

IOC - Question on notice – Inquiry into performance of Victorian integrity agencies 2023/24 and 2024/25

1. OVIC has continued to implement its Gender Equality Action Plan but has not provided a detailed progress report since June 2023. What work has been done to continue to implement the Action Plan in the 2023/24 and 2024/25 financial years?

- Due to its staffing profile, OVIC no longer meets the threshold requiring a Gender Equality Action Plan audit and progress report. Regardless, OVIC remains committed to achieving the goals set out in its Gender Equality Action Plan and continuing to foster a safe workplace environment for all employees. In the 2023/24 and 2024/25 financial years, OVIC has:
 - built employee capacity to apply an intersectional gender lens to policies and procedures by providing relevant learning and development opportunities to staff identified as having responsibility for policy review and/or development
 - introduced gendered performance and development goals for leaders
 - developed a leaders guide for responding to workplace disclosures of family violence
 - analysed workplace segregation to build a meaningful picture through transparent reporting, inclusive job design, flexible work options and a safe workplace culture.

2. Your 2024/25 Annual report provided a snapshot of your People Matter survey results. What areas for improvement were identified in your People Matter surveys over the reporting period, and what actions have you taken in response?

- OVIC's response rate to the 2025 People Matter Survey was 83%, an increase of 33% from the previous year. In identifying areas for improvement, OVIC considered the measures that saw the most decline from 2023/24 to 2024/25 and the measures that saw the lowest results. That is, we considered the responses to the survey questions that showed areas where staff felt OVIC had most declined, and the questions that had the lowest agreement or satisfaction.
- The survey questions and responses that informed OVIC's areas of improvement were:
 - My workgroup gives frank and impartial advice to our Ministers
 - My workgroup gives frank and impartial advice to our managers and leaders
 - How satisfied are you with your career development within your current organisation
 - I clearly understand what I am expected to do in this job
 - I am satisfied with the way my learning and development needs have been addressed in the last 12 months
 - Workgroups across the organisation willingly share information with each other
 - My workgroup uses its resources well
- OVIC identified 6 areas for improvement as follows:

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- Continued roll out of the Victorian Public Service Capability Framework together with an OVIC specific Learning and Development Policy. This is in progress. A program of works has been identified for the roll out of the capability framework, closely linked with the employee performance and development plan cycle.
- Development of a Manager-specific induction program. This is in progress. OVIC has commenced identifying and developing relevant eLearning modules for inclusion in a manager-specific induction program due for roll out in line with the 2026/27 performance and development plan cycle.
- ‘Open Door’ sessions with the OVIC Executive Team. OVIC has commenced monthly ‘Open Door’ sessions for staff to meet with the Executive Team. These sessions are intended to be a forum for staff to table any matters requiring frank and impartial discussion with members of the Executive Team.
- Increased collaboration between business units. This is complete. OVIC amended the performance and development plan templates for VPS5 – STS7 roles to include a challenge goal that must link back to OVIC’s strategic plan and must require staff collaboration.
- Establishment of a mechanism to publicise publicly available webinars and workshops can to staff. OVIC has set up an intranet page for staff to leverage free webinars and workshops that are run by organisations such as at the Victorian Public Sector Commission, Innovation Network, IPAA Vic and Victorian Legal Panel firms.
- Development of meeting attendance guidelines. OVIC has developed meeting attendance guidelines to suggest ways that meeting attendance and staff time can be used more efficiently.

3. In 2025 OVIC updated its guidance on how it handles privacy complaints. What changes were made to the guidance and how has it been received and used for complainants engaging with OVIC?

- In February 2025, OVIC undertook to update its guidance for individuals on how it handles privacy complaints. The revised guidance was published in May 2025.¹
- OVIC updated the guidance after it observed a trend of complainants misunderstanding OVIC’s role, powers and process when conciliating privacy complaints.
- Examples of matters complainants misunderstood include:
 - OVIC’s role in helping complainants formulate their complaint. Some complainants were of the view that OVIC had a positive obligation to draft a complaint outline for a complainant, and to review the complainant’s supporting materials and evidence to identify potential privacy interferences for the complainant to include in their complaint. However, where a complainant has asked OVIC for assistance formulating

¹ The guidance is available on the OVIC website here: <https://ovic.vic.gov.au/privacy/for-the-public/privacy-complaints/step-3-how-ovic-handles-privacy-complaints/>.

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their complaint, OVIC's role is to help capture the complainant's concerns in a written document so as to progress their complaint.

- OVIC's role in conciliation meetings. Some complainants were unclear whether OVIC would advocate for them during a conciliation meeting and act as their representative.
 - OVIC made the following changes to the guidance:
 - Provided clearer information on each step of the privacy complaint process so complainants know what to expect at each phase.
 - Clearly stated OVIC's role in conciliating complaints and what OVIC can and cannot do. In updating this content, OVIC considered the style and approach taken by other Victorian oversight bodies such as the Victorian Ombudsman.
 - Included case studies to show the different ways complaints can be finalised.
 - Used plain language, as opposed to legalistic terms and consultancy speak.
 - In addition to updating the guidance, OVIC developed an 'acknowledgement and intake' template clearly stating what OVIC can and cannot do. Complainants receive this information when they submit their complaint to OVIC.
 - OVIC has observed that complainants have more clarity around OVIC's role and have been more active in being able to advocate for themselves during our conciliation process.
- 4. You are currently updating the Privacy Impact Assessment Guide. What work is being done in this area, and are there any substantial changes you anticipate making?**
- To inform the update of OVIC's Privacy Impact Assessment (**PIA**) resources, OVIC conducted internal consultation with OVIC business units and targeted consultation with Victorian public sector organisations to gain insight into in-house PIA processes and how organisations use OVIC's PIA resources.
 - Key changes to the PIA resources are likely to include:
 - the introduction of a PIA threshold assessment
 - additional questions related to key risks when handling personal information in artificial intelligence tools
 - redesign of the privacy analysis section of the PIA template to make it simpler for organisations to assess their information handling practice against the requirements in the Information Privacy Principles
 - redesign of the privacy risk assessment and action item tables in Parts 3 and 4 of the PIA template, to make it easier to record and track risk scores, current controls and proposed mitigations or treatments
 - development of an Excel version of the PIA template, to provide organisations with the choice to use either the Excel or Word template

- a plain language refresh of the PIA guide, to align with the updated PIA template and threshold assessment.
 - OVIC anticipates the updated resource will be ready in the first half of the 2026/27 financial year.
5. **In the 2024/25 and 2025/26 financial years what activities did you undertake in the development and approval of information privacy codes of practice?**
- Under section 22 of the *Privacy and Data Protection Act 2014 (Vic) (PDP Act)*, an organisation may seek approval of a code of practice, or of an amendment to an approved code of practice, by submitting the code or amendment to the Information Commissioner.
 - OVIC did not undertake work to develop and/or approve codes of practice in the 2024/25 and 2025/26 financial years. The performance of this work is dependent on an organisation first seeking approval or amendment of a code of practice from the Information Commissioner.
 - In 2024/25 financial year, OVIC engaged in 1 consultation in which an organisation was considering a code of practice. It was determined that a code of practice would not be suitable for the organisation's purposes.
 - In the 2025/26 financial year, OVIC has not had any requests from organisations for a code of practice.
6. **Statistics of Victoria Police information security incidents show an increase in incidents of unauthorised release or disclosure of information in 2023/24. How have you been engaging with Victoria Police to reduce these numbers, given the confidential nature of the information they hold?**
- Victoria Police continue to:
 - report on their information security program via their Protective Data Security Plan (PDSP), with a revised PDSP due to our office by 31 August 2026
 - undertake work with OVIC to acquit the recommendations made by the former office of the Commissioner for Law Enforcement Data Security, with 16 recommendations closed in 2023/24 financial year and a focus on closing the remaining outstanding 5 recommendations this financial year
 - engage in weekly incident reporting to OVIC
 - be subject to specific preliminary inquiries as part of OVIC's monitoring and assurance role.
 - OVIC notes that the increase in incidents of unauthorised release or disclosure may not necessarily reflect an upwards trend in an underlying issue, but rather an improvement in Victoria Police's internal monitoring and reporting practices.
 - Furthermore, the scheme under which Victoria Police reports (the Information Security Incident Notification Scheme (ISINS)) is voluntary, therefore making it difficult to fully analyse trends and themes between various reporting cycle.

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- OVIC is currently considering whether it has the powers and functions to make the ISINS scheme compulsory for certain organisations.
7. **In 2023/24 OVIC retired the Youth Advisory Group, citing resourcing limitations. What work has OVIC done since to engage young Victorians in its education practices?**
- In early 2024, OVIC made the decision to retire its Youth Advisory Group due to internal resourcing reprioritisations.
 - OVIC continues to engage with young Victorians in other ways. For example:
 - The Information Commissioner regularly presents to university students on Victoria’s privacy and access to information laws, and emerging issues and trends.
 - The Information Commissioner presented at Law Week in 2023 and 2024 and OVIC’s General Counsel will be presenting at this year’s Law Week.
 - OVIC will be the key speaker at the upcoming Victorian Schools Parliamentary Program’s Secondary School Parliamentary Convention
 - OVIC recently commenced a new initiative, seeking to engage with Community Legal Centres (CLCs) in Victoria as a way of reaching members of the public. A survey was provided to the sector in March 2026 seeking feedback on:
 - CLC and client engagement with OVIC’s resources
 - barriers or issues faced by CLC clients in protecting their privacy, exercising their privacy rights or when seeking access to government-held information
 - how OVIC can best engage with the sector to improve knowledge and education of privacy and access to information rights.
 - OVIC promotes its events and resources for the public on OVIC’s website, and through OVIC’s newsletter, stakeholder networks (which are open to the public) and LinkedIn account.
8. **What internal measures are you using to assess the quality of your education initiatives, and what data can you provide from these measures?**
- OVIC implemented its Education Evaluation Strategy in July 2025. This strategy tracks the success of the delivery of OVIC events and resources, and evaluates what areas OVIC can improve across its privacy, information security and public access business units.
 - The strategy seeks to respond reactively to the feedback provided to OVIC by stakeholders, and proactively by identifying trending areas of enquiry and forming measures to meet these needs. The strategy also seeks to improve on accessibility and consistency in the resources we produce.
 - The strategy draws on data from the following areas:
 - enquiries received from Victorian public sector organisations and the public
 - event feedback

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- website visits
 - resource downloads
 - resource reviews (i.e. updating existing resources in line with OVIC's position and accessibility requirements for the Victorian Public Sector (VPS))
 - complaint and review completion statistics from the public access and privacy business units.
- Recommendations to improve OVIC events and resources will be made at the end of each financial year. Whilst a more accurate picture of OVIC's first year of data will be available at the end of the 2025/26 financial year, some initial trends available from OVIC's mid-cycle data tracking include:
 - high level of stakeholder satisfaction with OVIC's privacy event content and presenters (Victorian Privacy Network meetings and Privacy Awareness Week events)
 - high level of stakeholder satisfaction with OVIC's FOI event content and presenters (Information Access Series webinars and International Access to Information Day events)
 - OVIC event attendees are primarily from the VPS
 - Privacy training attendees feel confident applying their learnt skills following the sessions
 - FOI training attendees are still finding some complex concepts (exemptions, proactive and informal release) difficult to grasp following the training
 - OVIC webpages with Artificial Intelligence content are the most popular pages on the website
 - OVIC's biometrics and privacy resource has seen an unprecedented surge in website visits.

9. Recommendation 2 of IBAC's Operation Turton report recommended that Fire Rescue Victoria consult with OVIC on the adequacy of its information security. What ongoing engagement has OVIC conducted with Fire Rescue Victoria considering this recommendation?

- On 10 October 2024, Fire Rescue Victoria (FRV) contacted the Information Commissioner to advise that the Independent Broad-based Anti-corruption Commission (IBAC) had recently released its Operation Turton report which identified repeated instances of unauthorised access and disclosure of sensitive information by employees at the former Metropolitan Fire Brigade (MFB). The IBAC report made 4 recommendations including that:
 - (Recommendation 2) Fire Rescue Victoria address the information and communication technology security vulnerabilities and risks identified in Operation Turton by:
 - (2(b)) engaging an appropriately qualified independent person to review information security infrastructure, policy and procedures to identify any

remaining deficiencies against the Victorian Protective Data Security Standards and Framework or any other issues

- (2(c)) consulting with the Office of the Victorian Information Commissioner (OVIC) on the adequacy of its information security in line with the *Privacy and Data Protection Act 2014* (Vic), including how it is addressing any shortfalls identified in the review recommended above. To support and inform this consultation, FRV must provide OVIC with the full final report of the independent person referred to in Recommendation 2(b).
- In December 2024, OVIC and FRV had an initial meeting where FRV committed to frequently meeting with OVIC. OVIC and FRV met throughout 2025, with FRV providing OVIC with updates relating to, amongst other things, the proposed engagement of an external consultancy to assist with security activities and preparing a report.
- In March 2025, OVIC provided FRV with a Protective Data Security Plan (PDSP) playback session, where members of OVIC's Information Security Unit provided observations and insights following a review of FRV's 2024 PDSP. The session also gave FRV an opportunity to ask questions and develop a greater understanding of the Victorian Protective Data Security Standards.
- In March 2025, FRV presented OVIC with an Information Security Manual Compliance Re-Assessment report. However, this report did not address the items needed to acquit Recommendation 2b or 2c.
- In November 2025, OVIC requested an update from FRV on when it would provide the report of the independent person engaged to review FRV's information security infrastructure, policy and procedures in line with recommendation 2(b). FRV advised that the report was going through approval processes prior to release and it would notify OVIC when it was ready. FRV also proposed to pause the monthly meetings with OVIC pending a fuller update from the FRV team or until the report was ready for review by OVIC.
- In April 2026, OVIC requested a further update from FRV on the progress of the report, and insight into any accompanying activities.
- In addition to engaging with FRV, OVIC met with IBAC twice in 2025. These meetings provided OVIC with fuller insight into the context of the IBAC's Operation Turton and an opportunity to unpack IBAC's expectations of OVIC's involvement with respect to recommendations 2(b) and 2(c) in the report. OVIC also provided IBAC with an interim update on the matters discussed with FRV.

10. OVIC has conducted significant work in the area of generative AI. What has been learned from your work about the use of generative AI in the public sector, information security, and information accuracy?

- In OVIC's view, the main areas of focus for organisations should be:
 - improving AI literacy and privacy and information security knowledge across the organisation through training and clear policies and procedures. All staff should have a clear understanding of dos and don'ts when using generative AI tools

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- AI governance, to ensure an organisation is aware of AI use across the organisation and within its contracted service providers, the types of information being entered into AI tools and for what purpose, and to ensure that risks are appropriately managed
- ensuring adequate public transparency of an organisation's use of AI, including disclosure of AI use as part of the organisation's proactive release information under Part II of the *Freedom of Information Act 1982 (Vic)* (**FOI Act**), and in privacy policies and notices of collection where personal information is involved.
- OVIC was the first information integrity agency in Australia to publish guidance on the use of publicly available and enterprise generative AI tools.
 - In October 2023, OVIC worked quickly to develop and publish a resource on the use of Microsoft 365 Copilot/enterprise generative AI tools.² The resource received 7,628 hits in 2023/24 and 8,241 hits in 2024/25.
 - The availability of free generative AI tools like ChatGPT also creates privacy and information security risks if Victorian public sector (**VPS**) workers use the tools in inappropriate ways. This is because, in general, publicly available tools have minimal controls for how the information entered is used or protected. OVIC's resource on the use of personal information with ChatGPT and other publicly available tools (published February 2024) received 1,992 hits in 2023/24 and 4,002 hits in 2024/25.³
- OVIC's work in identifying the privacy and security risks of using publicly available generative AI tools versus secure enterprise generative AI tools helped to inform the development of the Victorian Government's Administrative Guideline for the safe and responsible use of Generative Artificial Intelligence in the Victorian Public Sector.
- On 27 February 2024, OVIC wrote to Department Secretaries and Victoria Police requesting information on the use of generative AI tools in the VPS. OVIC received a whole-of-Victorian-government response on 26 April 2024. The response highlighted that generative AI tools were being used within the VPS in two distinct ways:
 - on a project-by-project basis, where a specific use case is identified and explored (project-based use)
 - use by individual staff members accessing and using a variety of web-based generative AI tools (individual staff use).
- The whole-of-government response indicated that VPS organisations are generally aware of project-based use but had significantly less visibility and governance over individual staff use

² The resource on *Use of enterprise Generative AI tools in the Victorian public sector* is available on the OVIC website here: <https://ovic.vic.gov.au/privacy/resources-for-organisations/use-of-enterprise-generative-ai-tools-in-the-victorian-public-sector/>.

³ The resource on *Use of personal information with publicly available Generative AI tools in the Victorian public sector* is available on the OVIC website here: <https://ovic.vic.gov.au/privacy/resources-for-organisations/use-of-personal-information-with-publicly-available-generative-ai-tools-in-the-victorian-public-sector/>.

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of generative AI tools. OVIC expressed its concern over the lack of visibility and suggested steps organisations could take to improve governance in this area.

- In November 2024, OVIC published an investigation report in relation to the inappropriate use of ChatGPT by a child protection worker⁴. The investigation found that the Department of Families, Fairness and Housing (DFFH) had failed to take reasonable steps to ensure the accuracy of personal information under IPP 3.1, and to protect personal information from unauthorised disclosure under IPP 4.1. The investigation found that:
 - the content generated by ChatGPT was inaccurate and downplayed the risks to the child, and that the generated content was not reviewed and edited to ensure accuracy, before being used by the child protection worker
 - the child protection worker entered a significant amount of personal information into ChatGPT, including names and information about risk assessments relating to the child. By doing so, the worker disclosed this information to OpenAI, an overseas company, and released it outside the control of DFFH.
- The investigation report contains important learnings for other VPS organisations. The report received 5,507 hits in the 2024/25 reporting year.
- OVIC has received incident reports from organisations relating to inappropriate entering of personal information into publicly available tools.
- In 2024, OVIC introduced questions in the 2024 Protective Data Security Plan (PDSP) reporting cycle which sought to understand how the VPS was using or planning to use generative AI. The same questions will be asked in the 2026 PDSP reporting cycle, enabling OVIC to track changes in the use of this technology over time.
- OVIC released insights from its 2024 PDSP reporting cycle data in its Victorian Public Sector Insights: Information security monitoring and assurance report 2025. The insights in the report show that in 2024:
 - 48% of organisations reported 'not using' generative AI, 5% were unsure, 20% reported using generative AI and 26% were planning to use the technology. The top three sectors that were using or planning to use generative AI were water corporations, departments and local government.
 - Microsoft Copilot was the most used tool, followed by ChatGPT. This may be due to Microsoft Copilot being automatically introduced for many Microsoft customers across their Microsoft suite.

⁴ The report on the *Investigation into the use of ChatGPT by a Child Protection worker* is available on OVIC's website here: <https://ovic.vic.gov.au/regulatory-action/investigation-into-the-use-of-chatgpt-by-a-child-protection-worker/>.

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- there was some uncertainty or difficulty in organisations understanding or being aware of the types of information and the business impact level of the information being entered into generative AI tools.
- In 2024, OVIC partnered with the Australian Research Council Centre of Excellence for Automated Decision-Making and Society (**ADM+S**) to sponsor a qualitative research study into the procurement of AI technologies in the VPS. The project commenced toward the end of the reporting period for 2024/25, and we expect learnings from this research to be published in time for our Privacy Awareness Week celebrations in May 2026. The research findings will help to inform OVIC's forward work program of educational events and resources.
- OVIC collaborated with ADM+S in May 2024 to develop and publish a plain language explanation of key concepts and terms relating to generative AI, to help the VPS understand the technology and how it works.⁵ The resource was accessed over 1,000 times over the reporting periods.
- In June last year, OVIC published an animation on using generative AI in the public sector. The animation has been viewed over 6,000 times since its release.
- We have been consulted by government on various initiatives relating to AI including the development of the VPS Administrative Guideline and training modules on the safe and responsible use of generative AI, the AI assurance framework and AI policies.
- OVIC has noticed an increase in individuals using generative AI tools to prepare complaints and submissions to OVIC. This has raised some issues for OVIC in handling complaints and reviews. Issues include:
 - lengthy, vague, or inaccurate information provided by applicants or complainants which increases the time to review and progress the review or complaint
 - complainants seeking information about their rights and OVIC's role in a complaint or review through AI-generated content, rather than directly from OVIC's website. This can lead to applicants and complainants having an incorrect understanding of their rights and the expected outcomes they can achieve when coming to OVIC. This adds time to a review or complaint to educate the applicant or complainant and in some cases, individuals can be less willing to engage with OVIC to conciliate or informally resolve the complaint.
- To help address these issues, OVIC recently published guidance for the public outlining what an individual should know before relying on AI.

⁵ The *GenAI Concepts* resource is available on OVIC's website here: <https://www.admscentre.org.au/genai-concepts/>.

11. Please provide an explanation of why the BP3 metric for finalising FOI complaints is not fit-for-purpose, and the proposed changes you intend to make. Please also provide the Committee with a table of the average days it has taken OVIC to finalise FOI reviews by financial year.

- *Note: OVIC’s response to this question provides an explanation of why the BP3 metric for finalising FOI reviews is not fit-for-purpose, not FOI complaints. This reflects the conversation between Committee members and the Information Commissioner during the public hearing on 16 February 2026.*
- The current Budget Paper Number Three (**BP3**) output performance measure looking at timeliness in the completion of reviews is: ‘FOI reviews completed within timelines agreed with applicant’. This measures FOI reviews processed within agreed timeframes to meet legislative obligations.
- The BP3 metric related to review timeliness looks at the percentage of accepted review applications completed within the statutory timeframe or a time period as agreed by an applicant. The 2025/26 BP3 target is to complete 50% of all accepted reviews in time. The BP3 target in the 2024/25 financial year was the same
- During a review, OVIC can ask an applicant for multiple extensions of time, beyond the initial 30-day time period. If the applicant grants the extension, and OVIC completes the review within that agreed timeframe, this is counted as a review completed “in time” for the purpose of BP3 reporting.
- OVIC considers that the average days taken to complete a review is a better metric to transparently measure overall timeliness in OVIC’s review decision making. OVIC is proposing that this metric replace the existing BP3 metric for the 2026/27 reporting period.

Table showing average number of days taken by OVIC to complete a review in previous financial years.⁶

Financial year	Average days ⁷	Reviews completed	Reviews completed by formal Notice of Decision from a Commissioner ⁸	Reviews received
2024/2025	137	569	365	689
2023/2024	123	578	374	575
2022/2023	120	501	329	536
2021/2022	110	552	358	528
2020/2021	118	617	374	601

⁶ The figures in the Average days and Reviews completed columns are based on review closures of all types (i.e. formal Notices of Decision from a Commissioner, dismissals / non-acceptances and withdrawals.)

⁷ OVIC Annual report 2024/25, page 7: <https://ovic.vic.gov.au/wp-content/uploads/2025/12/20251105-OVIC-Annual-Report-2024-25-single-pages.pdf>.

⁸ This does not included notices of dismissal issued by a Commissioner.

12. Please provide a breakdown of the themes of the types of documents OVIC received FOI review requests in relation to in the reporting period.

- Accepted review applications are categorised by file category in OVIC's case management system based on the nature or theme of the documents involved or the decision type when section 25A or section 39 of the *Freedom of Information Act 1982* (Vic) (FOI Act) applies.

Table showing key themes in relation to types of documents requested in accepted review applications received during 2023/24 and 2024/25 reporting period

Review file category	2024/2025	2023/2024
Child protection & care leaver (Ward of State) records	7	7
Disputes & Complaints	69	38
Employee / recruitment records & workplace investigations	43	36
Government decision making, including infrastructure projects	147	146
Local government records, including building and planning matters	49	65
Personal health records	57	53
Police records	54	63
Prisoner records	17	22
Student records & school incident investigations	13	19

- During the 2023/24 and 2024/25 reporting periods and prior, OVIC categorised certain accepted review applications based on whether access was refused without an agency processing the request (under section 25A(1) or (5) of the FOI Act), or whether the request related to a request to amend a document (under section 39 of the FOI Act). See table below for data.

Review file category	2024/2025	2023/2024
Procedural s.25A(1) <i>*Section 25A(1) review applications are most commonly in relation to requests for access to Workcover-related documents or medical records</i>	25	37
Procedural s.25A(5) <i>*Section 25A(5) review applications are most commonly in relation to requests for access to child protection documents or for law enforcement CCTV footage</i>	51	49
Procedural s.39 <i>*Section 39 review applications are most commonly in relation to personal health records or police records</i>	14	12

- In the 2026/27 financial year, OVIC intends to review its categorisation of file categories, particularly in relation to using sections 25A(1), 25A(5) and 39, to improve our ability to report on the types of documents involved in decisions under review by OVIC.

13. You have stated that you use informal resolution of complaints and reviews as a means of managing increased workloads. What processes do you use to enable informal resolutions, and do they have any other advantages or disadvantages?

- Attempting to resolve review and complaint applications informally without the need for a formal decision is one of multiple strategies used to manage the high demand for OVIC's FOI-related services.
- Seeking to resolve matters informally is consistent with section 6G of the FOI Act which specifies that the Information Commissioner must perform functions and exercise powers with as little formality and technicality as possible.
- In both review and complaints matters, OVIC generally uses the following processes to try to resolve matters informally:
 - initial assessment and triage of incoming files to identify potential opportunities for resolution, including identifying where further tailored educative information or questions could be put to the parties to increase chances for resolution.
 - seeking written submissions from:
 - the agency regarding further information about its processing of the FOI request, reasons for delay or reasons for its decision, or supporting information
 - the applicant or complainant in support of their application and/or in response to potential resolution options.
 - following assessment of all material, providing the applicant or complainant with an initial view from a case manager or a preliminary view from a Commissioner on the likely outcome of the matter. During this process, OVIC may also direct parties to its de-identified published review decisions, FOI Guidelines, FOI Professional Standards and/or practice notes.
 - For reviews, this may further involve:
 - inviting an agency or minister to consider making a fresh decision under section 49M of the FOI Act or to alternatively release further information outside of the FOI Act
 - asking an applicant if they wish to withdraw their application or narrow the scope of documents to be reviewed
 - working with both parties to narrow the scope of an FOI request to remove the grounds for refusal under section 25A(1) of the FOI Act.

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- For complaints, this may involve engaging further with:
 - the complainant to identify exactly what outcome they are seeking and determining whether there is a way to achieve this under the FOI Act
 - the agency, including encouraging it to approach the informal resolution process with an open mind and to work with OVIC to resolve the complaint with as little formality and technicality as possible
 - both parties to share, with consent, information they have provided and seek to negotiate an outcome that both parties are satisfied with.
- Further information on OVIC’s review and complaint processes can be found on OVIC’s website here:
 - FOI complaints – <https://ovic.vic.gov.au/freedom-of-information/for-the-public/foi-complaints/>
 - FOI reviews - <https://ovic.vic.gov.au/freedom-of-information/for-the-public/foi-reviews/>

Table outlining advantages and disadvantages of informal resolution for reviews and complaints

	Advantages	Disadvantages
Reviews	<ul style="list-style-type: none"> • Informal resolution is consistent with the requirement to conduct reviews with as little technicality and formality as possible, and aligns with section 49N of the FOI Act which requires the Information Commissioner (IC) to take reasonable steps to resolve a matter if the IC determines it is reasonably possible to resolve the matter informally • If OVIC can help to negotiate the release of information informally or through an agency making a fresh decision which the applicant is then satisfied with, it means the process required for a formal decision is not required. This can save time and resource investment for OVIC. • In some instances, it can save time for both the agency and the applicant. 	<ul style="list-style-type: none"> • If attempts at information resolution fail, then additional time has been spent on the matter that potentially did not need to be. • Informal resolution can, on occasion, be partially successful where the scope of a review may be reduced, or an agency may agree to release some of the information the applicant seeks. In these cases, it is common for a formal decision to still be required, and this impacts overall timeliness of decision making. • If the decision is less complex, for example a type of review OVIC conducts on a regular basis, it can be quicker to make the decision. • Informal resolution works best with a dedicated staff member managing the process. This reduces the number of staff available to conduct formal reviews.

	<ul style="list-style-type: none"> • It facilitates a cooperative approach between the agency and applicant and can help in building overall trust. 	<ul style="list-style-type: none"> • It is sometimes difficult to know whether an agency or an applicant would be amenable to informal resolution.
Complaints	Advantages	Disadvantages
	<ul style="list-style-type: none"> • Informal resolution is consistent with section 61GB of the FOI Act which specifies that reasonable steps must be taken to try to resolve a complaint informally where the Information Commissioner determines informal resolution is possible. • In some instances, it can save time for both the agency and the complainant. • By engaging with OVIC, complainants can clarify what documents or resolution they are seeking. • It can help restore relationships between applicants and agencies and may lead to better services and outcomes for individuals. • Complainants can find out more about the way their FOI request was handled, the reasons for delay, or why documents have not been provided. • Through the resolution of complaints, OVIC is able to identify and monitor agency compliance with the FOI Act and the Professional Standards. 	<ul style="list-style-type: none"> • If a complaint is informally resolved, the complainant cannot take further action under the FOI Act in relation to the subject matter of the complaint. • Complainants may seek a more formal approach and require actions beyond OVIC's powers, such as requesting the agency make a decision by a certain date. • Complainants may not be satisfied with the outcome of their complaint despite OVIC considering that the complaint has been fully pursued and there is no further action that OVIC can take.

14. In August 2023 OVIC wrote to this Committee to advise that due to budget cuts OVIC would be unable to engage with an external consultant to undertake a review of the FOI professional standards. What budgetary constraints led to this decision, and have you been able to meet your statutory obligations to conduct a review of the professional standards in the following years?

- By letter dated 29 August 2023, the then Acting Information Commissioner notified the Committee that due to significant cuts to OVIC's budget and the requirement to undertake a Clause 11 restructure, OVIC did not have the capacity or sufficient budget to engage an external consultant to undertake a review of the Professional Standards (the **Standards**) as required under section 6X of the FOI Act.

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- Following this the current Information Commissioner, through a reprioritisation of funds, allocated expenditure to this project. In April 2024, OVIC engaged KPMG to undertake an independent review of the Standards. KPMG was tasked with assessing the level of agency knowledge and understanding of, and engagement with, the Standards, including assessing any barriers to compliance with the Standards.
- Between August and November 2024, KPMG gathered information in relation to the operation of the Standards by way of workshops with a cross-section of Victorian government agencies and OVIC staff. This included information about barriers to compliance, challenges in the administration of the Standards, and their effectiveness and practicality.
- On 23 August 2024, KPMG provided OVIC with its final report (the **Report**), making 27 recommendations to uplift and improve the operation of the Standards.⁹
- In consideration of the recommendations made in the Report, OVIC prepared updated Professional Standards (**draft updated Standards**).
- In December 2024, OVIC consulted with the Public Agency Reference Group on the draft updated Standards.
- In accordance with section 6U(4) of the FOI Act, on 19 February 2025, the Information Commissioner wrote to the principal officer for each agency to advise that the draft updated Standards had been published on the OVIC website and invited submissions.
- Between 18 February 2025 and 20 March 2025, OVIC undertook public consultation on the draft updated Standards inviting submissions from all interested parties, including members of the public. OVIC received 14 submissions from a cross-section of the Victorian government.
- OVIC has reviewed the submissions and is in the process of updating the Standards. Updated Standards are intended to come into effect this calendar year.

15. OVIC is currently funded through the Department of Justice and Community and Safety rather than as a separate agency. Is this funding model sufficient for ensuring OVIC has adequate resources to fulfil its mandate?

- OVIC appreciates the funding demands facing the Victorian government. However, OVIC does not support the current funding arrangements.
- In OVIC's view, OVIC should receive its annual funding through an independent funding model rather than through a government department, similar to other Victorian integrity agencies. If reforms are made to the funding model for IBAC, the Ombudsman and Integrity Oversight Victoria, OVIC would like to be included in these reforms.
- OVIC being independently funded would provide increased and more direct opportunities to put forward requests and justifications for extra funding without a department needing to consider OVIC's requests alongside all departmental requests. This approach will improve the

⁹ KPMG's report on its *Review of the Professional Standards* is available on OVIC website here: <https://ovic.vic.gov.au/freedom-of-information/review-of-professional-standards-by-kpmg/>.

funding arrangement and further emphasise in the eyes of the community OVIC's operational independence.

16. OVIC has been experiencing year-on-year reductions in budget appropriations. How has this effected OVIC's ability to adequately resource service delivery and perform its functions?

- OVIC has, and continues to, adapt to its funding environment which has allowed it to remain an effective regulator of information rights that meets its obligations as an integrity agency.
- OVIC has changed its operational model and continues to do so, focusing on operational efficiencies which enable it to continue delivering core services as per the expectations within the FOI and PDP Acts.
- However, this environment does impact OVIC's ability to modernise service delivery through the application of technology.

17. While OVIC has jurisdiction to accept complaints about FOI requests made under the *Freedom of Information Act 1984* (Vic), it does not have any function regarding Access to Information requests made under the *Workplace Rehabilitation and Compensation Act 2013* (Vic). What impact does this have on individuals making requests under different legislative provisions, and OVIC's interactions with them?

- Agencies are encouraged to release information proactively without the need for an FOI request, and informally outside of the FOI Act, where possible. An agency may provide access to information informally by providing access under an alternate or informal release scheme, or a legislated scheme such as the *Workplace Injury Rehabilitation and Compensation Act 2013* (WIRC Act).
- WorkSafe has appointed four authorised insurance agents under section 501 of the WIRC Act to manage WorkCover claims. WorkCover agents manage all aspects of an injured worker's claim for compensation under the WIRC Act, including compensation payments, rehabilitation and return to work. Agents manage all documents on a worker's claim file and process requests from workers for information relating to their claim, under the Access to Information (ATI) provisions in section 9 of the WIRC Act.
- Agents are not authorised to process requests under the FOI Act. The formal statutory release scheme in section 9 of the WIRC Act provides injured workers with a right to "any information ... relevant to the claim for compensation". Unlike the FOI Act, this includes "information" in any form and not just "documents".
- The statutory timeframe for a decision to be made on an ATI request under section 9 of the WIRC Act is within 28 days of a request. There is no fee and no requirement for requests to be in writing (although they often are). There is also no provision in the WIRC Act that is equivalent to section 25A(1) of the FOI Act, which means that ATI requests cannot be refused on the grounds that they are "voluminous" or would involve an unreasonable diversion of resources to process. Section 9 of the WIRC Act also provides for 5 types of exemptions to be applied which are "borrowed" from sections 30, 31, 32, 33 and 35 of the FOI Act.
- Where OVIC receives a complaint concerning an ATI processed under the WIRC Act, OVIC considers it does not have jurisdiction to deal with a complaint where there is no active FOI

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request, and the complainant is directed to request a review with their agent or make a complaint to WorkSafe.

- If the complainant does not agree to withdraw their complaint with OVIC, OVIC will consider declining to accept the complaint under 61B(2)(a) of the FOI Act on the basis the action taken by the agency was not in the performance of its functions or obligations under the FOI Act. In this circumstance, the complainant would be directed to make a complaint to WorkSafe and if they were not satisfied with that agency's response, they may consider contacting the Victorian Ombudsman. While applicants have a right to access information under the WIRC Act, as well as under the FOI Act, OVIC only deals with requests made under the FOI Act.