

28 March 2024

Mr Sean Coley  
Integrity and Oversight Committee Manager  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3002

By email: [REDACTED]

**Re: Inquiry into the operation of the *Freedom of Information Act 1982 (Vic)* (FOI Act) – questions on notice**

Dear Mr Coley,

I refer to the letter from Dr Tim Read, Chair of the Integrity and Oversight Committee dated 20 February 2028 seeking further responses from Western Health to questions on notice, following Western Health's initial submission in December 2023.

**Q1. Does Western Health use an Electronic Medical Record system and, if so, has it made the provision of access to health-related information more efficient?**

Western Health has implemented two phases of an electronic medical record (EMR). The EMR facilitates more efficient and cost-effective access to health-related information by our FOI officers as compared to scanned medical records and hardcopy medical records.

**Q2. As you are aware, jurisdictions like NSW and Queensland have 'push' Freedom of Information (FOI) models that promote proactive and informal release. Have you spoken with health care providers in these jurisdictions regarding their FOI experiences? If so, what insights have they offered regarding their experiences?**

Our understanding of a proactive and informal release process utilised in relation to health-related information is the Commonwealth's My Health Record [My Health Record \(digitalhealth.gov.au\)](http://digitalhealth.gov.au). We are not familiar with proactive and informal processes in relation to release of health-related information in NSW and Queensland.

Western Health's FOI Team Leader comes to us with direct experience of working in health information services in a hospital operated by NSW Health, sharing with us the differences in operating models that make the NSW access and release regime different from the Victorian FOI regime. Our understanding is that the NSW local health districts have shared EMRs, and that public health services within a local district only release their own information from the shared EMR in response to an access request under *The Health Records and Information Privacy Act 2002* (NSW). We understand that personal information held by public sector agencies in NSW is

released under the *Government Information (Public Access) Act 2009* (NSW). We are not familiar with the access regime in Queensland.

**Q3. From a health care perspective, do you have any concerns about a potential transition, in Victoria, to a 'push' FOI model that promotes proactive and informal release?**

The Office of the Victorian Information Commissioner encourages the proactive and informal release of information. Western Health releases certain documents proactively, informally and without charge already to patients and their general practitioners, such as hospital discharge summaries.

We would welcome funding to implement technology-enabled solutions to facilitate patient access to more of their health-related information and fully utilise the consumer-focused capability of the EMR, for example through patient portals. However without funding, proactive and informal release of health-related information without charging application fees and access charges is not feasible.

**Q4. From an administrative perspective, what are the benefits of the statutory release scheme under the Health Records Act 2001 (Vic)?**

The 45 day access timeline under Section 34(2) of the *Health Records Act 2001* (Vic) (HRA) is easier to understand and is of more practical relevance to a consumer than a "decision" timeline of 30 days with no clear timeline for access following a decision on access under the FOI Act.

Part 5 of the HRA is written in plain language for a consumer audience, which in turn makes it easier for FOI officers to explain to applicants when applicants can expect to receive a copy of their medical record and how the charges will be calculated.

Where processes are clearer to consumers, those processes are easier for our health information teams to administer.

**Q5. The Committee has received evidence that access to personal and health-related information should be separate from the FOI scheme. What is your view?**

We have no current concern with access to personal information under the FOI scheme, in the absence of an alternative Victorian statutory framework. There is an alternative statutory framework for access to health-related information in Victoria under the HRA and we consider access to health information-related information should be facilitated under one framework, regardless of whether the information to which access is sought by an applicant in Victoria is held in the public, private or community sectors.

**Q6. Please elaborate on Western Health's view that the Health Service Partnership model would provide a better access regime for personal and health information than the current arrangement.**

Currently, public health services collaborating in the provision of public health services are still required to consult with each other in the FOI process as third parties, given they are separate legal entities. If access to health-related information was to remain under the FOI Act, the Health Service Partnership model has the potential to facilitate contractual arrangements between health services to remove or qualify the obligation for third party consultation in an FOI application where health services have delivered health services co-operatively.

Thank you for the opportunity to participate in the Victorian Integrity and Oversight Committee's Inquiry into the operation of the *Freedom of Information Act 1982* (Vic) (FOI Act).

Yours Sincerely,



**Prof. Russell Harrison**  
Chief Executive Officer – Western Health

cc. Tess Lye, Executive Director General Counsel, Western Health