents from disclosure, as there would be an unreasonable disclosure of s22 personal information.

Further, section 47F of the FOI Act is subject to the public interest test. I have referred to the FOI Guidelines set by the OAIC. I have considered that while it is the public interest of individuals to receive information that is held in relation to them, this must be balanced with the need for the Department to protect individuals' privacy. I consider the factors against disclosure outweigh the factors favouring disclosure.

Consequently, I have decided to exempt the documents from disclosure under section 47F of the FOI Act.

I consider that the release of the would be an unreasonable disclosure of personal information.

Dated this 16th day of April 2012

s 47F

Senior Freedom of Information Officer
NSW Office

A refusal would be devastating and unfair.

6. We have no ulterior reason or anything else to gain from this request. The letter of Refusal states "it is the public interest of individuals to receive information that is held in relation to them, this must be balanced with the need for the Department to protect individuals' privacy". We are aware of those requirements in normal circumstances but these circumstances are NOT NORMAL. This fact should have been considered in the decision process. We simply need the information for reasons stated previously.

7. s22 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Thank you for your time. We eagerly await your decision.

Yours Sincerely

s22 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Copy to,

Office of the Australian Information Commissioner.

FOIREQ22/00120 096

s22

Nicolaou, Irene
09-May-2022 11:02 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	30-Apr-2012 12:00 AM
Case Type:	Decline	Received By:	Bramley, Pamela
How Received:		Registered Date:	02-May-2012 11:59 AM
Owned By:	Zatschler, Elizabeth	Registered By:	Zatschler, Elizabeth
		Closed Date:	25-Sep-2012 1:56 PM
		Closed By:	Zatschler, Elizabeth

Case Details

Stage:	Closed
How Received:	Post
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Agency Reference Number:	NX022365
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial request sent
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Stage Closed Date:	17-Jun-2020 09:28:57
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	25-Sep-2014

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	s 47F

Summary

26.3.12 - Applicant submits FOI request
16.4.12 - Decision from DVA - Refused.
23.4.12 - Applicant requests internal review
28 May 2012 decision on IC review made
14.9.12 - copy of Internal Review received
19.9.12 - emailed applicant requesting clarification if continuing with complaint or lodging IC review request.
20.9.12 Applicant has withdrawn s22 complaint. Documents provided by DVA so will not be lodging IC review.

No IC registered as s22 has applied for an internal review

Issues - 1

FOIREQ22/00120 097

Issue Description: Processing Request**Is Primary Issue:** Yes**Issue Allegation:** unsatisfactory customer service**Issue Outcome:** withdrawn**Actions - 33 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach documents	Bramley, Pamela	03-May-2012	02-May-2012
Move to Triage basket	Bramley, Pamela	03-May-2012	02-May-2012
Allocate to Triage Officer (CP)	FOI - Triage	03-May-2012	04-May-2012, Bramley, Pamela
Ownership Reassigned	Bramley, Pamela	02-May-2012	02-May-2012
Assigned to 'Triage' by 'Bramley, Pamela'			
Ownership Reassigned	Bramley, Pamela	02-May-2012	02-May-2012
Assigned to 'Triage' by 'Bramley, Pamela'			
First Check	Bramley, Pamela	07-May-2012	04-May-2012
Ownership Reassigned	Bramley, Pamela	04-May-2012	04-May-2012
Assigned to 'Bramley, Pamela' by 'Bramley, Pamela'			
Move to Mail Assessor basket	Bramley, Pamela	07-May-2012	04-May-2012
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	07-May-2012	29-May-2012, Pirani, Toni
Ownership Reassigned	Bramley, Pamela	04-May-2012	04-May-2012
Assigned to 'Mail Assessor' by 'Bramley, Pamela'			
Phone call to complainant/applicant	FOI - IC reviews - Assessment	10-May-2012	09-May-2012, Menz, Ken
P/c to s22. Explained that we had not registered IC review as he had requested internal review of the matter and the internal review decision will replace the original decision, so no point reviewing. Advised I had spoken to DVA and they were processing internal review request and we're hoping to send correspondence by end of the week. Advised that he has complaint on foot at OAIC and that if he is unsatisfied at DVA's internal review decision, he could seek IC review of that decision. Advised that there is backlog and approx 6 weeks to be assigned case officer.			
Phone call to respondent	FOI - IC reviews - Assessment	10-May-2012	09-May-2012, Menz, Ken
P/c to DVA. Advised they had received internal review request but were having difficulties with scope and getting docs from sydney, but aimed to have decision(?)/correspondence sent to s22 at end of week.			
Assess Path (CP)	Pirani, Toni	30-May-2012	29-May-2012: Valid – Preliminary Inquiry
Conduct preliminary inquiries			

FOIREQ22/00120 098

Ownership Reassigned Assigned to 'Pirani, Toni' by 'Pirani, Toni'	Pirani, Toni	29-May-2012	29-May-2012
Send Acknowledgement (CP CADM)	Admin Officer	30-May-2012	29-May-2012, Pirani, Toni
Ownership Reassigned Assigned to 'Allocation' by 'Pirani, Toni'	Pirani, Toni	29-May-2012	29-May-2012
Allocate Complaint	Allocation - FOI Case Management	30-May-2012	13-Aug-2012, Pirani, Toni
Conduct Preliminary Inquiries (CP)	Zatschler, Elizabeth	20-Aug-2012	20-Sep-2012
The Department has made a decision affirming the original decision on 28 May 2012. Recommend treating this as an application for IC review. 19/9 emailed applicant requesting clarification if s22 wishes to continue with complaint or an IC review.			
Phone call to respondent	Kirkwood, Ben	17-Sep-2012	14-Sep-2012
I phoned DVA and left a message for Ms Marshall to return my call regarding this case.			
Phone call to respondent	Kirkwood, Ben	17-Sep-2012	14-Sep-2012
I spoke to Ms Marshall who is going check whether a decision on internal review has been made and if it has she will email a copy of the decision.			
Phone call from complainant	Zatschler, Elizabeth	21-Sep-2012	20-Sep-2012
20/9/12 12.15pm. s22 phoned to advise that DVA have now approved the release of the documents. He is disappointed at the \$70 charge (717 pages) but is happy that it will be forthcoming. I advised that we will need him to provide notification in writing that he is withdrawing his complaint.			
Analyse Preliminary Inquiries	Zatschler, Elizabeth	21-Sep-2012	20-Sep-2012
Make recommendations to supervisor (CP PI)	Zatschler, Elizabeth	21-Sep-2012	20-Sep-2012
Applicant has withdrawn his complaint.			
Decide path (CP PI)	Hansen, Paul	21-Sep-2012	25-Sep-2012, Zatschler, Elizabeth: Ready to Close
Allocate Complaint	Zatschler, Elizabeth	26-Sep-2012	25-Sep-2012
Notify relevant parties of closure	Zatschler, Elizabeth	26-Sep-2012	25-Sep-2012
Complainant has notified by email that he is withdrawing his complaint.			
Close Case	Zatschler, Elizabeth	26-Sep-2012	25-Sep-2012
Prepare s73 letter for	Zatschler,	26-Sep-2012	25-Sep-2012

FOIREQ22/00120 099

approval (CP DEC)	Elizabeth		
Review s73 letter (CP DEC)	Hansen, Paul	26-Sep-2012	25-Sep-2012, Zatschler, Elizabeth
Commissioner approves s73 letter (CP DEC)	Zatschler, Elizabeth	26-Sep-2012	25-Sep-2012
Send s73 letter (CP DEC)	Zatschler, Elizabeth	15-Oct-2012	25-Sep-2012
Await response to s73 letter (CP DEC)	Zatschler, Elizabeth	15-Oct-2012	25-Sep-2012: No change in view
Notify relevant parties of closure (CP DEC)	Zatschler, Elizabeth	26-Sep-2012	25-Sep-2012

Documents - 9

Title	Date Added	By
s22 .pdf	02-May-2012 12:09 PM	Bramley, Pamela
Preliminary Inquiry Notification Letter to Complainant - s22	04-May-2012 12:43 PM	Bramley, Pamela
RE: Case Number: s22 [SEC=UNCLASSIFIED]	04-May-2012 3:32 PM	Bramley, Pamela
s22 [SEC=UNCLASSIFIED]	14-Sep-2012 2:03 PM	Kirkwood, Ben
s22 [SEC=UNCLASSIFIED]	17-Aug-2012 2:18 PM	Kirkwood, Ben
Freedom of Information complaint about Department of Veterans' Affairs [SEC=UNCLASSIFIED]	19-Sep-2012 2:13 PM	Zatschler, Elizabeth
ref s22	20-Sep-2012 12:22 PM	Zatschler, Elizabeth
Your complaint about the Department of Veteran's Affairs [SEC=UNCLASSIFIED]	25-Sep-2012 11:02 AM	Zatschler, Elizabeth
Complaint made by s22 [SEC=UNCLASSIFIED]	25-Sep-2012 11:01 AM	Zatschler, Elizabeth

Comments - 1

Created	By	Comment
25-Sep-2012 1:56 PM	Zatschler, Elizabeth	Case Closed by s 47E(d) on 25-Sep-2012 13:56

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s22

Nicolaou, Irene
09-May-2022 11:03 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	17-Aug-2012 1:42 PM
Case Type:	Preliminary Inquiry	Received By:	Snodgrass, Kristy
How Received:		Registered Date:	17-Aug-2012 1:42 PM
Owned By:	Azevedo, David	Registered By:	Azevedo, David
		Closed Date:	30-Oct-2012 4:52 PM
		Closed By:	O'Brien, Peter

Case Details

Stage:	Closed
Current File Holder:	O'Brien, Peter
How Received:	Fax
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial request sent
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Date Destroyed:	6-Mar-2018
Destruction Status:	Destroyed
Retention Class:	OAIC RA 61986 (D2)

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Babington, Trent

Summary**Issues - 1**

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: unsatisfactory customer service
Issue Outcome: withdrawn

Documents - 31

Title	Date Added	By
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FW Applic - s22 - s22 Scan from Util2 L2 MFD SECUNCLASSIFIED.msg	17-Aug-2012 1:46 PM	Azevedo, David
s22 ltr.pdf	21-Aug-2012 4:39 PM	O'Brien, Peter
[s22] Scan from Util2 L2 MFD	28-Aug-2012 8:02 AM	Snodgrass, Kristy
s22 [SEC=UNCLASSIFIED]	03-Sep-2012 2:03 PM	Azevedo, David
image-825180300-0001.pdf	03-Sep-2012 2:45 PM	O'Brien, Peter
s22 [SEC=UNCLASSIFIED]	03-Sep-2012 2:56 PM	Azevedo, David
Applic - s22 Scan from Util2 L2 MFD.msg	05-Sep-2012 11:09 AM	Azevedo, David
Applic - s22 Scan from Util2 L2 MFD.msg	05-Sep-2012 11:11 AM	Azevedo, David
s22 Scan from Util2 L2 MFD.msg	05-Sep-2012 11:27 AM	Azevedo, David
[s22] Scan from Util2 L2 MFD	02-Sep-2012 10:21 AM	Snodgrass, Kristy
[s22] Scan from Util2 L2 MFD	09-Sep-2012 5:42 PM	Snodgrass, Kristy
[s22] Scan from Util2 L2 MFD	12-Sep-2012 7:45 AM	Snodgrass, Kristy
s22] Scan from Util2 L2 MFD	13-Sep-2012 9:13 AM	Snodgrass, Kristy
s22 Scan from Util2 L2 MFD	12-Sep-2012 2:58 PM	Snodgrass, Kristy
s22] Scan from Util2 L2 MFD	12-Sep-2012 3:30 PM	Snodgrass, Kristy
s22] Scan from Util2 L2 MFD	13-Sep-2012 4:28 PM	Snodgrass, Kristy
RE: s22 [SEC=UNCLASSIFIED]	19-Sep-2012 11:40 AM	Azevedo, David
RE: s22 [SEC=UNCLASSIFIED]	19-Sep-2012 1:09 PM	Azevedo, David
s22 - Scan from Util2 L2 MFD	20-Sep-2012 7:47 PM	Ford, Dean
img-924142937-0001.pdf	24-Sep-2012 2:31 PM	Azevedo, David
img-924143023-0001.pdf	24-Sep-2012 2:31 PM	Azevedo, David
[s22] forward to Peter O and cc David A] Scan from Util2 L2 MFD	27-Sep-2012 8:39 PM	Oliva, John
s22 Scan from Util2 L2 MFD	28-Sep-2012 1:13 PM	Oliva, John
[s22] Scan from Util2 L2 MFD	07-Oct-2012 12:13 PM	Fleming, Timothy
RE: DVA response: s22 Complaint [SEC=UNCLASSIFIED]	24-Sep-2012 3:12 PM	Azevedo, David
[s22] Scan from Util2 L2 MFD	09-Oct-2012 9:14 PM	Fleming, Timothy
[s22] Scan from Util2 L2 MFD	12-Oct-2012 9:14 AM	Fleming, Timothy
Scan from Util2 L2 MFD	16-Oct-2012 10:40 AM	Quan, Trish
image-X30105204-0001.pdf	30-Oct-2012 4:47 PM	O'Brien, Peter
Withdrawal ack ltr.pdf	30-Oct-2012 4:47 PM	O'Brien, Peter
Withdrawal of complaint and IC review - s22 and DVA ref: s22 [SEC=UNCLASSIFIED]	30-Oct-2012 4:51 PM	O'Brien, Peter

Cross References - 3

Case	Comments
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s22

Comments - 1

Created	By	Comment
30-Oct-2012 4:52 PM	O'Brien, Peter	Case Closed by s 47E(d) on 30-Oct-2012 16:52

From: s22
To: [Enquiries](#)
Subject: s22 - FOI Complaint
Date: Friday, 20 July 2012 3:34:53 PM
Attachments: [Complaint DVA T.B. lack of training.docx](#)
[Document Complaint DVA T.B. lack of training.docx](#)

Office of the Australian Information Commissioner

Dear Sir / Madam,

Please see attached an FOI complaint about the Department of Veterans Affairs.

Yours faithfully

s22

FOIREQ22/00120 104

s22

Nicolaou, Irene
09-May-2022 11:02 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	20-Jul-2012 12:00 AM
Case Type:	Investigation	Received By:	Oliva, John
How Received:		Registered Date:	23-Jul-2012 8:08 AM
Owned By:	O'Brien, Peter	Registered By:	O'Brien, Peter
		Closed Date:	28-Jan-2014 10:12 AM
		Closed By:	Hansen, Paul

Case Details

Stage:	Closed
How Received:	Email
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	28-Jan-2016

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Spiers, Carolyn

Summary

Applicant complains of breach of process and delay.
75 Notice sent to DVA and sets out scope of complaint investigation

Issues - 1

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: unsatisfactory customer service
Issue Outcome: s86 - recommendations made

Actions - 59 (All Completed)

Action	Owner	Due	Completed
Record case details and attach documents	Oliva, John	24-Jul-2012	23-Jul-2012

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Move to Triage basket	Oliva, John	24-Jul-2012	23-Jul-2012
Allocate to Triage Officer (CP)	FOI - Triage	24-Jul-2012	24-Jul-2012, Bramley, Pamela
First Check	Bramley, Pamela	25-Jul-2012	24-Jul-2012
Move to Mail Assessor basket	Bramley, Pamela	25-Jul-2012	24-Jul-2012
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	25-Jul-2012	02-Aug-2012, Pirani, Toni
Phone call from complainant	FOI - IC reviews - Assessment	27-Jul-2012	26-Jul-2012, Sheppard, Peta

received a phone call from s22 this afternoon. He was confused as to why DVA had requested and extension under 15AB and as he was of the opinion that it was a deemed refusal as his request was made 23 April 2012. Explained to s22 that his request of 23 April was assessed under 24AA as a practical refusal was found to exist as the information that he was seeking was the same or similar to his previous FOI request with DVA. For these reasons, DVA contacted s22 (8 June 2012) and requested a new revised scope and this was received by DVA 20 June 2012. I explained that 20 June was considered to be his request date and that his due date is now 20 July. I explained that it satisfied 15AB as the request for extension was received into the office 17 July before the due date. Explained new due date was 3 August and if he did not receive a decision by then it would be considered deemed. s22 was happy with my explanation and considered withdrawing his complaint. I advised that we would have a look at the basis of his complaint first and if we thought it warranted a withdrawal we'd contact him. From a quick look, the complaint appears to be mainly about DVA processes.

Assess Path (CP)	Pirani, Toni	03-Aug-2012	02-Aug-2012: Valid – Preliminary Inquiry
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Please consider whether this matter can be dealt with alongside s22 earlier complaint in relation to this agency.

Allocate Complaint	Allocation - FOI Case Management	03-Aug-2012	02-Aug-2012, Pirani, Toni
Send Acknowledgement (CP CADM)	O'Brien, Peter	03-Aug-2012	06-Nov-2012
Prepare Plan (CP)	O'Brien, Peter	15-Aug-2012	15-Oct-2013, Kirkwood, Ben
Correspondence from complainant	O'Brien, Peter	31-Aug-2012	31-Oct-2012
Phone call to complainant/applicant	O'Brien, Peter	21-Sep-2012	12-Oct-2012

Provided s22 with an update re his first complaint and discussed the scope of the second complaint. s22 agreed that the investigation of underlying systemic issues, as evidence by the specific examples, would satisfy his complaint. we discussed aspects of the specifics examples, the overlap with the first complaint and the external report commissioned by DVA. s22 advised that he expected the report to be completed this Friday (was told this by s22) explained to s22 I will write to him and confirm scope and then make PreLIM inquires with DVA, case will then be allocated to CMT

Phone call to complainant/applicant	O'Brien, Peter	01-Oct-2012	12-Oct-2012
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Discussed the transfer of the complaint to the Ombudsman, s22 understood explanation see docs s22 report of FOI - received by Dept questioned whether s22 report - re s22 (didn't get informed consent in their engagement with s22) might be relevant to OAIC? it has been indicated that DVA response to the s22 may be influenced by the s22 - s22 has not seen either report. Explained we will make inquiries and if it is made relevant by the Dept we may considered (explained

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that this seemed unlikely)

Phone call to complainant/applicant O'Brien, Peter 12-Oct-2012 12-Oct-2012

Rtn phone call. s22 explained that the complaint was framed as broadly as possible with a view to being able to clarify if necessary. We discussed the exist FOI complaint and s22 agreed the complaint 9/10/2012 is a privacy complaint and an IC review, it does not need to be another FOI complaint. s22 explained concerns regarding the accessing s22 personal information in response to his FOI requests, I explained that the Act may require and authorise the access and consideration of s22, but noted s 27A would require DVA to consider consultation if access was being considered. I explained if DVA has made a decision refusing or releasing documents it is open to him to seek an IC review. Enquiry - I explained that it is open an agency to provide information at any time, but if a valid request or internal review had been received the Act required a decision in accordance with the Act. s22 explained that the decision refuses access to documents on person privacy grounds (s 47F), but provided info 'outside the Act'. I explained that it was open to him to seek and IC review, but it may be that the Department has tried to provide him 'information' in the absence of 'documents'. we further discussed that the Act provides a right to documents and not information and how this may create difficulties for an agency to address requests for information.

Phone call to respondent O'Brien, Peter 05-Nov-2012 06-Nov-2012

Explained the previous complaint and current complaint, advised that agreement with complaint was sought to scope this complaint investigation to systemic issues related to the handling of FOI requests (delay and communication), we discuss timeliness and s 24 (Mr Zanatta advised that s22 had submitted a further 15 request in one day - although agency unlikely to use s 24) discussed the use of EOT's to manage timeframes. Mr Zanatta explained CLU (client liaison unit) and the time that was being dedicated to these matters, including the use a senior officer dedicate to the these matters for specified time. Mr Zanatta also explained a newly developed schedule to assist in compliance with timeframes.

Phone call to respondent Hansen, Paul 27-Nov-2012 26-Nov-2012, O'Brien, Peter

Call to DVA - confirmed that sharing their response (s22) with s22 would be ok. Joanna Marshall to follow up response in relation to complaint notification 2 Nov, no response received as yet (s22)

Phone call from respondent Hansen, Paul 27-Nov-2012 26-Nov-2012, O'Brien, Peter

Response still being prepared, to be escalated to AS for clearance today. s47F to call back if not sent in the next day or two. POB

Phone call to complainant/applicant O'Brien, Peter 03-Dec-2012 28-Aug-2013, Kirkwood, Ben

Phone call to respondent O'Brien, Peter 03-Dec-2012 28-Aug-2013, Kirkwood, Ben

Left message for Joanna Slater

Phone call from respondent O'Brien, Peter 10-Dec-2012 28-Aug-2013, Kirkwood, Ben

s22 explained that he was about to send through a response in relation OAIC issues. He was wanting to get some advice about issues relating to consent, advised that he would need to talk with Privacy compliance team, (noting that this afternoon was Syd Christmas party). s22 will send two email s this afternoon

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Phone call to complainant/applicant O'Brien, Peter 20-Dec-2012 28-Aug-2013, Kirkwood, Ben
 Call to s22

Phone call from complainant O'Brien, Peter 07-Mar-2013 28-Aug-2013, Kirkwood, Ben
 Call from s22 Frustrated with the inconsistency of responses Carmody letter (s22)

Phone call to complainant/applicant O'Brien, Peter 14-Mar-2013 28-Aug-2013, Kirkwood, Ben

I returned s22 call on Peter's behalf and explained that Peter would be unavailable for two weeks and that he could contact me directly regarding his matters. s22 referred to an FOI response in which DVA had provided a submission dated 2/12 November 2012 to the OAIC. s22 is going to make a Privacy complaint re the mention made by DVA of his s22 which are in his view irrelevant to FOI. s22 is going to seek internal review of the decision he has received, attachment are either left out or have been conditionally exempt under s 47C. I directed s22 to the Guidelines if he wanted to look at potential grounds for challenging DVA's decision. s22 has issues with DVA stating that they have one decision maker in their letter to the OAIC, there are in fact three for his matters. s22 states that the CLU arrangements are not working, the CLU seem to get the FOI request right, but the FOI unit appear to arbitrarily change the terms of the request without consulting him. He notes that DVA claim that they clarify matters with him, but they never do.

Phone call to respondent O'Brien, Peter 15-Mar-2013 14-Mar-2013, Kirkwood, Ben
 Raised in error

Phone call to complainant/applicant O'Brien, Peter 15-Mar-2013 28-Aug-2013, Kirkwood, Ben

I phoned s22 about three emails I had received from him between 13 and 14 March 2013. s22 has provided this table as evidence that, contrary to the letter from DVA dated 27 November 2012, there are four FOI decision makers on his matters not a single person. s22 states that this is evidence of DVA not doing what they've told the OAIC they were going to do. I said I'd note this and attach the email to s22. According to s22 the Table released to him as a result of his 5 December 2012 FOI request is not complete. s22 is not disputing the FOI decision on this request, but is providing this as an example of DVA not adhering to agreed processes for processing his FOI requests. Again I said I'd note this and attach the email to s22. s22 has asked that his email about a deemed refusal on his FOI request be forwarded to enquiries to raise an IC review/complaint. I said I'd note this and attach the email to s22 as well as forwarding the email to enquiries for their action.

Phone call from complainant O'Brien, Peter 26-Mar-2013 28-Aug-2013, Kirkwood, Ben

s22 phoned about Ms Spiers response of 27 November 2012. Specifically, the response to question 5. s22 states that the Department's response of 16 October 2012 regarding a privacy matter details parts of the s22 report whereas the 27 November 2012 letter advises that to do so 'would be premature and not appropriate in the circumstances'. I again noted that our investigation is limited to the application of the FOI Act. If he wanted to make further submissions he should ensure he has provided clear cross references in order that we do not overlook an issue.

Phone call to complainant O'Brien, Peter 27-May-2013 24-May-2013, Kirkwood, Ben

I phoned s22 regarding two emails that were received from him on 9 May 2013 and 22 May 2013 respectively. the emails contain the record of conversation.

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Phone call from O'Brien, Peter 03-Jul-2013 28-Aug-2013, Kirkwood, Ben
complainant

I've had a lengthy conversation with s22; he states that DVA has informed him and s22 that further searches of s22 files were made in relation to an FOI request (7 January 2011) where the scope of the request had been treated too narrowly. The s22 did not consent to further searches being made. s22 says that this is inconsistent with the information provided to the OAIC regarding his substantive FOI complaint (s22); namely that this concerned a Privacy matter. s22 has a matter before the Ombudsman who is looking into DVA's administrative actions; however, he did not want 'tread on anyone's toes'. I thanked him for this information and said I would let Peter know. I noted there was scope for transfer of matters between both offices and that this may result in contact between the OAIC and the Ombudsman to ensure that we are not covering identical matters.

Phone call to O'Brien, Peter 27-Aug-2013 28-Aug-2013, Kirkwood, Ben
complainant

I phoned s22 as requested to talk about his correspondence dated 16 August 2013. I noted that his complaint s22 appeared to deal with a lot of the same circumstances which are subject of ongoing IC review applications s22 and Complaint s22. I indicated that these matters may be more appropriately dealt with as part of those IC reviews. We discussed the requirements for issuing a s 24AB notice and the circumstances where a s 15AA agreement can validly be made. I noted during the conversation that the FOI Commissioner may consider whether a s 24(2) combination of requests can include a FOI request where a s 15AC(3) decision appears to have been made. s22 indicated at a number of points in the discussion his frustration with incorrect information being provided by the Department given that they are supposed to be the experts. s22 indicated that he had not raised all the matters that he had complained to the OAIC about and asked whether we would consider those issues where he had not. I noted that if he was concerned he could seek the Department's comment now and see what response he receives.

Write to respondent O'Brien, Peter 29-Aug-2013 15-Oct-2013, Kirkwood, Ben

Phone call from O'Brien, Peter 26-Sep-2013 08-Oct-2013, Kirkwood, Ben
complainant

Call from s22. A lengthy conversation occurred regarding another deemed affirmation s22 said occurred on 23 September 2012. Advised s22 to lodge an IC review and copy me in.

Phone call to O'Brien, Peter 09-Oct-2013 08-Oct-2013, Kirkwood, Ben
complainant

I phoned s22 in response to two phone messages received in my absence. s22 asked about being provided with information that was outside the scope of his FOI request and whether there was action that could be taken against the Department in such instances. The request was for information s22. I noted that the OAIC was trying to encourage pro-disclosure across government and were unlikely to criticise an agency if they interpreted the scope of a request broadly. s22 was concerned that this creates a false impression of the facts. I noted that review was the most appropriate avenue to seek information that he believes should have been provided. I also noted that if he was granted access to his personal information and he believes the information contained on these records were incomplete, incorrect, out-of-date or misleading then he could seek to have these records amended or annotated under the FOI Act. I referred s22 to the Guidelines for more information. s22 asked whether the Department were required to provide access on a thumb drive if he requested the documents in that format. I said that I did not think that this was mandated under the Act; however, I thought that there were advantages in providing access electronically where possible. I said I would provide him with the relevant link(s) if I located information to the contrary. I checked the FOI Act and the Guidelines which state that documents should be provided in the format that was requested (except in the circumstances set out at 20(3)). I emailed this clarification to s22 providing the relevant legislation and a link to part 8 of the Guidelines.

Seek approval of plan Hansen, Paul 16-Oct-2013 15-Oct-2013, Kirkwood, Ben: Approved

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(CP)

S 86 required

Conduct Preliminary Inquiries (CP)	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben
Analyse Preliminary Inquiries	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben
Make recommendations to supervisor (CP PI)	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben
Decide path (CP PI)	Hansen, Paul	16-Oct-2013	15-Oct-2013, Kirkwood, Ben: Investigation Required
Notify Complainant of Investigation	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben
Notify Agency of Investigation (CP)	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben
Await Agency Response (CP INV)	O'Brien, Peter	04-Nov-2013	15-Oct-2013, Kirkwood, Ben
Conduct Investigation (CP)	O'Brien, Peter	16-Oct-2013	15-Oct-2013, Kirkwood, Ben: Preliminary View
Prepare s86 letter (CP INV)	O'Brien, Peter	16-Oct-2013	16-Oct-2013, Kirkwood, Ben

First draft will be ready by 16 October. BK

Review s86 letter (CP INV)	Hansen, Paul	17-Oct-2013	14-Nov-2013
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Draft s 86 letter prepared. Draft provided to Peter with three possible options in relation to s 88.

Phone call to respondent	O'Brien, Peter	31-Oct-2013	20-Nov-2013, Kirkwood, Ben
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I spoke with Trent Babington about s22, he says that the Department's register suggests that this matter had become deemed under s 15AC(3). Mr Babington says that s22 then lodged an internal review application and the 24 September 2012 decision was issued on this request. Mr Babington will provide a written response today.

Phone call from complainant	O'Brien, Peter	08-Nov-2013	20-Nov-2013, Kirkwood, Ben
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I had a lengthy conversation with s22 about s 24AB and effect of s 24AB (8) and the status of a deemed affirmation (s22). I reiterated that he has the right to seek IC review of deemed decisions provided he lodges his requests within time. s22 indicated that he was considering providing further examples of what he considers to be systemic failure on the part of the Department. I indicated a draft was currently before the Director and that depending on their approval the matter could be referred to the FOI Commissioner. I said that further submissions may delay that process and that I believed the OAIC had sufficient information to proceed to an outcome. I noted that if a s 86 notice was issued which recommended changes of practice at the Department, that future complaints of a similar nature maybe be declined under s 73(d)(ii) if the Department had not had a sufficient period to make changes.

Commissioner approves s86 letter (CP INV)	Hansen, Paul	15-Nov-2013	26-Nov-2013, Kirkwood, Ben
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Phone call from complainant	O'Brien, Peter	21-Nov-2013	26-Nov-2013, Kirkwood, Ben
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I returned s22 call. s22 wanted to know when 'enough was enough' given that the

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Department had been subject of two investigations and had still not improved. s22 was concerned about our previous conversations where I had indicated s 73(d)(ii) power may be used if he made complaints after the issue of a s 86 notice on this complaint. I talked s22 through the Commissioners' powers regarding the investigation of a complaint (73, 86, 88, 89 and 89A etc) and about OMI. I indicated that the matter was now with the FOI Commissioner. s22 said that he s22

. I asked s22

I said I would let my Directors know.

Send s86 letter (CP INV)	O'Brien, Peter	16-Dec-2013	26-Nov-2013, Kirkwood, Ben
Await Response to s86 letter (CP INV)	O'Brien, Peter	10-Dec-2013	28-Jan-2014, Hansen, Paul: Disagree

S 86 responses due 10 December 2013. A response was received on 12 December 2013.

Phone call from complainant	O'Brien, Peter	28-Nov-2013	15-Jan-2014, Kirkwood, Ben
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s22 phoned he says he is quiet comfortable with the findings. He also stated he felt a sense of validation, but he will make a written submission. He asked about where to find published s 86 notices and I stated that the OAIC did not publish them. s22 asked about the FOI Commissioner's recommendation powers and I read him section 88 of the FOI Act.

File Note	O'Brien, Peter	12-Dec-2013	28-Jan-2014, Hansen, Paul
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Submission received in response to s 86 notice on 12 December 2013

Write to applicant/complainant	O'Brien, Peter	15-Jan-2014	15-Jan-2014, Kirkwood, Ben
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DVA's response to the s 86 notice provided to s22

Phone call to complainant	O'Brien, Peter	21-Jan-2014	20-Jan-2014, Kirkwood, Ben
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after discussing s22 on Friday, s22 indicated that he disagreed with a number of things in the Department's response to the s86 notice in this complaint. I indicated that the OAIC had completed its investigation and that the Commissioner had provided his views to the Department, that the Department has disagreed with the Commissioner's finding did not change the outcome of the investigation; however, the Commissioner would now be responding to the Department and it would be open to him to consider whether to make formal recommendations. I indicated that if we required further information from s22 we would write to him. I indicated that I thought this unlikely.

Phone call from complainant	O'Brien, Peter	22-Jan-2014	22-Jan-2014, Raams, Leia
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Took call intended for Peter. Was s22 raising concerns he has with recent letter from James. Has asked to be contacted to discuss. See email attached to resolve of today's date for more information. (sent email to Paul advising of call).

Analyse incoming information to s86 (CP INV)	O'Brien, Peter	29-Jan-2014	28-Jan-2014, Hansen, Paul: Close Investigation
Notify Complainant of Closure (CP INV)	O'Brien, Peter	29-Jan-2014	28-Jan-2014, Hansen, Paul
Notify Agency of Closure(CP INV)	O'Brien, Peter	29-Jan-2014	28-Jan-2014, Hansen, Paul
Are there	O'Brien, Peter	29-Jan-2014	28-Jan-2014, Hansen, Paul: Yes

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Recommendations? (CP)

1. DVA Staff involved in processing FOI requests, including staff in the Client Liaison Unit, should undertake regular external FOI training at least once every 12 months. 2. Given the similarity of FOI issues and clients of both DVA and the Department of Defence, DVA should consider closer collaboration with the Department of Defence's FOI area. This should help improve DVA's FOI processing and decision making practices with respect to difficult clients. Also noting DVA suggestion of using external specialist FOI services (such as AGS) for difficult and complex clients.

Documents - 65

Title	Date Added	By
s22 - FOI Complaint	20-Jul-2012 3:34 PM	Oliva, John
Preliminary Inquiry Notification Letter to Complainant - s22	24-Jul-2012 3:06 PM	Bramley, Pamela
FOI Complaint Acknowledgement to Complainant - s22	24-Jul-2012 3:07 PM	Bramley, Pamela
Preliminary Inquiry Notification to Respondent - Vincci Chan	24-Jul-2012 3:10 PM	Bramley, Pamela
CP Case Plan	14-Aug-2012 12:00 PM	O'Brien, Peter
Fm s22 re s22 .?	31-Aug-2012 11:11 AM	Kirkwood, Ben
RE: Fm s22 re s22 .? [SEC=UNCLASSIFIED]	31-Aug-2012 1:38 PM	Kirkwood, Ben
Re: Fm s22 re s22 .? [SEC=UNCLASSIFIED]	31-Aug-2012 2:06 PM	Kirkwood, Ben
Re: Fm s22 re s22 .? [SEC=UNCLASSIFIED]	31-Aug-2012 2:06 PM	Kirkwood, Ben
Voice Mail Message (s22) (25 seconds)	31-Aug-2012 2:08 PM	Kirkwood, Ben
RE: Fm s22 re s22 .? [SEC=UNCLASSIFIED]	31-Aug-2012 2:10 PM	Kirkwood, Ben
s22 - COMPLAINT - s22 and DVA [SEC=UNCLASSIFIED]	21-Sep-2012 12:49 PM	O'Brien, Peter
Re: s22 - COMPLAINT - s22 and DVA [SEC=UNCLASSIFIED]	24-Sep-2012 9:24 AM	O'Brien, Peter
s22 - s22 and DVA [SEC=UNCLASSIFIED]	27-Sep-2012 1:20 PM	O'Brien, Peter
RE: s22 - COMPLAINT - s22 and DVA [SEC=UNCLASSIFIED]	28-Sep-2012 3:12 PM	O'Brien, Peter
Re: s22 - COMPLAINT - s22 and DVA [SEC=UNCLASSIFIED]	24-Sep-2012 4:48 PM	O'Brien, Peter
RE: Fm s22 about the DVA [SEC=UNCLASSIFIED]	30-Oct-2012 10:52 AM	O'Brien, Peter
Re: Fm s22 about the DVA [SEC=UNCLASSIFIED]	23-Oct-2012 10:18 AM	O'Brien, Peter
Section 75 - Notification to Respondent - s22 [SEC=UNCLASSIFIED]	02-Nov-2012 2:30 PM	O'Brien, Peter
RE: Section 75 - Notification to Respondent - s22 [SEC=UNCLASSIFIED]	19-Nov-2012 12:48 PM	O'Brien, Peter
Reference s22 - s22 [SEC=UNCLASSIFIED]	27-Nov-2012 4:56 PM	O'Brien, Peter
s22 - complaint about DVA [SEC=UNOFFICIAL]	29-Nov-2012 2:19 PM	Hansen, Paul

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Re: s22 - complaint about DVA [SEC=UNOFFICIAL]	29-Nov-2012 10:23 PM	Hansen, Paul
Voice Mail Message (s22) (20 seconds)	18-Dec-2012 1:14 PM	O'Brien, Peter
Fm s22	18-Dec-2012 11:47 AM	O'Brien, Peter
Fm s22	18-Dec-2012 11:50 AM	O'Brien, Peter
Fm s22	19-Dec-2012 2:00 PM	O'Brien, Peter
Fm s22	12-Feb-2013 4:30 PM	O'Brien, Peter
Fm s22	12-Feb-2013 1:42 PM	O'Brien, Peter
Fm s22	06-Mar-2013 1:54 PM	O'Brien, Peter
Fm s22	13-Mar-2013 6:06 PM	Kirkwood, Ben
Re: Fm s22	14-Mar-2013 8:48 AM	Kirkwood, Ben
Fm s22	14-Mar-2013 8:43 AM	Kirkwood, Ben
RE: Fm s22 [SEC=UNCLASSIFIED]	24-May-2013 3:57 PM	Kirkwood, Ben
RE: Fm s22 regarding our ongoing complaint with DVA [SEC=UNCLASSIFIED]	24-May-2013 3:57 PM	Kirkwood, Ben
Fwd: clock stopped[DLM=For-Official-Use-Only]	27-May-2013 3:48 PM	Kirkwood, Ben
Fm s22	01-Jul-2013 2:18 PM	Kirkwood, Ben
Fm s22 - s22	19-Jul-2013 3:21 PM	Kirkwood, Ben
Re: Fm s22 - s22 [SEC=UNCLASSIFIED]	19-Jul-2013 3:29 PM	Kirkwood, Ben
Re: Fm s22 - s22 [SEC=UNCLASSIFIED]	19-Jul-2013 3:40 PM	Kirkwood, Ben
Fm s22 regarding our ongoing complaint with DVA	09-May-2013 12:42 PM	Kirkwood, Ben
Fwd: Fm s22	22-May-2013 10:06 AM	Kirkwood, Ben
General Letter to	28-Aug-2013 9:45 AM	Kirkwood, Ben
Fwd: request for I.C. review	27-Sep-2013 11:19 AM	Kirkwood, Ben
RE: request for I.C. review [SEC=UNCLASSIFIED]	30-Sep-2013 10:58 AM	Kirkwood, Ben
Voice Mail Message (s22) (8 seconds)	03-Oct-2013 10:41 AM	Kirkwood, Ben
Voice Mail Message (s22) (12 seconds)	08-Oct-2013 10:04 AM	Kirkwood, Ben
Requests for access in the form a documents on a thumb drive [SEC=UNCLASSIFIED]	08-Oct-2013 12:17 PM	Kirkwood, Ben
Preliminary View Letter to Respondent - s 47F	15-Oct-2013 3:44 PM	Kirkwood, Ben
Voice Mail Message (s22) (14 seconds)	20-Nov-2013 9:06 AM	Kirkwood, Ben
Letter - DVA - FOI complaint-notice of investigation results.pdf	26-Nov-2013 2:15 PM	Kirkwood, Ben
s22 s 86 Notice s22 & DVA [SEC=UNCLASSIFIED]	26-Nov-2013 2:14 PM	O'Brien, Peter
Correspondence from the FOI Commissioner (s22) [SEC=UNCLASSIFIED]	26-Nov-2013 2:13 PM	O'Brien, Peter
Correspondence from the FOI Commissioner (s22) [SEC=UNCLASSIFIED]	26-Nov-2013 2:13 PM	O'Brien, Peter
s22 s 86 Notice s22 & DVA [SEC=UNCLASSIFIED]	26-Nov-2013 2:14 PM	Kirkwood, Ben
FW: Correspondence from the FOI Commissioner s22	26-Nov-2013 2:14 PM	Kirkwood, Ben

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[SEC=UNCLASSIFIED]

Fm s22 27-Nov-2013 10:32 AM Kirkwood, Ben

FW: Correspondence from the FOI Commissioner 26-Nov-2013 2:53 PM Kirkwood, Ben

(s22)

[SEC=UNCLASSIFIED]

DVA response - s22.pdf 13-Jan-2014 11:30 AM Hansen, Paul

s22 - FOI Complaint about the Department 15-Jan-2014 1:58 PM Kirkwood, Ben

of Veterans' Affairs [SEC=UNCLASSIFIED]

Email to s22 22-Jan-2014 11:27 AM Raams, Leia

Letter to Secretary DVA from FOI Commissioner.pdf 28-Jan-2014 9:09 AM Hansen, Paul

s22 [SEC=UNCLASSIFIED] 28-Jan-2014 10:05 AM Hansen, Paul

s22 [SEC=UNCLASSIFIED] 28-Jan-2014 10:08 AM Hansen, Paul

Re: s22 [SEC=UNCLASSIFIED] 04-Feb-2014 8:29 AM Hansen, Paul

Cross References - 2

Case	Comments
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s22

Comments - 1

Created	By	Comment
28-Jan-2014 10:12 AM	Hansen, Paul	Case Closed by s 47E(d) on 28-Jan-2014 10:12

From: s22 [REDACTED]
To: s22 [REDACTED]; [David Azevedo](#)
Cc: s22 [REDACTED]
Subject: Official complaint on DVA FOI, entitlement claim, privacy, complaints, reason for decisions, and protection conspiracies to pervert justice and fraud covering more than a decade - line drawn in the sand
Date: Thursday, 29 November 2012 11:06:33 AM
Attachments: [image2.gif](#)
[28Nov12 let to OAIC on DVA fraud & drawing .txt](#)
[High Res A4013.PDF](#)

The attached information is forwarded in connection with complaints, in making new complaint on a number of issues and in dealing with current FOI issues.

Based on history and many independent external reviews; with condemnations of DVA and chastisement of DVA September 2004, I agree with independent Mr Terry Fogarty who, on his website, includes the following:

Quote

There are many examples of cultures of dishonesty existing within bureaucracies around the world, not just in Australia. The sheer size and weight of government money behind them make these practices akin to monopolistic abuse. Their practices include matters Australia's Veterans have fought and died for protecting democracy. They include:

1. Culture of dishonesty
2. Perverting the course of justice
3. Bias
4. Inadequately qualified
5. Monopolistic abuse
6. Inability to have AFP investigate - CCPM
7. Separation of powers
8. Computers
9. ADJR breaches decision making

In my view the most effective way to overcome these problems is by private criminal prosecution of individuals concerned. It's hardly too harsh to seek jail terms when all military personnel are required to sacrifice their lives. Over the years 105,000 Australians have sacrificed their lives for the preservation of democracy.

Unquote

Please note the attached response to complaints lodged with ANAO and I commend this information and that in the attachments to you in considering my case and complaints.

Please acknowledge receipt.

Sincerely

s22 [REDACTED]



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s22

Nicolaou, Irene
09-May-2022 11:05 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	30-Nov-2012 12:00 AM
Case Type:	Decline	Received By:	Quan, Trish
How Received:		Registered Date:	13-Dec-2012 2:30 PM
Owned By:	Azevedo, David	Registered By:	Azevedo, David
		Closed Date:	21-Nov-2013 7:36 AM
		Closed By:	Azevedo, David

Case Details

Stage:	Closed
Current File Holder:	Azevedo, David
How Received:	Email
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	21-Nov-2015

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Zanatta, Eden

Summary

Complaint about the processing of all FOI complaints during 2012

Issues - 2

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: unsatisfactory customer service
Issue Outcome: withdrawn

Issue Description: Processing Request
Is Primary Issue: No

FOIREQ22/00120 117

Issue Allegation: processing delay**Issue Outcome:** withdrawn**Actions - 26 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach documents	Azevedo, David	13-Dec-2012	13-Dec-2012
Move to Triage basket	Azevedo, David	13-Dec-2012	13-Dec-2012
Allocate to Triage Officer (CP)	FOI - Triage	13-Dec-2012	13-Dec-2012, Azevedo, David
First Check	Azevedo, David	13-Dec-2012	13-Dec-2012
Move to Mail Assessor basket	Azevedo, David	13-Dec-2012	13-Dec-2012
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	14-Dec-2012	18-Dec-2012, Pirani, Toni
Assess Path (CP)	Pirani, Toni	19-Dec-2012	18-Dec-2012: Valid – Preliminary Inquiry
please conduct preliminary inquiries			
Allocate Complaint	Allocation - FOI Case Management	19-Dec-2012	27-Mar-2013, Pirani, Toni
Send Acknowledgement (CP CADM)	O'Brien, Peter	28-Mar-2013	07-Nov-2013, Azevedo, David
Correspondence from complainant	O'Brien, Peter	08-May-2013	07-Nov-2013, Azevedo, David
Phone call to complainant	O'Brien, Peter	17-Jun-2013	07-Nov-2013, Azevedo, David
<p>Discussion with s22, apologised for missing previous time to call as s 47F, s22 explained that s22 and was very understanding. He explained that on return from recent s22 was motivated to progress his matters in pursuit of DVA. He requested advise about my discussions with the Ombudsman, explained that I had discussed the matters in general/de-identified way with the Ombudsman office, they informed that he should lodge a complaint that clearly sets out the administrative matters that he wishes to have considered and they would consider. s22 confirmed that s22 and that the statement of claim had been lodged and would progress, I requested that he forward me there details or request them to get in contact with this Office. s22 indicated that he was accepting that these matters (multitude of varied complaint issues) would s22 to resolve and the this office could not resolve his primary issues as they are not FOI/Privacy related. He explained that he would like to proceed with the Privacy complaint and that he considers that matters in his recent correspondence raised new issues that have not previously been considered by this office. I explained that a review of the correspondence and the previous complaints had been undertaken and that this was not apparent to the officer who reviewed the matters. I agreed to discuss the matter again with Privacy and arrange a time to discuss. I am to call s22 once this is arranged</p>			
Prepare Plan (CP)	Azevedo, David	08-Nov-2013	07-Nov-2013
Seek approval of plan (CP)	Azevedo, David	08-Nov-2013	07-Nov-2013: Approved
Conduct Preliminary Inquiries (CP)	Azevedo, David	26-Nov-2013	21-Nov-2013

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Phone call to applicant	Azevedo, David	15-Nov-2013	15-Nov-2013
Spoke with applicant, confirmed a phone conference between s22, s22 and myself on Tuesday 19 November at 2pm.			
Analyse Preliminary Inquiries	Azevedo, David	22-Nov-2013	21-Nov-2013
Make recommendations to supervisor (CP PI)	Azevedo, David	22-Nov-2013	21-Nov-2013
Decide path (CP PI)	Azevedo, David	22-Nov-2013	21-Nov-2013: Ready to Close
Allocate Complaint	Azevedo, David	22-Nov-2013	21-Nov-2013
Prepare s73 letter for approval (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Review s73 letter (CP DEC)	O'Brien, Peter	22-Nov-2013	21-Nov-2013, Azevedo, David
Commissioner approves s73 letter (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Send s73 letter (CP DEC)	Azevedo, David	11-Dec-2013	21-Nov-2013
Await response to s73 letter (CP DEC)	Azevedo, David	11-Dec-2013	21-Nov-2013: No Response
Notify relevant parties of closure (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Close Complaint (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013

Documents - 31

Title	Date Added	By
Official complaint on DVA FOI, entitlement claim, privacy, complaints, reason for decisions, and protection conspiracies to pervert justice and fraud covering more than a decade - line drawn in the sand	29-Nov-2012 10:57 AM	Azevedo, David
Re-sending after reformatting 29Nov12 complaint on FOI & DVA to OAIC & APSC	30-Nov-2012 11:52 AM	Azevedo, David
Intentional DVA fraud and collapse of governance in FOI, complaints and entitlement claims as exposed by independent reviewers, incl. s22 s22, incl. after numerous warnings	03-Dec-2012 3:18 PM	Azevedo, David
RE: OAIC IC reviews and complaints regarding DVA [SEC=UNCLASSIFIED]	13-Dec-2012 12:20 PM	Azevedo, David
Your 11 December 2012 letter	13-Dec-2012 12:50 PM	Azevedo, David
Lamond external review report.pdf	13-Dec-2012 3:03 PM	Azevedo, David
RE: Your 11 December 2012 letter [SEC=UNCLASSIFIED]	13-Dec-2012 3:15 PM	Azevedo, David
Notice of complaints by s22 - s22 and s22 [SEC=UNCLASSIFIED]	13-Dec-2012 3:38 PM	Azevedo, David
RE: Your 11 December 2012 letter [SEC=UNCLASSIFIED]	13-Dec-2012 3:44 PM	Azevedo, David
RE: Notice of complaints by s22 - s22 [SEC=UNCLASSIFIED]	13-Dec-2012 4:00 PM	Azevedo, David

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Your DVA complaints to the OAIC [SEC=UNCLASSIFIED]	21-Dec-2012 3:29 PM	Azevedo, David
Re: FOI request; FOI & Privacy complaint	24-Dec-2012 1:04 PM	Azevedo, David
RE: Your DVA complaints to the OAIC [SEC=UNCLASSIFIED]	30-Dec-2012 7:25 PM	Azevedo, David
FW: FOI request; FOI & Privacy complaint [DLM=For-Official-Use-Only]	02-Jan-2013 12:54 PM	Azevedo, David
COMPLAINT ON DVA PROCESSING OF CORRESPONDENCE & REQUESTS FOR FOI & IN COMPLAINT ISSUES - RE: FOI request; FOI & Privacy complaint [DLM=For-Official-Use-Only]	25-Jan-2013 9:26 AM	Azevedo, David
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:53 AM	Zatschler, Elizabeth
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:49 AM	Zatschler, Elizabeth
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:47 AM	Zatschler, Elizabeth
RE: FOI - Privacy & Ombudsman issues [SEC=UNCLASSIFIED]	04-Nov-2013 9:53 AM	Azevedo, David
RE: FOI - Privacy & Ombudsman issues [SEC=UNCLASSIFIED]	04-Nov-2013 12:28 PM	Azevedo, David
Hi	04-Nov-2013 9:34 PM	Azevedo, David
Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	11-Nov-2013 2:44 PM	Azevedo, David
FW: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	11-Nov-2013 5:22 PM	Azevedo, David
Voice Mail Message (s22) (1 minute 5 seconds)	14-Nov-2013 5:07 PM	Azevedo, David
RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	15-Nov-2013 10:50 AM	Azevedo, David
RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	19-Nov-2013 2:33 PM	Azevedo, David
RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	19-Nov-2013 3:12 PM	Azevedo, David
RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	21-Nov-2013 7:26 AM	Azevedo, David
s22 - IC review and complaints withdrawal [SEC=UNCLASSIFIED]	21-Nov-2013 7:32 AM	Azevedo, David
The complaint into s 47F	17-May-2014 1:50 AM	Azevedo, David
RE: The complaint into s 47F	17-May-2014 8:05 AM	Azevedo, David

Cross References - 2

Case	Comments
s22	
s22	

Comments - 1

Created	By	Comment
21-Nov-2013 7:36 AM	Azevedo, David	Case Closed by s 47E(d) on 21-Nov-2013 07:36

From: [David Azevedo](#)
To: s22
Cc: s22
Subject: OAIC IC reviews and complaints regarding DVA [SEC=UNCLASSIFIED]
Date: Tuesday, 11 December 2012 3:23:32 PM
Attachments: [image001.jpg](#)
[20092012 letter.pdf](#)
[29092012 request Decision letter.pdf](#)
[October requests.pdf](#)

Dear s22

Further to our phone conversation last week, I write about the matters we discussed and are currently with this office. Information about these is detailed below.

1. IC review of DVA decision regarding your 17 July 2012

On 23 September 2012, you requested an IC review of the decision made by the DVA regarding your request dated 17 July 2012.

For an application for Information Commissioner review (IC review) to be valid under the *Freedom of Information Act 1982* (the FOI Act) the application must include a copy of the notice of decision for which the review is sought (unless the notice of decision has been deemed to have been given). The application that we received from you did not include a copy of the decision of which you have sought review.

This office agreed to allow you until the end of November to provide the relevant decision. As this has not been received, this matter has now been closed as an invalid review application.

If you wish to have this DVA decision reviewed you will need to re-lodge your request for IC review with the relevant decision attached. Based on the limited information you have provided, it may need to be accompanied with an extension of time application as you will be lodging your IC review application outside the statutory 60 day timeframe.

2. IC review of DVA decision regarding your 3 August 2012 request

On 23 September 2012, you requested an IC review of the decision made by the DVA regarding your request dated 3 August 2012.

On 29 November you provided the attached notice (titled '20092012 letter.pdf') as the decision you were requesting review of. The notice sets out that on 28 August 2012 the DVA advised you that a practical refusal reason existed in relation to your request. Your response was required within 14 days to revise or consult in regards to the scope of your request (the consultation period). As the consultation period was instigated by DVA, and you did not respond within that period, the request is deemed to have been withdrawn. In this instance an IC review cannot be pursued and you will need to re-lodge your request with DVA if you still desire that information.

This matter has been closed as an invalid review application.

3. IC review of DVA decision regarding your 29 September 2012 request

On 29 November 2012, you included the decision letter for this matter in your correspondence which notes that you have not received the documents which access was deferred to (attachment titled '29092012 request Decision letter.pdf'). This matter will be registered as an IC review and allocated to a case officer in due course.

Should the documents be released to you prior to that occurring please let this office know.

4. **IC review of DVA decision regarding your October requests**

On 29 November 2012, you included in your correspondence the consultation notices and decision letter (attachment titled 'October requests.pdf') for three October FOI requests you made to the DVA – two requests received by the DVA on 2 October 2012 and one received on 3 October 2012.

The three notices sent to you on 2 November 2012 sets out that your response was required within 14 days to revise or consult in regards to the scope of your request (the consultation period). As the consultation period was instigated by DVA, and you did not respond within the period specified, the requests were deemed to have been withdrawn. In this instance IC review of these matters cannot be pursued and you will need to re-lodge your requests with the DVA if you still desire that information.

These matters have been closed as invalid review applications.

5. **Re-opening of complaint** s22

On 30 November 2012, we discussed the re-opening of complaint s22 which you withdrew earlier this year.

I have discussed this matter with my Director. He had confirmed that the investigation into the matters that were previously raised can be continued. We would ask that you confirm in writing your request that we continue that investigation. That request will be registered as a new matter that will continue the investigation previously undertaken. Please be aware that this may not be continued straight away and you will need to await it being allocated to a case officer.

6. **Complaint about DVA handling of your FOI requests during 2012**

On 30 November 2012, we discussed the complaint you made on the same day about the DVA's handling of FOI requests during 2012. I have discussed this complaint with my Director, who has confirmed that we can investigate this matter. He raised the same concerns that I discussed with you, being that such a broad ranging complaint will take considerable time to investigate. You may wish to consider making separate complaints about specific requests and the issues that arose with their processing e.g. delays, communication etc. That would enable this office to focus its investigation/s and target the areas of concern raised. This response applies equally to the request that we investigate the last 10 years of FOI requests lodged with DVA.

Please confirm in writing that you wish for us to pursue this matter or complaints about specific FOI requests. We will then register the complaint and in due course it will be allocated to a case officer. Please ensure you detail the nature of your complaint (delays, communication etc) and provide any supporting documents you may have (DVA notification, correspondence between

you and DVA etc).

If you wish to discuss any of these matter please contact me on (02) 9284 9717.

Yours sincerely

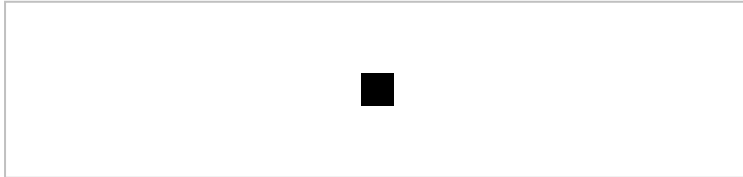
David Azevedo | Merit Review and Investigation Officer | Compliance

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

Ph: +61 2 9284 9717 | Email: xxxxx.xxxxxxx@xxxx.xxx.xx

Protecting information rights – advancing information policy



Please consider the environment before printing this email.

FOIREQ22/00120 123

s22

Nicolaou, Irene
09-May-2022 11:04 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	30-Nov-2012 12:00 AM
Case Type:	Decline	Received By:	Quan, Trish
How Received:		Registered Date:	13-Dec-2012 2:31 PM
Owned By:	Azevedo, David	Registered By:	Azevedo, David
		Closed Date:	21-Nov-2013 7:37 AM
		Closed By:	Azevedo, David

Case Details

Stage:	Closed
Current File Holder:	Azevedo, David
How Received:	Email
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	21-Nov-2015

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Zanatta, Eden

Summary

Re-opening of s22

Issues - 1**Issue Description:** Administrative deficiency**Is Primary Issue:** Yes**Actions - 31 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach documents	Azevedo, David	13-Dec-2012	13-Dec-2012
Move to Triage basket	Azevedo, David	13-Dec-2012	13-Dec-2012
Allocate to Triage	FOI - Triage	13-Dec-2012	13-Dec-2012, Azevedo, David

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Officer (CP)			
First Check	Azevedo, David	13-Dec-2012	13-Dec-2012
Move to Mail Assessor basket	Azevedo, David	13-Dec-2012	13-Dec-2012
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	14-Dec-2012	18-Dec-2012, Pirani, Toni
Assess Path (CP)	Pirani, Toni	19-Dec-2012	18-Dec-2012: More Information
Assess appropriateness of re-opening the complaint			
Allocate Complaint	Allocation - FOI Case Management	19-Dec-2012	27-Mar-2013, Pirani, Toni
Send Request for More Information (CP MA)	O'Brien, Peter	28-Mar-2013	07-Nov-2013, Azevedo, David
Correspondence from complainant	O'Brien, Peter	08-May-2013	07-Nov-2013, Azevedo, David
Await More Information (CP MA)	Azevedo, David	27-Nov-2013	07-Nov-2013
Recommend Path	Azevedo, David	27-Nov-2013	07-Nov-2013
Allocate to Mail Assessor User (CP)	Azevedo, David	08-Nov-2013	07-Nov-2013
Assess Path (CP)	Azevedo, David	07-Nov-2013	11-Nov-2013: Valid – Preliminary Inquiry
Conduct app inquiries			
Allocate Complaint	Allocation - FOI Case Management	12-Nov-2013	11-Nov-2013, Azevedo, David
Send Acknowledgement (CP CADM)	Azevedo, David	12-Nov-2013	11-Nov-2013
Prepare Plan (CP)	Azevedo, David	12-Nov-2013	11-Nov-2013
Seek approval of plan (CP)	Azevedo, David	12-Nov-2013	11-Nov-2013: Approved
Conduct Preliminary Inquiries (CP)	Azevedo, David	26-Nov-2013	21-Nov-2013
Phone call to applicant	Azevedo, David	15-Nov-2013	15-Nov-2013
Spoke with applicant, confirmed a phone conference between s22 and myself on Tuesday 19 November at 2pm.			
Analyse Preliminary Inquiries	Azevedo, David	22-Nov-2013	21-Nov-2013
Make recommendations to supervisor (CP PI)	Azevedo, David	22-Nov-2013	21-Nov-2013
Decide path (CP PI)	Azevedo, David	22-Nov-2013	21-Nov-2013: Ready to Close
Allocate Complaint	Azevedo, David	22-Nov-2013	21-Nov-2013
Prepare s73 letter for approval (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Review s73 letter (CP)	Azevedo, David	22-Nov-2013	21-Nov-2013

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DEC)			
Commissioner approves s73 letter (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Send s73 letter (CP DEC)	Azevedo, David	11-Dec-2013	21-Nov-2013
Await response to s73 letter (CP DEC)	Azevedo, David	11-Dec-2013	21-Nov-2013: No change in view
Notify relevant parties of closure (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013
Close Complaint (CP DEC)	Azevedo, David	22-Nov-2013	21-Nov-2013

Documents - 26

Title	Date Added	By
OAIC IC reviews and complaints regarding DVA [SEC=UNCLASSIFIED]	11-Dec-2012 3:23 PM	Azevedo, David
Your 11 December 2012 letter	13-Dec-2012 12:50 PM	Azevedo, David
RE: Your 11 December 2012 letter [SEC=UNCLASSIFIED]	13-Dec-2012 3:15 PM	Azevedo, David
Notice of complaints by s22 - s22 and s22 [SEC=UNCLASSIFIED]	13-Dec-2012 3:38 PM	Azevedo, David
RE: Your 11 December 2012 letter [SEC=UNCLASSIFIED]	13-Dec-2012 3:44 PM	Azevedo, David
RE: Notice of complaints by s22 - s22 [SEC=UNCLASSIFIED]	13-Dec-2012 4:00 PM	Azevedo, David
Your DVA complaints to the OAIC [SEC=UNCLASSIFIED]	21-Dec-2012 3:29 PM	Azevedo, David
RE: Your DVA complaints to the OAIC [SEC=UNCLASSIFIED]	30-Dec-2012 7:25 PM	Azevedo, David
FW: FOI request; FOI & Privacy complaint [DLM=For-Official-Use-Only]	02-Jan-2013 12:54 PM	Azevedo, David
COMPLAINT ON DVA PROCESSING OF CORRESPONDENCE & REQUESTS FOR FOI & IN COMPLAINT ISSUES - RE: FOI request; FOI & Privacy complaint [DLM=For-Official-Use-Only]	25-Jan-2013 9:26 AM	Azevedo, David
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:53 AM	Zatschler, Elizabeth
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:49 AM	Zatschler, Elizabeth
Scan [SEC=UNCLASSIFIED]	08-May-2013 6:47 AM	Zatschler, Elizabeth
RE: FOI - Privacy & Ombudsman issues [SEC=UNCLASSIFIED]	04-Nov-2013 9:53 AM	Azevedo, David
RE: FOI - Privacy & Ombudsman issues [SEC=UNCLASSIFIED]	04-Nov-2013 12:28 PM	Azevedo, David
Hi	04-Nov-2013 9:34 PM	Azevedo, David
RE: FOI - Privacy & Ombudsman issues [SEC=UNCLASSIFIED]	04-Nov-2013 9:33 PM	O'Brien, Peter
Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	11-Nov-2013 2:44 PM	Azevedo, David
Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED]	11-Nov-2013 2:44 PM	Azevedo, David
FW: Your OAIC matters regarding the DVA	11-Nov-2013 5:22 PM	Azevedo, David

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[SEC=UNCLASSIFIED]

Voice Mail Message (s22) (1 minute 5 seconds) 14-Nov-2013 5:07 PM Azevedo, David

RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED] 15-Nov-2013 10:50 AM Azevedo, David

RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED] 19-Nov-2013 2:33 PM Azevedo, David

RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED] 19-Nov-2013 3:12 PM Azevedo, David

RE: Your OAIC matters regarding the DVA [SEC=UNCLASSIFIED] 21-Nov-2013 7:26 AM Azevedo, David

s22 - IC review and complaints withdrawal [SEC=UNCLASSIFIED] 21-Nov-2013 7:32 AM Azevedo, David

Cross References - 2

Case	Comments
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s22	
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s22	
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Comments - 1

Created	By	Comment
21-Nov-2013 7:37 AM	Azevedo, David	Case Closed by s 47E(d) on 21-Nov-2013 07:37

14 Jan 2013

Office of the Australian Information Commissioner

Dear Sir / Madam,

On 5 December 2012 I lodged FOI request with the Department of Veterans Affairs (DVA).

To date, I have not received the 5 December 2012 decision.

(Please see below email string regarding 5 Dec FOI request)

Under the FOI Act I request a review of this deemed refusal.

I also lodge a complaint that DVA's did not adhere to the FOI Act.

Thanking you

Yours sincerely

s22

29 Nov 2012

Dear s 47F

Please find attached.

The email makes reference to a s22 FOI table.

I have not found this table in the FOI documents.

Can this table be provided or do I need to lodge an FOI request.

Thanking you

Regards

s22

P.S. I hope you had an enjoyable break.

s 47F

From: s 47F
Sent: Wednesday, 12 September 2012 3:51 PM
To: s 47F
Subject: s22 FOITable.xls [SEC=IN-CONFIDENCE]

Attachments: s22 FOITable.xls
Classification: IN-CONFIDENCE

Here is the updated table of all s22 complaints as they appear on the FOI register. I will fill in the primary decision maker gaps tomorrow

Cheers

s 47F

30 Nov – DVA reply

Hi s22

I forwarded this email yesterday, but neglected to email you to let you know.

I did have a lovely holiday, thanks.

Cheers

Fiona

s 47F
Client Liaison Officer
CPSU Delegate
Ext: s22
Department of Veterans' Affairs

4 Dec – DVA reply

Hi s22

I have received a response to my query about the FOI table and have received the following response from s 47F :

s22 did get a copy of this table. It was an attachment to an email from myself to s 47F dated 3/10/2012 at 1.51PM

Please let me know if this is not the case, so I can chase it up.

Cheers

s 47F

Client Liaison Officer
CPSU Delegate
Ext: s22
Department of Veterans' Affairs

4 Dec – to DVA

Dear s 47F

I have looked at my emails and I did not received s 47F 3/10/12

I would also appreciate if the table is updated to December 2012 .

Thanking you

Regards

s22

5 Dec – DVA reply

Hi s22

I have been told the following in relation to the FOI table:

The table is in Part 3 of s 47F email box pages 404-408.

Geoff will need to request under FOI for an updated version.

Cheers

s 47F

Client Liaison Officer
CPSU Delegate
Ext: s22
Department of Veterans' Affairs

5 Dec – to DVA

Dear s 47F,

Thank you for the information about the physio.

Regarding the FOI table

from previous email

The table is in Part 3 of s 47F email box pages 404-408

I would appreciate some advice on how I get to s 47F email box so I can find pages 404-408

Under the FOI act I request a copy of the current FOI table. Thanking you

Regards

s22

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s22

Nicolaou, Irene
09-May-2022 11:06 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	14-Jan-2013 4:25 PM
Case Type:	To be Determined	Received By:	English, Carl
How Received:		Registered Date:	14-Jan-2013 4:25 PM
Owned By:	Kirkwood, Ben	Registered By:	Kirkwood, Ben
		Closed Date:	05-Mar-2013 11:02 AM
		Closed By:	Kirkwood, Ben

Case Details

Stage:	Closed
How Received:	Email
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	5-Mar-2015

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Spiers, Carolyn

Summary

DVA have taken too long to process his FOI request

Issues - 1

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: processing delay
Issue Outcome: withdrawn

Actions - 16 (All Completed)

Action	Owner	Due	Completed
Record case details and attach documents	English, Carl	15-Jan-2013	14-Jan-2013
Move to Triage basket	English, Carl	15-Jan-2013	14-Jan-2013

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Allocate to Triage Officer (CP)	FOI - Triage	15-Jan-2013	15-Jan-2013, Zatschler, Elizabeth
First Check	Zatschler, Elizabeth	16-Jan-2013	15-Jan-2013
Move to Mail Assessor basket	Zatschler, Elizabeth	16-Jan-2013	15-Jan-2013
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	16-Jan-2013	15-Jan-2013, Zatschler, Elizabeth
Phone call from complainant	Kirkwood, Ben	13-Feb-2013	26-Feb-2013

Make note tomorrow, discussed lots of stuff

Phone call to respondent	Kirkwood, Ben	25-Feb-2013	01-Mar-2013
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I phoned Mr Zanatta at DVA and had a conference with Mr Zanatta and Mr Babington call regarding s22 matters s22 5 December 2012. Noted the importance of S 15AC. Mr Babington said that s22 had been provided with the most up to date version in on the 8 November 2012. DVA acknowledged there had been a confused response provided to s22 Mr Babington appeared to be of the view that they would not create a document to answer his FOI his request and it was therefore not valid. I may have misinterpreted Mr Babington; however I noted that if an update version did not exist a decision was still required even if a document does not exit. I said that I would strongly encourage DVA to lodge a s 15AC request as a means of resolving the matter and providing certainty to s22 which could only be good for the relationship he has with the DVA. I expressed concern about correspondence provided by s22 in which he is advised by DVA that they were closing his complaint about his FOI request because he had lodged an IC review and FOI Complaint. I alerted DVA to information to applicants on fact sheet 12 noting our preference that attempts to resolve complaints be made prior to coming to this Office. s22 indicated that the Department's complaints policy had strict processes and timeframe and that matters these matters bear a s 22. I got the impression that because a s22 had been closed did not preclude resolution through an another area. I did note that s22 appeared to be very much to do with FOI. Call was interrupted because of telephone hardware issues. Agreement to contact me next week about lodging an s 15AC request. s22 indicated that this was likely to go review noting that the decision record did not appear to address harm of providing the document. DVA asked what would happen if the document was released this afternoon, I stated that I would contact s22 and seeing whether he wished to proceed with the review alternatively discussing the matter with my Director to ascertain whether the review still was of substance. I provide incorrect information regarding s 55G decision which is not available in the instance of s 21 decisions. I phoned DVA back and left a message for Mr Babington that s 55G was not available and apologised for providing incorrect information.

Phone call to respondent	Kirkwood, Ben	28-Feb-2013	01-Mar-2013
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After attempting to reach Mr Zanatta, I phoned Mr Babington's extension where I spoke to Kristy. She informed me that s 47F. Kristy did not know if a s 15AC application would be lodged.

Phone call from respondent	Kirkwood, Ben	04-Mar-2013	01-Mar-2013
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Mr Babington phoned and apologised for the delay in responding. s 47F I noted that s22 request appeared to be a valid FOI request. If DVA disagreed I asked for this in writing. DVA will respond this afternoon regarding a s 15AC application will be lodged.

Phone call from respondent	Kirkwood, Ben	04-Mar-2013	01-Mar-2013
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FOIREQ22/00120 133

Mr Babington phoned and indicated that a decision on the 5 December 2012 request has been made. I asked for a copy of the decision and said that there was no need to request a s 15AC extension because I would not grant one where a decision had already been made.

Phone call to complainant/applicant	Kirkwood, Ben	04-Mar-2013	01-Mar-2013
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I spoke to s22 and advised him that a decision had been made on the 5 December 2012 request. I indicated that I had discussed these matters with Peter who would be looking at the broader issues raised within this complaint as part of s22. s22 agreed to withdraw both s22 and s22 after he received the decision record from DVA. s22 did express concern about having to constantly remind DVA of their responsibilities under the Act. s22 also stated that DVA often responds to his concerns by stating that he has now received the documents he has requested or noting he has withdrawn his complaint/IC review. s22 appeared to be unhappy that DVA considers that this absolved them of their failures to adhere to the Act. I undertook to convey this to Peter.

Await response from applicant/complainant	Kirkwood, Ben	08-Mar-2013	05-Mar-2013
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Withdrawal advice to be provided by s22

Phone call from complainant	Kirkwood, Ben	05-Mar-2013	04-Mar-2013
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s22 called. He expressed concern about withdrawing his complaint, because the complaint may be overlooked when Peter was investigating his other matter. I indicated that our system has all his FOI matters cross referenced and explained the benefit. I noted that findings made by any investigation which looked at a number of matters would potentially have a greater impact than a number of small investigations and outcomes. One investigation would also potentially highlight systemic problems. s22 seemed happy with this.

Notify relevant parties of closure	Kirkwood, Ben	05-Mar-2013	05-Mar-2013
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Close Case	Kirkwood, Ben	06-Mar-2013	05-Mar-2013
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Documents - 12

Title	Date Added	By
FOI request for review and complaint	14-Jan-2013 3:25 PM	English, Carl
Your complaint and application for IC review under FOI Act [SEC=UNCLASSIFIED]	15-Jan-2013 10:54 AM	Zatschler, Elizabeth
Notice of request for IC review and complaint [SEC=UNCLASSIFIED]	15-Jan-2013 10:53 AM	Zatschler, Elizabeth
FW: s22 - Application by s22 for review of an FOI decision [SEC=UNCLASSIFIED]	01-Mar-2013 8:53 AM	Kirkwood, Ben
Guidelines and Agency Resources [SEC=UNCLASSIFIED]	01-Mar-2013 11:52 AM	Kirkwood, Ben
s22 - FOI decision 27 February 2013 [DLM=For-Official-Use-Only]	01-Mar-2013 12:22 PM	Kirkwood, Ben
RE: s22 - FOI decision 27 February 2013 [DLM=For-Official-Use-Only]	01-Mar-2013 12:34 PM	Kirkwood, Ben
s22 - Copy of decision [SEC=UNCLASSIFIED]	01-Mar-2013 3:26 PM	Kirkwood, Ben
Re: s22 - Copy of decision [SEC=UNCLASSIFIED]	01-Mar-2013 3:55 PM	Kirkwood, Ben

FOIREQ22/00120 134

Re: s22	04-Mar-2013 12:57 PM	Kirkwood, Ben
Complaint and IC review closure notice [SEC=UNCLASSIFIED]	05-Mar-2013 10:21 AM	Kirkwood, Ben
Complaint and IC review closure notice [SEC=UNCLASSIFIED]	05-Mar-2013 10:24 AM	Kirkwood, Ben

Cross References - 1

Case	Comments
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s22

1

Created	By	Comment
05-Mar-2013 11:02 AM	Kirkwood, Ben	Case Closed by s 47E(d) on 05-Mar-2013 11:02

s22

The Office of the Australian Information Commissioner
 GPO Box 2999
 CANBERRA ACT 2601
 Attn. Mr David Azevedo



c7
 01 July 2013 *ATC*

Dear Mr Azevedo

Thank you for your email of 19 June 2013 providing the Department of Veterans' Affairs (DVA) response to your inquiries. I hope, as you probably do as well, that this issue will soon be finalised. DVA's behaviour in dealing with the original Freedom of Information (FOI) request, their responses to your inquiries, the extra-ordinary time taken by them in doing so, has turned a fairly straight forward request for a handful of documents into a time-consuming marathon effort by myself and your office. The resulting financial cost to tax-payers is just enormous and DVA has simply failed to apologise or take remedial action.

Attachment 1 contains the questions you raised in your email and my specific response. I would ask that you forgive me in advance for what follows as I am now thoroughly confused by DVA's responses. Although this is my final submission for a review of DVA's FOI determination, I honestly believe their responses are so poor, so unbelievable, as for this issue to be now considered another formal complaint over their behaviour in actually responding to your inquiries. Would you note that I am requesting that you ask a series of questions to past and current DVA officers under the FOI Act S83 *Information Commissioner investigations—administration of oath or affirmation*. If your office is unwilling to administer such an oath, could you please explain why?

The complaint

The issue for me is that this is a challenging letter to write. DVA's latest responses effectively state that everything they wrote to you previously was a mistake. This mistake was one to which your office and I spent an enormous amount of time and effort in response, all of which was originally ignored by DVA. Practically, they are asking us to disregard their first two letters and to deal with their latest as a true and accurate accounting of how DVA handled my FOI request, the internal appeal and then the subsequent review by the OAIC. This is quite an impressive position to take given that they had been dealing with this complaint for the better part of a year, then only realise everything they told you was wrong after your office pressed for details. Once again, I must emphasise my thanks for the professional behaviour of your office in demanding DVA adhere to the FOI legislation and procedures. Unfortunately, I am not so forgiving that I will simply accept another excuse. Below is my response. However, for the first time, I am also tasking the OAIC with several specific actions to take on my behalf and requesting a very specific outcome.

The issues I will discuss in this reply are:

1. The fake schedule;
2. The referral to the Australian Government Solicitor (AGS);
3. DVA misusing Legal Professional Privilege (LPP);
4. Deliberate delays and provocative acts.
5. The desired outcomes and actions, including asking questions under the strictures of S83 of the FOI Act: Information Commissioner investigations—administration of oath or affirmation.

These issues are discussed in the following pages. I hope they are useful. Please remember that what I am attempting to show by requesting further action by your office is that DVA's behaviour is not a mistake. It is a deliberate policy of avoiding public scrutiny of their decisions and their decision making process. Consider the following

- DVA completely refused to provide a single document in response to my FOI request. Then, when challenged by your office, they were forced to admit that many of the refused documents were subject to release under the FOI Act.
- DVA then chose, on two occasions, to provide you with a highly questionable document as alleged proof of how they made their decision with my FOI request.
- They are now using the AGS as a means of avoiding disclosure by claiming LPP, not as per the guidelines, but rather as a catch-all exemption.
- The extra-ordinary delays associated with all of this activity.

I know this is painful. I know the OAIC is limited in how it can deal with these matters. All I can do is again thank you for acting professionally as required by the legislation and government policy. I once wrote to the Commissioner stating that DVA abiding by the FOI Act was crucial in getting the mistreatment of s22 exposed, but that they were now refusing to action any FOI request. The willingness of your office to challenge DVA on its behaviour is crucial to forcing DVA to address the outstanding issues uncovered and unresolved from the earlier work on s22. If not for you I would never have seen the latest tranche of documents even though they were supposedly examined by an independent delegate, an internal reviewer, and then even the head of legal services when s 47F agreed to send you that first schedule. Thank you for helping me get this far.

s22

The fake schedule

1. s 47F was formerly titled DVA's Principal Legal Advisor but is now titled Assistant Secretary, Legal Services and Assurance Branch. On 01 August 2012 s 47F provided the first known schedule regarding the decision making process applied to my FOI request. None was provided in response to either my original request of 19 February 2012, nor in response to the request for internal review of 21 March 2012. The schedule was provided in response to a specific request by the OAIC on 06 July 2012.
2. s 47F was advised of clear errors in this schedule by both your office and myself. Specifically, there were no documents listed on the schedule as exempted under S42 of the FOI Act as claimed by both the original decision maker and the reviewer. In response, s 47F provided an updated schedule on 29 August 2012 with four additions, two of which now had exemptions under S42.
3. Although the schedule s 47F provided stated that I'd received documents, I had already responded, quite emphatically, that DVA refused my request in its entirety. Despite this fact, which was well known to s 47F, she continued to present this schedule as the decision-making document for my original request. On 04 September 2012 the OAIC again wrote to s 47F identifying inconsistencies in her response. s 47F, having been caught out, claims a 'mistake' was made and that a '...schedule was prepared for another purpose and was erroneously provided in response to your previous request.' I will state, for the record, that I believe this is a lie. Consider that:
 - DVA has not stated the reason for the preparation of the original schedule. I note that all the documents relate specifically to the s 47F complaint or s22 letters on same. s22 has not lodged an FOI request for the full range of documents covered by this schedule. s22 did lodge an FOI request for specific documents relating to s 47F, but it was refused on 10 April 2012 in its entirety. I note, once more, that there were documents that were listed on this schedule dated after this determination as well as stating that documents were released. s 47F may have lodged an FOI request, but then why would documents be refused because they contain personal information that could only be his? The reality is that the only reason DVA had to prepare a schedule for these specific documents was in relation to my FOI request on the s 47F complaint, but only because of your subsequent inquiries.
 - The schedule is clearly designed to provide reasons for a determination on a FOI request. There is no other possible reason given the format that was provided.
 - None of these documents were released to either s22 or myself. Yet the schedule states documents were released. I note that two of the documents listed as being released in full are letters from me. To whom were they released? Why were they released with my address? Is everyone's privacy sacrosanct apart from s22 and mine?
 - None of these schedules are dated. It is my understanding that any spreadsheet created within DVA for business purposes is automatically formatted with a header and footer containing elements such as title, date and version. The absence of any such notations, that would indicate when they were created, is quite deliberate.

- DVA has already deliberately misled the OAIC. May I remind you that in the OAIC determination of 13 December 2012 you found that, in relation to a spreadsheet provided by DVA, '...I have viewed the charges spreadsheet and based on the figures populated therein I do not believe that this spreadsheet relates to s22 FOI request.'
 - DVA provided you with an 'incorrect' spreadsheet on two occasions. More importantly, although it was created for 'another purpose' it just happens to justify all the decisions made by the initial decision maker and the internal reviewer. It simply an amazing coincidence
4. It seems implausible that DVA created this first schedule for any purpose other than in response to my complaint to the OAIC. If it was for any other purpose than DVA had better damn well start explaining why my personal details were released in full when they use personal information as an excuse not to release any document to either s22 or myself. However, just as DVA's previous attempt to mislead your office, I believe that DVA created this spreadsheet in response to your inquiries on my behalf. They then made errors in its fabrication. The first schedule s 47F provided to you was created for a specific purpose, which was to mislead the OAIC.

The referral to the AGS

5. There are two elements to this part of the complaint. The first is that, once again, DVA's latest submission is attempting to mislead the OAIC. s22
- [REDACTED]

s22

[REDACTED]

s22

[REDACTED]

DVA misusing LPP

8. The second part of the complaint relating to the referral to the AGS is far more serious. DVA is implementing the preferential use of the AGS for all serious complaints stemming from its treatment of s22. It is engaging the AGS, not because it is the best agency for resolving these complaints, but because it can automatically claim LPP for every bit of correspondence between itself and the AGS. Consider the following:

- s22 [REDACTED]

9. s22 [REDACTED]

10. DVA is deliberately using the AGS as a means of avoiding scrutiny and not for the avowed purpose of seeking legal counsel. It is not an appropriate application of LPP. It is a deliberate attempt to avoid open government and a deliberate attempt to circumvent the purpose behind the FOI Act.

Deliberate delays and provocative acts.

11. The reality is that throughout this process DVA has refused to comply with any aspect of the FOI Act, or its own policies. Consider the following extra-ordinary delays associated with regards this FOI request alone:

- The response to my original request was late. In fact, s 47F [REDACTED] states in her letter of 21 September 2012 that the original decision maker did not contact the relevant officers until 15 March 2012. This is less than a week before DVA ran out of time. There is no explanation provided as to this delay.
- The internal review decision was late.
- DVA's final reply to you took nearly three months. It was sent to your office just before the Christmas shutdown and in a period when many staff are away. This is not the first time I have personally witnessed this tactic from DVA. It works.

12. It should also be noted that that s 47F [REDACTED] also states that s 47F [REDACTED], after concerns about the accuracy of the schedule were raised by your office, undertook a comprehensive review. I note what is missing from s 47F [REDACTED] comments. The review is undated. However, it appears to have been done sometime in September, some nine months ago. DVA, in the interim, has made no attempt to provide those documents to me. I would like to state, for the record, how offensive I found the fact that s 47F [REDACTED] would provide your office with a copy of the documents but not myself. I think this action highlights the deliberate avoidance

by s 47F in personally resolving this situation. Why would s 47F the highest ranking legal officer in DVA, having reviewed the original decision and found errors, simply not release the documents direct. Instead she passes them over to your office and washes her hands of all responsibility of correcting the mistake made by her own staff in DVA. I do not hold the OAIC responsible for the subsequent delays. The reality is that your office has had a change of personnel, your office is swamped having to deal with ludicrous submissions made by DVA, while having to make sure your actions are correct. Conversely, s 47F has several administrative staff who could have quickly issued these documents under a pro-forma.

13. s 47F has made no attempt to resolve this situation. She continues to overlook mistakes. As I have noted previously, DVA has not complied with its own complaint process regarding this matter. It is fascinating to read s 47F state in her 21 September 2012 letter that 'DVA must be able to manage the processing of complaints in a confidential manner...' and that 'DVA has an established complaints management process that is available...'. The problem is that DVA has failed to comply, repeatedly, with any aspect of its complaints policy. It has not registered the complaint, it did not provide a reference number of contact person regarding the complaint, it did not keep s22 informed of s22 process, nor did it advise the result in a timely manner. s22 has not received any details at all on this complaint. I have stated many times in this process that it was all a waste of time and to end it DVA simply had to conform to its own complaints policy. It is simply ludicrous for s 47F to assert protection from FOI because it has a complaints policy when DVA does not even adhere to it.
14. Finally, having heard absolutely nothing from DVA, I lodged a complaint in January 2013 partly about the behaviour of s 47F based on the fake schedule originally provided to the OAIC. At no stage either before or after the lodgement of the complaint has DVA attempted to directly provide me with either the 'new' new schedule nor the documents. It is just ridiculous.

The desired outcomes and actions

15. In the OAIC's determination of 13 December 2012 you found several errors in DVA's compliance with the FOI Act. In responding to this request and appeals DVA has repeatedly delayed the process, on occasion quite substantially. We have had erroneous schedules, again. We have DVA ignoring direct questions raised by your office. In other words, you have experienced what is now normal for me.
16. I don't believe in coincidences. I don't believe that the original decision maker and the reviewer, both supposedly experienced officers, would both declare documents exempt that were clearly entitled to release under FOI. Instead, I believe that DVA made a deliberate decision to not release any more documents relating to the concerns over s22 because the results were too embarrassing. This is a deliberate breach of every conceivable aspect of the FOI Act.
17. I would, therefore, request that you ask the following questions under the strictures of S83 Information Commissioner investigations—administration of oath or affirmation. If your office is unwilling to administer such an oath, could you please explain why?

Person	Questions
s 47F	<p>Have you ever been instructed, or recommended, to refer the s 47F complaint to the AGS?</p> <p>As this is a complaint about administrative procedure and personal behaviour, why did you refer it to a legal firm rather than to an external consultant?</p> <p>Was one of the stated, or implied, purposes for referring the s 47F complaint to the AGS as being the avoidance of having to release documents under FOI?</p> <p>Has any s22 matter, to your knowledge, been referred to the AGS in whole or in part to avoid having to release documents under FOI?</p>
s 47F (s 47F has left DVA, but is believed to still be in the APS)	<p>s22 FOI request was received on the 21 February 2012. s 47F states that you took no action until 15 March 2012. Can you explain the reason behind the delay?</p> <p>Can you explain why documents were released under FOI to s22 prior to your becoming the FOI officer, but every single document requested once you became FOI officer was refused?</p> <p>Were you ever instructed, or a suggestion made by another DVA officer, to not release any documents under FOI to either s22 or s22 s22 If so, who?</p> <p>If not, as an experienced FOI officer, can you explain why all documents requested by s22 were refused? You should note that a subsequent review of your actions by s 47F resulted in the release of a substantial number of documents you found exempt.</p> <p>Why did you not prepare a schedule or make some record of how you made your decisions?</p> <p>If you did, why was it not kept on file?</p> <p>Was it suggested, or instructed, for you to not prepare a schedule, or place it on file, because a previous schedule you released contained dates and times of contacts between DVA and the AGS? If so, who made this suggestion or instruction?</p> <p>s 47F provided a schedule to the OAIC with the last document listed as being dated 01 May 2012. Was this schedule prepared by you?</p> <p>If not you, do you know who prepared the schedule?</p> <p>Do you know the purpose of this schedule?</p> <p>With regards one specific example, can you explain in detail why the 28 November 2011 email from s 47F was refused in full under S47F, 47C and 47E(d) of the FOI Act?</p> <p>If you are claiming you did not see this document, can you explain why s 47F replied to you and apparently provided all relevant documents?</p> <p>In relation to the above question, can you explain why s 47F would conduct a comprehensive review of your work in September 2012 and advise the OAIC that you had failed to correctly assess several documents and that they 'were initially exempted [by you and] should not have been'?</p> <p>Do you consider that you were given a sufficient degree of independence to conduct your duties as an FOI officer according to the legislation?</p>

<p>s 47F [REDACTED] has left DVA, but is believed to still be in the APS)</p>	<p>s 47F [REDACTED] stated in a letter to the OAIC on 18 December 2012 that there is no record that you conducted any search for documents missed by s 47F [REDACTED]. Can you explain why you made no attempt to ascertain if all documents were reviewed?</p>
	<p>s 47F [REDACTED] did not prepare a schedule, or at least none was provided by DVA. Can you describe what documentation s 47F [REDACTED] made available to you to explain her decisions?</p>
	<p>Your review was late. Can you explain the reason behind the delay?</p>
	<p>As no schedule supposedly was prepared by s 47F [REDACTED] why did you not prepare a schedule or make some record of how you made your decisions?</p>
	<p>Were you ever instructed, or a suggestion made by another DVA officer, to not release any documents under FOI to either s22 [REDACTED] or s22 [REDACTED]? If so, by who?</p>
	<p>If not, as an experienced legal officer within DVA, can you explain why all documents requested by s22 [REDACTED] were refused?</p>
	<p>s 47F [REDACTED] reviewed your decisions in September 2012 and reversed many of your decisions. Do you consider yourself competent enough to conduct an internal review of an FOI decision?</p>
	<p>If you did not consider yourself competent enough, why were you chosen?</p>
	<p>With regards one specific example, can you explain in detail why the 28 November 2011 email from s 47F [REDACTED] was refused in full under S47F, 47C and 47E(d) of the FOI Act?</p>
	<p>If you are claiming you did not see this document, can you explain why s 47F [REDACTED] replied to s 47F [REDACTED] and apparently provided all relevant documents?</p>
	<p>In relation to the above question, can you explain why s 47F [REDACTED] would conduct a comprehensive review of your work in September 2012 and advise the OAIC that you had failed to correctly assess several documents and that they 'were initially exempted [by you and] should not have been'?</p>
	<p>s 47F [REDACTED] provided a schedule to the OAIC with the last document being written by you and listed as being dated 01 May 2012. Was this schedule prepared by you?</p>
	<p>If not you, do you know who prepared the schedule?</p>
	<p>Do you know the purpose of this schedule?</p>
	<p>Do you consider that you were given a sufficient degree of independence to conduct an internal review of s 47F [REDACTED] decision according to the legislation?</p>
<p>s 47F [REDACTED]</p>	<p>You provided a schedule to the OAIC on 01 August 2012. When both the OAIC and s22 [REDACTED] pointed out serious defects in the schedule that you provided, why did you not immediately check that it was correct?</p>
	<p>No documents were exempted on the original schedule that you provided to the OAIC under S42. Why did you simply add a small number of documents to the original schedule so that it then alleged documents were exempted under S42 to a schedule that was clearly wrong?</p>
	<p>If this original schedule was for a different purpose, as claimed, then the fact that you needed to add a few documents to it clearly indicated that it was flawed and that it was not the basis of either the original decision, or</p>

	the internal appeal. How do you justify providing a clearly flawed amendment to the original schedule to the OAIC as proof of how those earlier decisions were made?
	You stated in your letter of 21 September 2012 that the '...[original] schedule was prepared for another purpose and was erroneously provided in response to your [the OAIC] previous request.' For what purpose was this schedule created?
	Who created the original schedule that you provided to the OAIC on 01 August 2012?
	What date was the original schedule created?
	The original schedule states that correspondence from s22 and s22 s22 was released in full. Why would personal details on these parties be released when you are refusing to release documents to them on the grounds of protecting other people's privacy?
	Did the original spreadsheet provided as a schedule have, for the purpose it was first created, a <i>Comments</i> column that lists decision reasons in relation to an FOI request?
	If the <i>Comments</i> column did not exist when it was originally created, at what date was it added?
	If the <i>Comments</i> column was not created in response to an FOI request, can you explain why it has this column when it was sent to the OAIC?
	The <i>Comments</i> column on the original schedule contains reasons for exemption under FOI. If it was created in response to an FOI request can you provide the original FOI request for which this schedule was created?
	If the spreadsheet was not created in response to an FOI request, why was a <i>Comments</i> column added to this schedule as if it was in response to an FOI request?
	According to this schedule, documents were provided in full under FOI. One example is the letters from s22 dated 21 and 27 March 2012. To who were they provided?
	If they provided to neither s22 nor s22 can you explain why letters from s22 containing personal information was released, in full, to a third party?
	Why would your staff back in May 2012 release these letters containing personal information under FOI to a third party, but you and your staff exempt documents that were sought by s22 in their entirety, on the basis they contained personal information?
	In your letter of 21 September 2012 you provided an amended schedule for consideration by the OAIC. It is undated. Can you advise whether it was created by either the original decision maker or the officer who conducted the appeal at the time of their decisions?
	If not, can you advise when it was created and by whom?
	Similarly, if no schedule was created by either the original decision maker nor the officer who conducted the appeal then why have you not clearly advised the OAIC of that fact in either your 01 August 2012, your 29 August 2012 letter, your 21 September 2012 letter, or in s47F letter of 18 December 2012?
	This office has been advised that the spreadsheet template for DVA automatically prompts for information such as title, date and version.

	Why is this information missing from all the schedules provided to the OAIC?
	Why have you, at no stage, advised the OAIC that there are no available records to explain the rulings made by the original decision maker, nor the officer who conducted the appeal?
	Did you, at any time, receive an instruction or a suggestion from anyone in DVA that s22 not receive any documents in relation to his FOI requests?
	Did you, at any time, convey an instruction or a suggestion to anyone in DVA that s22 not receive any documents in relation to his FOI requests?
s 47F has left DVA, but is believed to still be in the APS)	Did you consider s22 fair and reasonable in his dealings with DVA while you were at that agency as Freedom of Information Officer?
	Were suggestions, or instructions, ever given as to how to proceed with FOI requests from s22
	There are some indications on public web-sites that you objected to some DVA officers using the FOI Act to delay releasing information. Would you comment on those suggestions?
	You were not the FOI officer with DVA for very long. Were there negative aspects at DVA impacting upon your ability to act independently as an FOI Officer? Were they a factor in your departure?

Attachment 1

Response as requested in the OAIC email*1. The documents you wish reviewed*

The four documents listed below for Question 3

*2. The exemptions you wish reviewed***Exempted under S42 (see below for requests for exemption)**

- i. 02 Dec 2011 Letter from s 47F to AGS
- ii. 21 Dec 2011 Email from s 47F containing email of s 47F dated 20 Dec 2011 at 10:52
- iii. 16 Jan 2012 Email from s 47F to s 47F. DVA claims S42 exemption for dot points contained in s 47F email of 16 Jan 2012 as this information relates to legal advice DVA was seeking from AGS.
- iv. 02 Feb 2012 Letter from s 47F regarding complaint on s 47F

3. Whether you believe additional documents continue to exist. If so, please detail:

- a. *what additional documents you believe exist and*
- b. *where they may be located that DVA has not indicated they have searched.*

s22 letter lodging a complaint against s 47F should have been formally recorded on DVA's complaint register. This is something that I noted every time I contacted DVA and I have specified it in previous correspondence to your office, which was then sent to DVA. If it was handled as a complaint, then there must be records, emails or minutes between various DVA officers and the complaints management unit. I do not know where they will be found, nor in what form, but obviously there must be something else DVA deliberately avoided recording s22 complaint and breached their own policies, even though I reminded them of their obligations on several occasions.

I note that s 47F's letter was very specific about who was contacted as part of the FOI process. There were some notable exceptions:

- 1. s 47F: The original complaint was received by s 47F. There are no emails, notes of meetings, minutes or details of instructions from same.
- 2. s 47F: DVA's own policy document *Procedures for dealing with Suspected Breaches of the Code of Conduct* provided under FOI states that the employee suspected of misconduct must be contacted by the Breach Decision Maker. I note that the advice from the AGS that led to the appointment of an investigator was dated 03 February 2012. It seems implausible there is no correspondence, or documented action covered by the scope of my request. It is unbelievable that there is no document or email to or from s 47F with regards this complaint.

3. DVA's own policy document *Procedures for dealing with Suspected Breaches of the Code of Conduct* provided under FOI states that a breach decision maker and an investigator must be reported. There is no document, including emails regarding the appointment of such officers. I note that the advice from the AGS that led to the appointment of an investigator was dated 03 February 2012. DVA alleges that no action was recorded, or email, or any document prepared, prior to their contacting the AGS on 16 March 2012. It seems implausible there is nothing in the nearly three weeks covered by the scope of my request.
4. s 47F staff: s 47F is one of the directors of DVA's legal services. It seems implausible that there were no emails or correspondence between her staff either discussing this matter, or in response to requests for information.
5. s 47F as DVA's head of legal services, would have dealt directly with s 47F regarding this request, as well as with her staff. She would also have dealt directly with s 47F. There are no emails, notes of meetings, minutes or details of instructions from same.
6. s 47F is another director in legal services. s22 s22 s22 He must have been contacted regarding the complaint. Yet, there are no emails, notes of meetings, minutes or details of his involvement with the complaint.
7. The Complaints Management Unit. Note that I do not know any names of the officers in this unit. However, it was a complaint. DVA previously advised you, in the responses that led up to your determination of 13 December 2012, that with regards that other matter s 47F legal team had consulted with the Complaints Management Unit¹. Therefore, it seems unlikely, in relation to the formal complaint against s 47F which was referred to the AGS, that either s 47F s 47F or one of their officers did not consult with the Complaints Management Unit, or even just register the complaint as stipulated in their own policy. Formal notification of the complaint number had to be provided at some stage.

Requests for review of exemption claimed by DVA

Part 1

This part refers to one document only, specifically document (iii) 16 Jan 2012 Email from s 47F s 47F. DVA claims S42 exemption for dot points contained in s 47F s 47F email of 16 Jan 2012 as this information relates to legal advice DVA was seeking from AGS.

In the OAIC's findings on *'AF' and Department of Immigration and Citizenship* [2013] AICmr54 (26 April 2013) the Freedom of Information Commissioner wrote:

In this matter, and consistent with decision in *Osland*, I do not consider the disclosure of the existence or effect of the legal advice would be inconsistent with maintaining confidentiality in the advice itself. It was summarised in the email to explain the nature of the advice received by the Department in deciding not to amend the applicant's personal record. Further, disclosure of the sentence does not reveal the actual reasons in the AGS advice.

¹ s 47F team allegedly discussed that FOI complaint with DVA's Complaints Management Unit. It seems strange that they would discuss a complaint about FOI with them, but not a document that is purely a complaint about one of her directors. On 19 November 2012, barely a month after being forced to acknowledge she had sent you the wrong information, s 47F wrote: *Your complaint was not registered on CFMS as staff within the Feedback Management team considered that your correspondence should be dealt with as a request for a review of an FOI decision.*

This email summarises the AGS recommendations as to whether further investigation into the complaint is warranted. As noted above, the summary of the advice received by DVA does not attract LPP. Further, disclosure of a recommendation to proceed with a formal investigation into s 47F behaviour does not reveal the actual reasons in the AGS advice. I note that s 47F, in his 18 December 2012 letter, acknowledges that an external investigator was appointed following receipt of the AGS advice on 03 February 2012. Therefore, that preliminary advice from the AGS on 03 February 2012 could not have discussed the outcome of any investigation as it had not even commenced. The summarised information in this email could only have contained a recommendation on whether or not further investigation was required.

Part 2

The request for a review of the exemption applied to all four documents is more complicated. There are four criteria to take into consideration as to whether these documents are exempt under LPP:

Whether there is a legal adviser-client relationship:

I do not believe this is a legal adviser-client relationship. Such a relationship is dependent upon DVA engaging the AGS for the purpose of seeking legal advice. In paragraphs 8 to 10 in the main body I state that the purpose DVA engaged the AGS was to avoid having to release documents under FOI. Moreover, other actions by DVA support the accusation that the purpose of engaging the AGS was simply to eliminate any obligations under FOI.

As a senior director in DVA's legal services, the expected standard of behaviour of s 47F is much higher (as noted in the Australian Public Service Circular 2008/3, paragraph 38). As the APSC has noted, the duty of disclosure by the department over a complaint against such an officer is also much higher. Even the sample letter the APSC provided states whether the officer was found to have breached the APS Code of Conduct. DVA has refused to provide even that small amount of information. Note also that the officer concerned is known, no other officer is involved, and the complaint is about a specific action. With regards DVA's handling of this complaint, it is not even trying to conform to the levels expected within the APS.

Also, as noted previously, DVA has failed to provide the information its own Complaint Policy states that s22 is entitled. I reminded DVA of their obligations at all stages in the FOI process. In my request for an internal review I wrote that 'No advice was provided as per DVA's own complaint policies... As shown, DVA should provide this information automatically as part of their complaints process. s22 should not even have to ask.' The internal reviewer did not even bother to respond. Again, the fact that DVA made no attempt to release information under its own complaints policy is a strong indicator that the referral to the AGS was for the purpose of avoiding scrutiny under FOI. As such there is a strong public interest in forcing DVA to release these documents.

Whether the communication was for the purpose of giving or receiving legal advice or for use in connection with actual or anticipated litigation.

There was no indication of actual or anticipated litigation. This was an administrative complaint about s 47F personal behaviour.

Whether the advice is independent

The advice is independent. However, just because DVA engages external legal advice does not make that advice subject to LPP. As noted in *Rudd and Civil Aviation Safety Authority*:

As the guidelines explain, the fact that an adviser holds a practising certificate is a relevant, but not decisive, factor in determining whether the requisite lawyer-client relationship exists between a legal adviser and an agency.

Furthermore, the Freedom of Information Commissioner found in the same case that:

If Mr Rudd had not raised the prospect of litigation in his email - if he had merely complained about the actions of CASA officers - it is likely that there would have been no anticipation of litigation. If that had happened, and if document 1 had still been brought into existence, it would have been brought into existence for a dominant purpose other than use in anticipated litigation (and I would have to decide whether the two emails from the head of the LSG were prepared for the dominant purpose of giving legal advice).

There was no suggestion of litigation over this matter. Instead, DVA engaged the AGS for a purpose other than seeking legal advice. It engaged them to conduct an administrative review of s 47F actions and not for the purpose of seeking advice in relation to actual or potential litigation.

Whether the advice is confidential.

The advice is not confidential. The letter from DVA to the AGS on 02 December 2011 has already been released under FOI since this whole mess has begun. It's just that DVA hasn't realised it. Attachment 2 contains a copy of this letter. In relation to the complaint against s 22 s 47F DVA wrote:

Is the allegation made by s 22 sufficient to warrant a code of conduct investigation into s 22 conduct? Specifically, please address these allegations in the context of the *Department's People Policy Conduct, Procedures for dealing with Suspected Breaches of the Code of Conduct* and the *Legal Services Direction 2005*.

Any other relevant issue in relation to s 22 complaint.

LPP was already waived on this document still claimed by s 47F as exempt under S42 (Document i). As noted in this letter, none of the detail sought relates to litigation. Therefore, DVA has already waived LPP on this entire matter. Furthermore, none of the information contained in any of the other documents is legally confidential.

s22






s22



Attachment 2

**Letter from DVA to the AGS
02 December 2011**

REQ22/0
s 22

s 22

Attachment 3

**Letter from DVA to s22 [REDACTED] advising outcome of the complaint against s 47F [REDACTED]
27 January 2012**



Australian Government
Department of Veterans' Affairs
OFFICE OF THE SECRETARY

s22

Dear **s22**

I refer to your letter of 21 January 2012 in which you asked for information about the progress of your complaint regarding **s 47F**.

I would like to assure you that the Department of Veterans' Affairs (DVA) treats all complaints it receives seriously.

You may appreciate that your complaint against **s 47F** is complex. The Department is seeking independent advice about your complaint. A response will be provided to you as soon as practicable after the Department has had an opportunity to consider the advice received.

Yours faithfully

s 47F

27 January 2012

COMPTON TOWER
10 KING STREET
MELB 3001

GPO BOX 9996
CANBERRA ACT 2601
AUSTRALIA

TELEPHONE 02 6289 6776
FACSIMILE 02 6289 6777
INTERNET www.dva.gov.au

Safeguard Their Service

FOIREQ22/00120 155

s22

Nicolaou, Irene
09-May-2022 11:06 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	15-Jul-2013 12:00 AM
Case Type:	Decline	Received By:	Fleming, Timothy
How Received:		Registered Date:	22-Jul-2013 11:18 AM
Owned By:	Azevedo, David	Registered By:	Azevedo, David
		Closed Date:	15-Jan-2014 8:44 AM
		Closed By:	Azevedo, David

Case Details

Stage:	Closed
How Received:	Post
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	15-Jan-2016

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Spiers, Carolyn

Summary

To investigate the matters raised by the applicant in the following headings:

1. The fake schedule
2. DVA misusing LPP
3. Deliberate delays and provocative acts
4. The desired outcomes and actions

Issues - 2

Issue Description: Processing Request

Is Primary Issue: Yes

Issue Allegation: processing error

Issue Outcome: withdrawn

FOIREQ22/00120 156

Issue Description: Processing Request**Is Primary Issue:** No**Issue Allegation:** unsatisfactory customer service**Issue Outcome:** withdrawn**Actions - 23 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach documents	Fleming, Timothy	23-Jul-2013	22-Jul-2013
Move to Triage basket	Fleming, Timothy	23-Jul-2013	22-Jul-2013
Allocate to Triage Officer (CP)	FOI - Triage	23-Jul-2013	22-Jul-2013, Fleming, Timothy
First Check	Azevedo, David	23-Jul-2013	23-Jul-2013
Move to Mail Assessor basket	Azevedo, David	23-Jul-2013	23-Jul-2013
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	23-Jul-2013	23-Jul-2013, Azevedo, David
Assess Path (CP)	Azevedo, David	23-Jul-2013	23-Jul-2013: Valid – Preliminary Inquiry
To investigate the matters raised by the applicant in the following headings: 1. The fake schedule 2. DVA misusing LPP 3. Deliberate delays and provocative acts 4. The desired outcomes and actions			
Allocate Complaint	Allocation - FOI Case Management	23-Jul-2013	23-Jul-2013, Azevedo, David
Send Acknowledgement (CP CADM)	Azevedo, David	30-Jul-2013	30-Jul-2013
Prepare Plan (CP)	Azevedo, David	31-Jul-2013	15-Jan-2014
Seek approval of plan (CP)	Azevedo, David	16-Jan-2014	15-Jan-2014: Approved
Conduct Preliminary Inquiries (CP)	Azevedo, David	16-Jan-2014	15-Jan-2014
Analyse Preliminary Inquiries	Azevedo, David	16-Jan-2014	15-Jan-2014
Make recommendations to supervisor (CP PI)	Azevedo, David	16-Jan-2014	15-Jan-2014
Decide path (CP PI)	Azevedo, David	16-Jan-2014	15-Jan-2014: Ready to Close
Allocate Complaint	Azevedo, David	16-Jan-2014	15-Jan-2014
Prepare s73 letter for approval (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Review s73 letter (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Commissioner approves s73 letter (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Send s73 letter (CP DEC)	Azevedo, David	04-Feb-2014	15-Jan-2014
Await response to s73 letter (CP DEC)	Azevedo, David	04-Feb-2014	15-Jan-2014: No Response
Notify relevant parties	Azevedo, David	16-Jan-2014	15-Jan-2014

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of closure (CP DEC)

Close Complaint (CP
DEC)

Azevedo, David

16-Jan-2014

15-Jan-2014

Documents - 9

Title	Date Added	By
Complaint Registration [SEC=UNCLASSIFIED]	22-Jul-2013 9:48 AM	Fleming, Timothy
s22 [SEC=UNCLASSIFIED]	30-Jul-2013 1:14 PM	Azevedo, David
RE: s22 [SEC=UNCLASSIFIED]	30-Jul-2013 1:20 PM	Azevedo, David
Failure to respond to a S55E notice issued by the Freedom of Information Commissioner	03-Jan-2014 10:12 AM	Azevedo, David
FYI	03-Jan-2014 10:48 AM	Azevedo, David
RE: FYI [SEC=UNCLASSIFIED]	03-Jan-2014 1:20 PM	Azevedo, David
Withdrawing all complaints and appeals with the OAIC	14-Jan-2014 7:55 PM	Azevedo, David
RE: Withdrawing all complaints and appeals with the OAIC [SEC=UNCLASSIFIED]	15-Jan-2014 8:14 AM	Azevedo, David
IC review and complaints by s22 [SEC=UNCLASSIFIED]	15-Jan-2014 8:28 AM	Azevedo, David

Cross References - 1

Case	Comments
s22	

Comments - 1

Created	By	Comment
15-Jan-2014 8:44 AM	Azevedo, David	Case Closed by s 47E(d) on 15-Jan-2014 08:44

From: s22
To: [Enquiries](#)
Subject: FOI Complaint
Date: Friday, 16 August 2013 12:32:41 PM
Attachments: [Complaint FOI 13-93 lack of procedural fairness.docx](#)
[Complaint FOI 13-93 4 Jan 2013 FOI request.docx](#)
[Complaint FOI 13-93 lack of procedural fairness docs.docx](#)
[Complaint FOI 13-93 The deemed "clock has stopped" FOI request .docx](#)

Dear Sir / Madam,

Please see attached FOI complaint.

Thanking you

Regards

s22

FOIREQ22/00120 159

s22

Nicolaou, Irene
09-May-2022 11:07 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	16-Aug-2013 12:00 AM
Case Type:	To be Determined	Received By:	Fleming, Timothy
How Received:		Registered Date:	19-Aug-2013 10:00 AM
Owned By:	O'Brien, Peter	Registered By:	O'Brien, Peter
		Closed Date:	06-Dec-2013 11:22 AM
		Closed By:	O'Brien, Peter

Case Details

Stage:	Closed
How Received:	Phone
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Agency Reference Number:	FOI 13-64
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	No reviewable decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	6-Dec-2015

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Babington, Trent

Summary

Applicant complains:

- not adhering to their obligations under the FOI Act,
- providing misleading information to us,
- engaging in unfair tactics.

DVA's actions are procedurally unfair, an abuse of power and lodge this complaint

Issues - 1

Issue Description: Processing Request

Is Primary Issue: Yes

Issue Allegation: processing delay

FOIREQ22/00120 160

Issue Comments: IC review to deal with issues**Issue Outcome:** withdrawn**Actions - 12 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach documents	Fleming, Timothy	20-Aug-2013	19-Aug-2013
Move to Triage basket	Fleming, Timothy	20-Aug-2013	19-Aug-2013
Allocate to Triage Officer (CP)	FOI - Triage	20-Aug-2013	20-Aug-2013, Zatschler, Elizabeth
First Check	Zatschler, Elizabeth	21-Aug-2013	20-Aug-2013
Move to Mail Assessor basket	Zatschler, Elizabeth	21-Aug-2013	20-Aug-2013
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	21-Aug-2013	14-Nov-2013, Toohey, Karen
Phone call from complainant	O'Brien, Peter	27-Aug-2013	06-Dec-2013

I phoned s22 as requested to talk about his correspondence dated 16 August 2013. I noted that his complaint (s22) appeared to deal with a lot of the same circumstances which are subject of ongoing IC review applications s22. I indicated that these matters may be more appropriately dealt with as part of those IC reviews. We discussed the requirements for issuing a s 24AB notice and the circumstances where a s 15AA agreement can validly be made. I noted during the conversation that the FOI Commissioner may consider whether a s 24(2) combination of requests can include a FOI request where a s 15AC(3) decision appears to have been made. s22 indicated at a number of points in the discussion his frustration with incorrect information being provided by the Department given that they are supposed to be the experts. s22 indicated that he had not raised all the matters that he had complained to the OAIC about and asked whether we would consider those issues where he had not. I noted that if he was concerned he could seek the Department's comment now and see what response he receives.

Assess Path (CP)	Toohey, Karen	15-Nov-2013	14-Nov-2013: More Information
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Consider whether issues in this complaint can be looked at in existing complaint.

Allocate Complaint	Allocation - FOI Case Management	15-Nov-2013	14-Nov-2013, Toohey, Karen
Phone call from respondent	O'Brien, Peter	06-Dec-2013	06-Dec-2013

discussed a number of matters with Frank White, see s22, including consultation assistance, use of the CLU. consider whether or not proceed in the form of complaint or IC review? Frank advised that they consider the assistance provided to the applicant was adequate and that they will change the process for this individual. Phone call to s22 advised that the matter better handled under the IC review. see email to s22 5 Dec.

Notify relevant parties of closure	O'Brien, Peter	09-Dec-2013	06-Dec-2013
Close Case	O'Brien, Peter	09-Dec-2013	06-Dec-2013

Documents - 13

Title	Date Added	By
FOI Complaint	16-Aug-2013 12:31 PM	Fleming, Timothy

FOIREQ22/00120 161

FOI Complaint Acknowledgement to Complainant - s22	20-Aug-2013 8:26 AM	Zatschler, Elizabeth
Your correspondence about the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	20-Aug-2013 8:32 AM	Zatschler, Elizabeth
Notice of complaint by s22 [SEC=UNCLASSIFIED]	20-Aug-2013 8:31 AM	Zatschler, Elizabeth
Fwd: FOI Complaint	16-Aug-2013 12:38 PM	Kirkwood, Ben
Voice Mail Message (s22) (12 seconds)	20-Aug-2013 3:53 PM	Kirkwood, Ben
CP13/01137 [SEC=UNCLASSIFIED]	21-Aug-2013 8:02 AM	Kirkwood, Ben
Voice Mail Message (s22) (8 seconds)	23-Aug-2013 3:06 PM	Kirkwood, Ben
Our Ref: FOI 13-93[DLM=For-Official-Use-Only]	10-Sep-2013 1:14 PM	Zatschler, Elizabeth
Re: s22 [SEC=UNCLASSIFIED]	05-Dec-2013 5:00 PM	O'Brien, Peter
s22 [SEC=UNCLASSIFIED]	05-Dec-2013 3:49 PM	O'Brien, Peter
s22 complaint withdrawal s22 & DVA [SEC=UNCLASSIFIED]	06-Dec-2013 11:15 AM	O'Brien, Peter
FW: s22 complaint withdrawal s22 & DVA [SEC=UNCLASSIFIED]	06-Dec-2013 11:17 AM	O'Brien, Peter

Cross References - 1

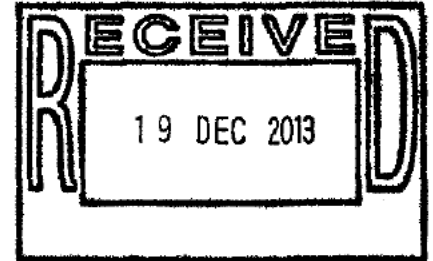
Case	Comments
s22	

Comments - 1

Created	By	Comment
06-Dec-2013 11:22 AM	O'Brien, Peter	Case Closed by s 47E(d) on 06-Dec-2013 11:22

s22

Professor John McMillan AO
 Australian Information Commissioner
 GPO Box 2999
 Canberra ACT 2601



Re: The Department of Veterans' Affairs (DVA)

16 December 2013

Dear Sir

Attached is yet another problem with an FOI request with DVA. This has gone beyond a joke.

On 13 November 2013 DVA received the FOI request found at Attachment 1. It took the full fourteen days for them to prepare the response, but at least they did it as per the legislated timetable. However, once again, despite repeated contacts with your office over previous failures, they have failed to action this FOI request as per the legislation. I haven't received anything. Attachment 2 is my request for an internal review at DVA following their deemed refusal. Therefore, I guess, this is a complaint.

Yet it is more than that, it is a government department treating its obligations under legislation and policy with utter contempt. In the process, they have treated your office with total disregard. In all honesty, I believe the professionalism of your staff stand in stark contrast to the behaviour of DVA's legal team. Your staff have not taken a partisan position in handling my previous complaints¹, but DVA's staff have either been instructed or have voluntarily taken on a deliberately obstructive position. It is just not acceptable and how long do people have to put up with this stupidity?

Seriously, DVA's s 47F delayed and misinformed your office to the point that, after two years, one single appeal I made to your office remains unresolved. In Fact, initially she provided a schedule to your office that listed documents as being released. When both your office and I pointed out it couldn't be right, for several reasons, but most importantly because DVA simply hadn't released anything, she provided a revised schedule that still listed documents as being release! It was the height of absurdity.

This year I have lodged the grand total of three FOI requests, including this one. One related to a threat of criminal action against me for bringing the APS into disrepute. Two relate to a formal complaint over the behaviour of four staff in DVA, including s 47F, over their handling of FOI requests. You would think they would get this request right but, once again, they haven't. Who'd have guessed?

¹ Mr Azevedo is the officer handling the outstanding complaint with DVA.

Why this is important

DVA is simply refusing to honour its obligations of open government, not just under FOI, but in simply being able to explain their decision making process. I know that I go on about their failure to adhere to their own complaints policy, but when a department behaves this way all people in my situation have left is FOI. DVA received my complaint nearly a year ago on 25 January 2013. It was acknowledged on 28 February 2013, over a month later, by a **s 47F** (Attachment 3)

In his letter he specifically states that *An independent investigator will be appointed to investigate the matter and I will advise you when that person has been appointed.*²

Then, out of the blue, **s 47F** wrote on 10 April 2013 (Attachment 4) that '...given the nature of the complaint external legal advice has been sought.'³ I gave him plenty of time but, coincidentally on 11 April 2013, I lodged an FOI request (Attachment 5).

I admit I went ballistic when I received **s 47F** letter and wrote that I felt this was a deliberate attempt to avoid scrutiny. I believed, still do, that DVA will not give any indication of the outcome of the complaint and that the whole purpose of engaging legal counsel was to claim legal professional privilege on every single document of relevance.

Attachment 6 contains the schedule for that FOI request. There were a couple of funny things about this request:

1. It only contains six documents (there were two large documents that overwhelmingly consisted of my complaint and supporting material that I had provided). Yet DVA requested a fourteen day extension just two days before it was due. I refused. Interestingly, the person who made the request, **s 47F** **s 47F** was not DVA's FOI officer, but one of **s 47F** senior lawyers.
2. On the same day **s 47F** sends his letter, he is reminded by the AGS of his obligation to comply with his own department's complaint policy (Attachment 7).
3. The only external correspondence is with the AGS.

Seven months later, having not had any contact from DVA at all, I wrote to the AGS. I pointed out that I believed their engagement by DVA was for the express purpose of avoiding DVA's obligation under FOI. I also stated that it was very funny behaviour for an independent investigator to be in contact with only one party when they were seeking clarification of events. I think it annoyed them, for they did not reply. However, I did receive a very interesting letter from **s 47F** (Attachment 8).

² You will note that this letter still doesn't conform to DVA's own complaint policy. There is no reference number, nor is there any estimated completion date. I could go on, but I've said it all before.

³ This letter still did not conform to their own complaints policy.

He categorically states that it was incorrect that the AGS was asked to investigate my complaint. Instead: *The AGS was retained in this matter to provide advice to DVA in relation to the allegations you have raised against the DVA officers.*

However, when I wrote to DVA on 17 April 2013 (the letter was then sent to the AGS at my request) I specifically stated that: *Now, for obvious reasons, DVA has changed the reviewer from an external investigator to the AGS. On past performance, DVA will take close to a year to finalise this complaint.*

No-one bothered to tell me seven months ago that the AGS wasn't appointed to investigate the complaint, nor for that matter who was engaged if they were not. Incidentally, I was right about the time it would take to resolve.

The results of all this are yet another disaster of ethical behaviour by DVA. Let me be blunt as only one of the following three conclusions can, yet must, be correct:

1. **s 47F** lied in his letter of 28 February 2013 in which he stated an independent investigator was appointed. The FOI release showed no contact with any other third party apart from the AGS, but his letter of 05 December 2013 states categorically that the AGS was not engaged to investigate the matter.
2. **s 47F** lied in his letter of 05 December 2013 if the AGS was appointed to investigate the complaint.
3. My FOI request was not actioned properly. An independent investigator was appointed but any correspondence was not listed on the schedule.

DVA continues to ignore its obligations under legislation. It treats its own complaints policy as only relevant to the poor bloody APS 3 to 5 who make a mistake on the frontline, the policy simply doesn't apply to its senior members. It thinks the OAIC is a joke that can be brushed off with lies and extraordinary delays.

This is why it is important that you take action. It is only through FOI that anybody can challenge DVA's arbitrary and illogical decisions. It has gone rogue, but nobody seems capable of challenging its leadership.

Finally, I would like to make one point: The reality is that the handling of FOI requests by the national office of DVA is always suspect. I accept that DVA's treatment of FOI requests is outstanding when conducted in the other capital offices, but it is absolutely appalling when handled by the Canberra office. As the vast bulk of FOI requests are handled regionally, the deliberate avoidance of DVA's legislative obligations towards the relatively few Canberra office requests are statistically irrelevant, allowing DVA to gloss over these failures. Unfortunately, many of the Canberra office requests are from the most concerned, the most marginalised, of the veterans who are inevitably dealing with DVA's most senior officers. The mishandling of these FOI requests by the Canberra office is a significant factor in the development of a toxic relationship between DVA and veterans with highly complex concerns.

Outcome

1. The release of all requested documents or a suitable reason for redaction or exemption.
2. An apology.
3. An explanation.





s22

Department of Veterans' Affairs
GPO Box 9998
CANBERRA ACT 2601
Attn. Freedom of Information Officer

Re: Request for documents under the Commonwealth Freedom of Information Act 1982

11 November 2013

Dear Sir or Madam

Here we go again.

I lodged a formal complaint against several Department of Veterans' Affairs (DVA) officers on 25 January 2013. s 47F formally referred that complaint to the Australian Government Solicitor (AGS) on 04 March 2013. Eight months later on 05 November 2013, with nothing heard, I rang the Feedback Management Team to obtain an update. There was no update on the system. Suddenly, on the same day, s 47F writes a letter out of the blue stating that the AGS '.....is providing the department with legal advice on your matters and I expect that advice to be received in the next few weeks.'

Nothing to do with the fact that, once again, DVA is going to respond to concerns just before the Christmas shutdown. The timing is, of course, just a coincidence that makes it almost impossible to follow-up anything produced by s 47F.

I am requesting the following documents under the Commonwealth Freedom of Information Act 1982 (FOI) for the period from 17 April 2013 to today (However, see exemption in notes below):

1. All internal emails and minutes relating to my complaint of 25 January 2013.
2. Note that there must have been correspondence between the Feedback Management Team and s 47F on 05 November 2013. Please ensure notes about the call, subsequent emails or records of conversations are included.
3. The electronic listing on DVA's complaints database, with notes for s22 s22
4. All external correspondence between DVA and the AGS.

Note:

1. I would ask you to provide a schedule of documents, with reasons for any redactions or exemptions, as per your senior legal officer's, s 47F, agreement with the Freedom of Information Commissioner.
2. Please exclude my submission to the Minister dated 05 Nov 2013.
3. As, supposedly, there has been no development on the complaint until now, the amount of documents covered by this request is minimal. Under no circumstances will I agree to an extension of processing time.

Once again, this is a total waste of time, money and effort by all concerned. Thank you s 47F

s22

s22

Department of Veterans' Affairs
GPO Box 9998
CANBERRA ACT 2601
Attn. s 47F
Information Access Officer

Re: Request for documents under the Commonwealth Freedom of Information Act 1982 –
Deemed refusal

16 December 2013

Dear s 47F
Here we go again.

Your letter of 27 November 2013 stated that you had received the below request on 13 November 2013. You have failed to provide any documents nor had an extension approved by the Office of the Australian Information Commissioner (OAIC). Therefore, S15AC applies and all documents under this request were deemed refused.

I am therefore seeking an internal review of the deemed refusal. The due date for completion of the internal review is 13 January 2014. I can not respond to the reason why you are refusing to provide documents as per this request because, as per usual, you have not provided any reasons as to why you are refusing to release any documents. I reserve the right to challenge any reasons you may provide without prejudicing your need to respond by 13 January 2014.

Also, please note that I have lodged yet another complaint with the OAIC for your failure to fulfil, again, DVA's obligations under S15(3)(b).

The documents requested under the Commonwealth Freedom of Information Act 1982 (FOI) were for the period from 17 April 2013 to today (However, see exemption in notes below). They were:

1. All internal emails and minutes relating to my complaint of 25 January 2013.
2. Note that there must have been correspondence between the Feedback Management Team and s 47F on 05 November 2013. Please ensure notes about the call, subsequent emails or records of conversations are included.
3. The electronic listing on DVA's complaints database, with notes for s22 s22
4. All external correspondence between DVA and the AGS.

Note:

1. I would ask you to provide a schedule of documents, with reasons for any redactions or exemptions, as per your senior legal officer's, s 47F, agreement with the Freedom of Information Commissioner.
2. Please exclude my submission to the Minister dated 05 Nov 2013.

3. As, supposedly, there has been no development on the complaint until now, the amount of documents covered by this request is minimal. Under no circumstances will I agree to an extension of processing time.

Once again, this is a total waste of time, money and effort by all concerned. Thank you § 47F

s22

3



Australian Government
Department of Veterans' Affairs

ACT OFFICE

s22

Dear s22

I write concerning your complaint of 25 January 2013 which has been referred to me for action.

An independent investigator will be appointed to investigate the matter and I will advise you when that person has been appointed.

Yours sincerely

s 47F

People Services Branch

28 February 2013

4



Australian Government
Department of Veterans' Affairs

s22

Dear **s22**

I wish to advise your complaint of 22 January 2013 is currently being considered and that given the nature of the complaint external legal advice has been sought.

If you have any questions please do not hesitate to contact me on **s 22** or **s 22**

Yours sincerely

s 47F

People Services Branch
10 April 2013

5

s22

Department of Veterans' Affairs
GPO Box 9998
CANBERRA ACT 2601
Attn. Freedom of Information Officer

Re: Request for documents under the Commonwealth Freedom of Information Act 1982

11 April 2013

Dear Sir or Madam

Here we go again.

I lodged a formal complaint on 25 January 2013. s 47F [REDACTED] replied on 28 February 2013 advising that *an independent investigator will be appointed to investigate the matter and I will advise you when that person has been appointed.*

Here we are, six weeks later, yet again with nothing heard. This FOI request is a total waste of time but, because of the arrogantly stupid behaviour of DVA's senior management, what choice do I have?

I am requesting the following documents under the Commonwealth Freedom of Information Act 1982 (FOI):

1. All internal emails and minutes relating to my complaint of 25 January 2013.
2. All internal emails and minutes relating to s 47F [REDACTED]'s letter of 28 February 2013
3. All external correspondence between DVA and the investigator appointed as per s 47F [REDACTED]'s letter of 28 February 2013.
4. A copy of all forms of contractual agreements related to item (3) above. This includes the Austender notifications and emails.

Yours sincerely

s22



Australian Government
Department of Veterans' Affairs

FOI
Schedule 1

6

Schedule of documents

Applicant:

s22

Decision date:

16 May 2013

FOI reference number:

s22

Requested documents:

1. All internal emails and minutes relating to [your] complaint of 25 January 2013
2. All internal emails and minutes relating to s 47F letter of 28 February 2013
3. All external correspondence between DVA and the investigator appointed as per s 47F letter of 28 February 2013
4. A copy of all forms of contractual agreements related to (3) above. This includes the Austender notifications and emails

Doc ref	Date of document	Document description	Pages	Decision	Exemption provision
1	5 February 2013	Minute s 47F to First Assistant Secretary, Corporate and attachments	87	Released in full	
2	4 March 2013	Email s 47F to s 47F	2	Released in full	
3	4 March 2013	Email s 47F to s 47F AGS and attachments	72	Released in full	
4	7 March 2013	Letter from s 47F AGS to s 47F	2	Exempt in part	s 47G
5	10 April 2013	Email correspondence s 47F	2	Released in full	
6	24 April 2013	Email s 47F AGS and attachment (letter from s22 received 24 April 2013)	4	Released in full	

(7)

s 47F

From: s 47F
 Sent: Wednesday, 10 April 2013 4:09 PM
 To: s 47F
 Cc: s 47F
 Subject: FW: Advice re complaint of s 22 [DLM=Sensitive:Legal]

s 47F

Can you chase these down for me so I can send to AGS as requested below.

s 47F

Can you keep a track on this

Regards

s 47F

Dept of Veterans' Affairs / GPO Box 9998, Canberra ACT 2601

s 22 / Fax: 02 62896206

Email: s 22

From: s 47F [mailto:s 22]
 Sent: Wednesday, April 10, 2013 9:01 AM
 To: s 47F
 Cc: s 47F
 Subject: Advice re complaint of s 22 [DLM=Sensitive:Legal]

Dear s 47F

I refer to your request for advice in relation to a complaint by s 22 against LS&A and CFMS staff arising from FOI processing. s 47F has asked me to assist with this advice.

Would you be able to arrange for us to be sent the following additional documents:

1. A copy of the request from OAIC for the decision Schedule that was provided to OAIC under cover of letter dated August 2012 from s 47F.
2. A copy of the "charges spreadsheet" created on 13 February 2012 provided to OAIC.
3. A copy of DVA's letters to s 22 communicating the decisions of 28 March 2012 (letter from s 47F to s 22) and 25 May 2012 (letter from s 47F to s 22).

Further, we note that DVA's complaint policy aims to resolve complaints within 28 days, but that, if matters are complex, DVA will ensure that the complainant is given details of the appropriate contact officer or area and kept informed of the complaint. As the 28 days has passed it might be advisable, if DVA hasn't already done so, for DVA to advise s 22 that s 22 complaint is currently being considered and that, given the nature of the complaint, it has sought external legal advice. Given s 22 complaint concerns, amongst other things, non-compliance with the complaints policy in the past, it would not help matters to not attempt to comply with the policy on this occasion.

Finally, I note that I am only assisting s 47F on this matter for a couple of days as s 47F if you are able to arrange for the documents to be sent through today or tomorrow to me that would be great, if it is after that date please send directly to s 47F.

10/04/2013

8



Australian Government
Department of Veterans' Affairs

s22

Dear **s22**

I refer to your letter dated 12 November 2013 and addressed to **s 47F** of the Australian Government Solicitor's office (AGS).

I note that at the outset of your letter you state that:

the Department of Veterans' Affairs (DVA) has engaged the Australian Government Solicitor (AGS) to investigate my complaint against several officers within DVA.

This is incorrect. The AGS was retained in this matter to provide advice to DVA in relation to the allegations you have raised against the DVA officers.

As a result, the complaints you have raised asserting impartiality of **s 47F** and the AGS generally and misuse of legal professional privilege are misdirected. Any application of legal professional privilege in these circumstances is not something in which you have any relevant interest requiring consultation with you.

The AGS will respond to you separately regarding the purported FOI request referred to in your letter.

Yours sincerely

s 47F

People Services Branch

5 December 2013

FOIREQ22/00120 176

s22

Nicolaou, Irene
09-May-2022 11:07 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	19-Dec-2013 12:00 AM
Case Type:	Decline	Received By:	Zatschler, Elizabeth
How Received:		Registered Date:	24-Dec-2013 10:10 AM
Owned By:	Azevedo, David	Registered By:	Azevedo, David
		Closed Date:	15-Jan-2014 8:42 AM
		Closed By:	Azevedo, David

Case Details

Stage:	Closed
How Received:	Post
Validation:	Valid
Sensitivity:	Not sensitive
File Security:	UNCLASSIFIED
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	15-Jan-2016

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	Babington, Trent

Summary

Withdrawn

Issues - 1

Issue Description: Processing Request
Is Primary Issue: Yes
Issue Allegation: unsatisfactory customer service
Issue Outcome: withdrawn

Actions - 23 (All Completed)

Action	Owner	Due	Completed
Record case details and attach documents	Zatschler, Elizabeth	25-Dec-2013	24-Dec-2013
Move to Triage basket	Zatschler,	25-Dec-2013	24-Dec-2013

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	Elizabeth		
Allocate to Triage Officer (CP)	FOI - Triage	25-Dec-2013	24-Dec-2013, Zatschler, Elizabeth
First Check	Zatschler, Elizabeth	25-Dec-2013	24-Dec-2013
Move to Mail Assessor basket	Zatschler, Elizabeth	25-Dec-2013	24-Dec-2013
Allocate to Mail Assessor User (CP)	FOI - IC reviews - Assessment	25-Dec-2013	24-Dec-2013, Zatschler, Elizabeth
Assess Path (CP)	Azevedo, David	25-Dec-2013	15-Jan-2014: Valid – Preliminary Inquiry
Withdrawn			
Allocate Complaint	Allocation - FOI Case Management	16-Jan-2014	15-Jan-2014, Azevedo, David
Send Acknowledgement (CP CADM)	Azevedo, David	16-Jan-2014	15-Jan-2014
Prepare Plan (CP)	Azevedo, David	16-Jan-2014	15-Jan-2014
Seek approval of plan (CP)	Azevedo, David	16-Jan-2014	15-Jan-2014: Approved
Conduct Preliminary Inquiries (CP)	Azevedo, David	16-Jan-2014	15-Jan-2014
Analyse Preliminary Inquiries	Azevedo, David	16-Jan-2014	15-Jan-2014
Make recommendations to supervisor (CP PI)	Azevedo, David	16-Jan-2014	15-Jan-2014
Decide path (CP PI)	Azevedo, David	16-Jan-2014	15-Jan-2014: Ready to Close
Allocate Complaint	Azevedo, David	16-Jan-2014	15-Jan-2014
Prepare s73 letter for approval (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Review s73 letter (CP DEC)	O'Brien, Peter	16-Jan-2014	15-Jan-2014, Azevedo, David
Commissioner approves s73 letter (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Send s73 letter (CP DEC)	Azevedo, David	04-Feb-2014	15-Jan-2014
Await response to s73 letter (CP DEC)	Azevedo, David	04-Feb-2014	15-Jan-2014: No Response
Notify relevant parties of closure (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014
Close Complaint (CP DEC)	Azevedo, David	16-Jan-2014	15-Jan-2014

Documents - 12

Title	Date Added	By
Scan [SEC=UNCLASSIFIED]	24-Dec-2013 9:09 AM	Zatschler, Elizabeth
FOI Complaint Acknowledgement to Complainant - s 22	24-Dec-2013 10:17 AM	Zatschler, Elizabeth
FOI Complaint Acknowledgement to Respondent - Trent Babington	24-Dec-2013 10:17 AM	Zatschler, Elizabeth