



**Australian Government**  
**Department of Veterans' Affairs**

Alice Linacre  
Freedom of Information Commissioner  
Office of the Australian Information Commissioner

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Dear Commissioner Linacre

**Submission on draft revisions to Part 13 of the Freedom of Information Guidelines – Information Publication Scheme**

The Department of Veterans' Affairs (Department) welcomes the opportunity to provide the Office of the Australian Information Commissioner (OAIC) with comments on the consultation draft (version 1.6) of Part 13 of the Freedom of Information (FOI) Guidelines.

***Outline of submissions***

The Department acknowledges and supports the intent of draft Part 13 and the Information Publication Scheme (IPS), as articulated at paragraphs 13.1 – 13.6 of the draft Guidelines. The Department has three suggestions on matters of detail, which could help ensure that Guidelines take account of, and provide agencies with guidance about, the following matters:

- (1) Harmonisation with concurrent obligations on agencies under the *Privacy Act 1988* (Cth) where certain information within the scope of Part 13 of the draft Guidelines comprises or includes personal information. In particular, proposed obligations to publish a list of decisions made using automated decision-making (ADM) and considering aligning the commencement timeframe for new part 13 of the Guidelines with the commencement of recent amendments to the Privacy Act in December 2026.
- (2) Recognising the high volume of records which would be captured by the proposed obligations to publish certain records containing an agency's 'operational information' (particularly instruments of delegation and authorisation) and considering whether the obligation could be limited to publish current instruments, and possibly also a designated subset of those records as a minimum standard.

### ***Paragraph 13.120: transparency in automated decision-making (ADM)***

Paragraph 13.120 refers to the Information Commissioner's report on '[Automated decision-making and public reporting under the Freedom of Information Act](#)' (January 2026) including recommendation 3 of that report that 'Agencies that use ADM should also publish both a list of decisions they use ADM for, as well as relevant and easy to understand examples, so the public can better understand how ADM is being used to make decisions that affect them'.

#### Suggestion

The Department supports the intention behind the inclusion of this proposed requirement, and suggests that the wording is clarified to make explicit that the requirement is to publish a list of the types or categories of decisions in which ADM is used, rather than exhaustively listing all individual decisions which have been made using ADM.

#### Explanation

The publication of all individual administrative decisions made by the Department under veterans' support legislation would necessarily require the disclosure of personal information of individuals who have made claims for compensation or support, contrary to the Department's obligations under the Privacy Act. It would also be operationally prohibitive given the volume of decisions on veterans' compensation and support made by the Department which utilise automated inputs in some form, all of which would be covered by the expansive definition of ADM adopted in the Information Commissioner's report.

For example, the Department's governing legislation presently permits it to utilise computer-based decision-making to accept claims for liability for certain illnesses, injuries or diseases (that is, accepting veterans' claims that their condition was related to their Defence service).

Further, as identified in the [Department's AI Transparency Statement](#), [privacy policy](#) and [privacy data collection notice](#), the Department's computer systems incorporate a number of task management and automated decision-making (ADM) processes as part of processing claims under the legislation administered by the Department, although the ultimate decision is made by a person. For instance, the Department's AI Transparency Statement identifies the following trial of an AI document reader to assist in summarising voluminous documentary evidence supporting some claims:

*DVA has commenced a trial of a voluntary, consent based, Proof of Concept Claims Document Reader AI tool. The prototype document reader has been built by DVA within the GovAI Platform. The trial uses a clear consent model to ensure trial participants who volunteer to participate in the trial understand the purpose of the tool, what information may be used during the trial and how AI enabled technologies may interact with information. The trial will test the suitability of the tool to assist staff in processing claims. The tool does not make decisions or determine claim outcomes. Claims decisions will continue to be made by trained DVA delegates.*

The Department anticipates a future state in which many or most of its decisions will utilise some form of automated inputs to support decision-making. This would involve a very large

number of decisions. Illustratively, in 2024-25, the Department made 243, 183 primary compensation determinations, with the number of claims increasing year-on-year. In this context, it would not be viable for the Department to satisfy a requirement under the IPS to publish a list of individual decisions utilising ADM, within the meaning of that term in the Information Commissioner's report.

***Paragraph 13.124: publication of instruments of authorisation or delegation***

Paragraph 13.124 provides that 'Instruments authorising officers within an agency to make certain decisions or take certain actions fall within the definition of 'operational information' in s 8A( 1) of the FOI Act and so should be included on an agency's IPS entry'.

Suggestion

The Department supports the intent of this requirement, and suggests that consideration is given to its scope to ensure that compliance is operationally feasible for large agencies which have high numbers of instruments of delegation and authorisation.

Consideration could be given to expressly limiting the requirement to instruments currently in force, so that there is no requirement to back catalogue all previous iterations. Consideration might also be given to specifying a minimum standard which requires all agencies to publish certain types of instruments which are of highest priority to the Information Commissioner. For example, it may be possible to limit the requirement to current instruments and to focus the requirement on specific subject areas that are common across all agencies, such as financial or people delegations.

Explanation

As currently drafted, the requirement in paragraph 13.124, in combination with the definition of 'operational information' in subsection 8A(1) of the FOI Act, would arguably capture every instrument of delegation or authorisation the Department currently has, and previously had, in operation. The Department currently has over 100 instruments of delegation and authorisation in effect. These comprise financial delegations, people delegations and business delegations. There would be significant resource impacts, and the risk of diversion of resources from the Department's information access functions, if the Department were required to maintain a web-catalogue of both current and lapsed instruments.

***Timing of proposed changes: potential alignment with Privacy Act amendments***

Suggestion

The Department would support consideration of alignment of the timing for the commencement of the proposed amendments to Part 13 of the Guidelines with the commencement in December 2026 of recent changes to the Privacy Act, with regards to similar transparency requirements under that Act.

## Explanation

The Department has undertaken work planning and resourcing requirements to account for the implementation of the amendments to the Privacy Act, in anticipation of their commencement. Aligning commencement timeframes would likely enable agencies which are also APP entities under the Privacy Act to realise efficiencies in their implementation efforts for both the amended FOI Guidelines and the Privacy Act.

Thank you again for the opportunity to comment on the draft Guidelines. Should you require further information or wish to discuss any aspect of the Department's comments, please contact the Information Law Branch by email at [information.law@dva.gov.au](mailto:information.law@dva.gov.au).

Yours sincerely

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