

FREEDOM OF INFORMATION PART II INFORMATION STATEMENTS

INTRODUCTION:

The *Freedom of Information Act 1982* gives members of the community a legal right to information held by the government. The OPP supports this right by:

- facilitating a general right of access to documents held by the OPP – this access is limited only by the proper application of exceptions and exemptions provided for under the *Freedom of Information Act 1982*;
- delivering an efficient, timely and reasonably-costed process for disclosing information.

The Freedom of Information Part II Information Statements shows how the OPP makes information readily available to the public, reducing the need for members of the public to submit requests under the *Freedom of Information Act 1982*.

The Freedom of Information Act 1982 is available at: https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/foia1982222/

Information about the OPP and its functions can be found on this website: <https://www.opp.vic.gov.au/About-Us>

INFORMATION STATEMENTS:

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[A] STATEMENT 1: ORGANISATION AND FUNCTIONS:

The Office of Public Prosecutions (OPP) is Victoria's largest criminal legal practice. Together with the Director of Public Prosecutions (DPP) and Crown Prosecutor, the OPP prosecutes serious criminal matters in Victoria's County and Supreme Courts. These serious matters include homicide, culpable driving, armed robbery, drug trafficking, serious sex offences, corruption, fraud, organised crime, serious assaults and occupational health and safety. The OPP also conducts criminal appeals in the County Court, the Court of Appeal and the High Court of Australia.

The OPP is comprised of the Legal Practice and Corporate Services. The Legal Practice is managed by the Legal Practice Managers and Corporate Services is managed by the Executive Director of Corporate Services. These positions report to the Solicitor for Public Prosecutions (SPP).

OPP Functions

The DPP and SPP have an obligation under the *Public Prosecutions Act 1994* to conduct prosecutions in an effective, economical and efficient manner, and to give appropriate consideration to the concerns of victims of crime. The OPP's Victims and Witness Assistance Service consists of social workers who provide information and assistance to witnesses, victims of crime and their families to ensure they are supported throughout the criminal justice process. The OPP also has various other specialist units to support the functions of the office. For example, the Proceeds of Crime Unit conducts major confiscation litigation on behalf of the DPP, and the Policy and Specialised Legal Division contributes to law reform processes on behalf of the OPP.

[B] STATEMENT 2: CATEGORIES OF DOCUMENTS:

The OPP creates and handles a large number of documents and records related to the criminal prosecutions for serious crimes committed in Victoria. The types of documents the OPP handles include case files, policies and procedures, administrative records and audio-visual material.

The OPP uses an electronic document and records management system to classify, store, access and manage a broad range of electronic and hard copy documents. Documents are organised under the following categories according to the OPP's business classification scheme:

1. Audio-Visual Management
2. Communications Management
3. Contract Establishment
4. Facilities Management
5. Fleet Management
6. Government Relations
7. Human Resources Management
8. Information Management
9. Information Systems Management
10. Learning and Development Management
11. Legal Matter Management
12. Legal Services Management
13. Occupational Health and Safety Management
14. Stationery and Supplies Management
15. Strategic Management

[C] STATEMENT 3: FREEDOM OF INFORMATION ARRANGEMENTS:

Under the *Freedom of Information Act 1982* (FOI Act), members of the public have a right to request information and access documents about their personal affairs and in certain cases, the OPP's activities, (excluding the DPP who is not subject to the FOI Act).

Members of the public can therefore make an FOI request to:

- access to documents the OPP holds about their personal affairs and the OPP's activities; or
- amend / remove or correct or misleading information about them, held by the OPP.

To facilitate requests for access to documents held by the OPP, applicants should specify the matter to which their request relates and identify the documents or types of documents requested, in order to assist the OPP identify the document/s that fall within the terms of that request.

Making an FOI Request

1. **EMAIL or POST:**

Members of the public may make a request by sending a letter or application form requesting access to documents. This letter or email should clearly list the document(s) required with sufficient detail. Proof of identification (e.g. driver's licence) is also needed. If a solicitor is submitting a request on their client's behalf, they will need to provide a signed authority from their client.

All requests should be sent to:

The FOI Officer
Office of Public Prosecutions
565 Lonsdale Street
Melbourne VIC 3000
Email: foi@opp.vic.gov.au

2. **ONLINE**

Alternatively, requests may be made online by accessing the Freedom of Information Online website at www.foi.vic.gov.au by clicking on the link <https://online.foi.vic.gov.au/foi/request.doj>. An FOI request is subject to an application fee which can be waived if financial hardship is proven. Evidence of such financial hardship must be included with the FOI request. Check website for information regarding current fees.

For an FOI request to be valid, it must clearly describe the documents being sought. The request must also include fee payment receipt or evidence that a fee waiver is valid. Once the FOI request and the application fee (or fee waiver) are received, the OPP must inform the FOI applicant of the decision no later than 30 days after receiving the initial request. However, the Act does allow for an extension of time in some circumstances.

FOI Timelines

The OPP is required to process a request within 30 days. This timeframe may be unilaterally extended to 45 days where the OPP is required to consult with third parties. The processing timeframe may also be extended by periods of up to 30 days, any number of times, with the agreement of the applicant.

Amendment of personal records

After a document containing information relating to the personal affairs of a person has been released to that person, or in the case of a deceased person, that person's next of kin, the applicant can request the correction of any information held on file where it is considered that this information is inaccurate,

incomplete, out of date or gives a misleading impression. Requests for amendments must be made in writing and must specify:

- an address for service of notices
- particulars of why the applicant believes the information to be incomplete, incorrect, out-of-date or misleading
- the amendments that the applicant wishes to be made.

If the OPP agrees to the request, the record may be either altered or amended by an appropriate notation. If the OPP refuses to make the amendment, it must notify the applicant in writing of the decision and of:

- the findings on any material questions of fact, the material on which those findings were based and the reasons for the decision;
- the name and designation of the person making the decision;
- the applicant's right to a review of the decision by the Victorian Information Commissioner.

If, on further review to VCAT, the OPP's decision is affirmed, the applicant may, by written notice, insist that a notation be made to the record specifying why the applicant claims the information it contains is incomplete or otherwise inaccurate. The notation then becomes part of the document and may be disclosed according to the Act.

Alternative ways of accessing our information

Instead of making an FOI Request, members of the public can make a file request. Refer to the OPP website for further details on this process at <https://www.opp.vic.gov.au/Resources/Access-to-OPP-information/File-requests.aspx>

Consulting with Third Parties

In order to disclose certain documents, the FOI Act requires that the OPP to consult with third parties, if the information contained in the relevant documents falls within certain exemptions. An exemption is a reason under the FOI Act that may prohibit the release of certain sensitive documents. In certain circumstances however, the OPP are not required to consult where it is not practicable to do so. For example, in cases where consultation would cause a third party distress; or likely endanger the life or physical safety of any person; increase risk to safety from family violence; or in cases where it is otherwise unreasonable in the circumstances.

In cases where consultation with third parties is necessary, the OPP may extend the time for processing the request by up to 15 days, or by up to 30 days with the consent of the FOI applicant. As part of the consultation process, the name and a brief description of the FOI request will be provided to the third party person or body with whom the OPP consults with.

Possible outcomes of an FOI request

When the OPP makes a decision about an FOI request, a letter will be sent advising the FOI applicant of the decision. In this letter, the OPP may decide to:

- release the documents in full; or
- release documents in part; or
- release none of the documents requested; or
- transfer the FOI request to the appropriate agency.

Options to Appeal FOI Decision

If the OPP refuses access to the documents sought, an FOI applicant can appeal to the Office of the Information Commissioner (OVIC) for a review of the OPP decision. Please note that this appeal must be lodged within 28 days of the OPP decision. The OVIC has 30 days to conduct its review, unless an extension of time is agreed upon in writing. Any lodgment of a request for a review is not subject to any fees or costs. For further information see www.ovic.vic.gov.au

If an FOI applicant wishes to appeal the OVIC decision once it's received, they can also lodge another appeal to the Victorian Civil and Administrative Tribunal (VCAT) within 60 days of receiving OVIC's decision. This process is also not subject to any fees or costs.

[D] STATEMENT 4: PUBLICATIONS:

OPP Publications are available in the [Publications](#) section of this website. These include a number of publications aimed at supporting victims and witnesses involved in OPP prosecutions, and their families:

- [Now You Are a Witness](#) informs witnesses about their role in the criminal justice process
- [Pathways to Justice](#) has information to help witnesses to prepare for court and to outline witnesses' rights and responsibilities.
- [Taking the Next Step](#) is a guide to the Victorian court system for bereaved families. It explains the criminal justice process in detail.

To order a copy of publications by the OPP's Victim and Witness Assistance Service contact: 1800 641 927 (toll free) or 03 9603 7425 or email was@opp.vic.gov.au

To order copies of other publications contact the Media Unit on 03 9603 7493 or email media@opp.vic.gov.au

[E] STATEMENT 5: RULES, POLICIES AND PROCEDURES:

The [DPP's Policy](#) is published on this website detailing the processes and procedures in relation to criminal prosecutions, and ensures these processes are open and transparent. Please refer to the [Our Work](#) section of this website for information on the main legislation and charters relating to the work of the OPP and DPP.

[F] STATEMENT 6: REPORT LITERATURE:

Please refer to the [Resources](#) section of this website in relation to reports of the DPP and OPP.