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# Update Summary

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**UPDATE 206**

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**VICTORIAN ADMINISTRATIVE LAW**

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Updated commentary has been provided by **Alexander-Solomon Bridge**

## **Freedom of Information Act 1982**

### **Updated:**

- Whether a document is an official document of a Minister is to be determined at the time of the access request. See ***Attorney-General (Cth) v Patrick* [2024] FCAFC 126**, at [FOI.5.200]
- “Person” in section 17 of the FOI Act extends to a municipal council. See ***Moorabool Shire Council v Environment Protection Authority (Review and Regulation)* [2021] VCAT 1261**, at [FOI.13.100]
- Whether matter in a document would reasonably be regarded as irrelevant to the request involves an evaluative judgment giving rise to questions of fact and degree. See ***Bachelard v Australian Federal Police* [2025] FCAFC 5**, at [FOI.25.40]
- The VCAT aggregated four requests from the same applicant, made in proximity to each other, and all relating to the same subject matter. See ***Davis v Department of Health* [2024] VCAT 490**, at [FOI.25A.60].
- Victoria Police had not “adequately resourced” its FOI Division. See ***Vorchheimer v Victoria Police (Review and Regulation)* [2024] VCAT 537**, at [FOI.25A.120] and [FOI.25A.200]
- Evidence about usual processes for documents of the kind in dispute may be probative of a particular document’s purpose. See ***Department of Health (Vic) v Lovell* [2024] VCAT 998**, at [FOI.28.80]
- Mere disclosure of the topic that went before the Cabinet would not involve the disclosure of Cabinet deliberations. See ***Davis v Department of Health (Review and Regulation)* [2024] VCAT 707**, at [FOI.28.140]
- The government could manage the release of the information in a way which avoided worry or confusion. See ***Department of Treasury and Finance v Davis (Review and Regulation) (Corrected)* [2024] VCAT 618**, at [FOI.30.240]
- The VCAT rejected the opinion of the agency witness about how other public servants may change their approach should the disputed document be released. See ***Suburban Rail Loop Authority v Davis* [2024] VCAT 1175**, at [FOI.30.260]
- The VCAT released three email chains related to the government COVID-19 hotel quarantine program. See ***Davis v Department of Premier and Cabinet (Vic)* [2024] VCAT 1125**, at [FOI.30.480]
- The VCAT upheld only some of the claimed exemptions for a Ministerial Briefing concerning procurement of public transport ticketing services. See

***Department of Treasury and Finance v Davis (Review and Regulation) (Corrected)* [2024] VCAT 618, at [FOI.30.560] and [FOI.30.620]**

- The mere pendency of a public interest immunity claim in parallel proceedings is not necessarily sufficient. See ***Davis v Premier of Victoria* [2024] VCAT 1126, at [FOI.31.80]**
- Disclosing reasons for a disciplinary decision would not make veterinary practitioners less likely to be candid in agreeing to allegations and facts before or during disciplinary hearings. See ***Dunlop v Veterinary Practitioners Registration Board of Victoria (Review and Regulation)* [2024] VCAT 594, at [FOI.31.80]**
- It is difficult to understand how release of the documents could affect the impartiality of the Supreme Court. See ***Davis v Premier of Victoria* [2024] VCAT 1126, at [FOI.31.120]**
- The focus is not whether the recipient considers the information should remain confidential. See ***Bachelard v Australian Federal Police* [2025] FCAFC 5, at [FOI.31.140]**
- Ministerial staff in a minister's private office are not public servants. See ***Davis v Department of Premier and Cabinet (Vic)* [2024] VCAT 1125, at [FOI.33.120]**
- The VCAT was not satisfied that the information provided to the respondent agency had been provided in confidence. See ***Dunlop v Veterinary Practitioners Registration Board of Victoria (Review and Regulation)* [2024] VCAT 594, at [FOI.35.40]**
- Formal hearings were required to be open to the public. See ***Dunlop v Veterinary Practitioners Registration Board of Victoria (Review and Regulation)* [2024] VCAT 594, at [FOI.38.60]**

