



Decision and Reasons for Decision

Citation: *A90 and Griffith University [2025] QICmr 11 (13 March 2025)*

Application Number: 317819

Applicant: A90

Respondent: Griffith University

Decision Date: 13 March 2025

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - whether agency has conducted reasonable searches - where agency has explained why documents do not exist - whether there are reasonable grounds to be satisfied the requested documents do not exist - whether access to further documents may be refused on the basis they are nonexistent - section 67(1) of the *Information Privacy Act 2009 (Qld)* and sections 47(3)(e) and 52(1) of the *Right to Information Act 2009 (Qld)*

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Griffith University (**University**) under the *Information Privacy Act 2009 (Qld)* (**IP Act**). His application requested certain documents ‘*associated with any human research undertakings [he] was party to*’ from 2016 to 2023.² The University consulted with the applicant³ and the applicant amended his request.⁴
2. The University decided⁵ that the application did not give sufficient information and therefore did not comply with all relevant application requirements.
3. The applicant applied⁶ to the Office of the Information Commissioner (**OIC**) for external review of the University’s decision.

¹ On 20 December 2023.

² Specifically, 1 January 2016 to 20 December 2023.

³ On 10 January 2024, under section 53(2) of the IP Act, the University asked the applicant to provide sufficient information concerning the documents requested by him, in order to comply with section 43(2)(b) of the IP Act. The University also suggested that the applicant limit the scope of his application, to ensure that the substantial and unreasonable diversion of resources ground for refusing to deal with his application in section 60 of the IP Act did not apply.

⁴ Also, on 10 January 2024.

⁵ On 5 February 2024.

⁶ On 7 February 2024.

4. For the reasons set out below, I vary the University's decision and find that access to documents responding to the application may be refused on the ground that they are nonexistent.⁷

Background

5. The applicant's access application stated:

This ... application refers to documents associated with human research undertakings I was a party to. Please note, I have not knowingly been involved in human research undertakings, however that does not necessarily mean I have never been a party to such activities.

6. The amended access application identified the following three categories of documents, and then included an appendix titled '*Exempting Consent*' which the applicant stated '*outlines circumstances which do not require consent from, or disclosure to, participants*'.

[Part] 1. Consent Materials, Waivers & Ethical Clearances

Requested Documents:

1. Consent materials for any human research activities I was party to.
2. Waivers of consent for any human research undertakings I was party to.
3. Ethical clearances for any human research undertakings I was party to.

[Part] 2. Research Data & Primary Materials

Requested Documents:

1. Research data & primary materials associated with human research undertakings I was party to; where the research data and primary materials contain my personal information.
2. Meta-data associated with the requested documents for this section (item 2 (1))

[Part] 3. Research outputs and findings

Requested Documents:

1. Research outputs and / or findings; where those research outputs or findings pertain to human research undertakings I was party to.
2. Meta-data associated with the requested documents for this section (item 3 (1)).

Reviewable decision

7. The decision under review is the University's decision dated 5 February 2024.

Evidence considered

8. Significant procedural steps relating to the external review are set out in the Appendix.
9. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix). I have taken into account the applicant's submissions to the extent they are relevant to the issue for determination in this review.
10. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁸ I consider a decision-maker will be '*respecting, and acting compatibly with*' that right, and others prescribed in the HR Act, when applying the law prescribed in the IP Act and RTI Act.⁹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations of

⁷ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

⁸ Section 21(2) of the HR Act.

⁹ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

Bell J on the interaction between equivalent pieces of Victorian legislation:¹⁰ *it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*.¹¹

Issue for determination

11. The issue for determination in this review is whether access to the documents requested in the access application may be refused on the ground that they are nonexistent.

Relevant law

12. Under section 40 of the IP Act, an individual has a right to be given access to documents of an agency to the extent they contain the individual's personal information.¹² This right is subject to limitations, including grounds for refusal of access.¹³
13. The Information Commissioner's external review functions include investigating whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.¹⁴ However, access may be refused in circumstances where a document is nonexistent.¹⁵
14. A document will be *nonexistent* if there are reasonable grounds to be satisfied it does not exist.¹⁶ To be satisfied that a document does not exist, the Information Commissioner has previously had regard to various key factors, including an agency's record keeping practices and procedures (including, but not limited to, its information management approaches).¹⁷ By considering relevant factors, the decision maker may conclude that a particular document was not created because, for example, the agency's processes do not involve creating that specific document. In such instances, it is not necessary for the agency to search for the document. Rather, it is sufficient the relevant circumstances to account for the nonexistent document are adequately explained by the agency.
15. The Information Commissioner may also take into account the searches and inquiries conducted by an agency in determining whether a document is nonexistent. The key question then is whether those searches and inquiries amount to '*all reasonable steps*'.¹⁸ What constitutes reasonable steps will vary from case to case, as the search and inquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances. Such steps may include inquiries and searches of all relevant locations identified after consideration of relevant key factors.¹⁹

¹⁰ *Freedom of Information Act 1982 (Vic)* and the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.

¹¹ XYZ at [573].

¹² *Personal information* is defined in section 12 of the IP Act as '*information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion*'.

¹³ Section 67(1) of the IP Act sets out that an agency may refuse access to information in the same way and to the same extent that the agency could refuse access to the document under section 47 of the RTI Act were the document the subject of an access application under the RTI Act.

¹⁴ Section 137(2) of the IP Act. The Information Commissioner also has power under section 115 of the IP Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb v Information Commissioner* [2021] QCATA 116 at [6] that the RTI Act '*does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents*' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

¹⁵ Sections 47(3)(e) and 52(1) of the RTI Act.

¹⁶ Section 52(1)(a) of the RTI Act. For example, a document has never been created.

¹⁷ *Isles and Queensland Police Service* [2018] QICmr 27 (7 June 2018) at [15] which adopted the Information Commissioner's comments in *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*) at [37]-[38]. *PDE* addresses the application of section 28A of the now repealed *Freedom of Information Act 1992 (Qld)*. Section 52 of the RTI Act is drafted in substantially the same terms as the provision considered in *PDE* and, therefore, the Information Commissioner's findings in *PDE* are relevant.

¹⁸ As set out in *PDE* at [49].

¹⁹ As set out in *PDE* at [38].

16. The agency that made the decision under review has the onus of establishing that the decision was justified, or the Information Commissioner should give a decision adverse to the applicant.²⁰ However, where an external review involves the issue of missing documents, the applicant bears a practical onus to establish reasonable grounds which demonstrate that the agency has not discharged its obligation to take all reasonable steps to locate the requested documents. Suspicion and mere assertion will not satisfy this onus.²¹
17. In assessing an agency's searches, the Information Commissioner has confirmed the relevant question is whether the agency has taken *all reasonable steps* to identify and locate documents, as opposed to *all possible steps*.²²

Findings

18. In Part 1. of his application, the applicant requested:

[Part] 1. Consent Materials, Waivers & Ethical Clearances

Requested Documents:

1. Consent materials for any human research activities I was party to.
2. Waivers of consent for any human research undertakings I was party to.
3. Ethical clearances for any human research undertakings I was party to.

19. Given the applicant's comment that he had not knowingly been involved in any human research noted at paragraph 5 above, OIC asked²³ the University to explain whether such research would be undertaken in circumstances where a research subject would not be aware of it.

20. The University responded:²⁴

... I have discussed [the applicant's] application with the Acting Director, Office of Research and the Manager, Research Ethics and Integrity at Griffith University. They have advised that the Human Research and Ethics Committee will only issue a waiver for consent where [certain] criteria can be met, as outlined in part 2.3.10 of the 2023 National Statement.^[25] ...

Part 2.3.12 of the National Statement also requires the following:

- *Given the importance of maintaining public confidence in the research process, it is the responsibility of each institution to make publicly accessible (for example in annual reports) summary descriptions of all its research projects for which consent has been waived under 2.3.10 and 2.3.11. Waiver decisions under 2.3.11 **should not be made publicly accessible until the research has been completed.***

As such, Griffith University reports a list of all projects where a waiver of consent was granted to the Research Committee annually. This list is then published in the Annual Report for the Human Research Ethics Committee.

²⁰ Section 100(1) of the IP Act.

²¹ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

²² *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

²³ Email dated 28 March 2024. When doing so, OIC referenced the National Health and Medical Research Council's National Statement on ethical conduct in human research, particularly the statement in chapter 2.3 that '*When neither explicit consent nor an opt-out approach are appropriate, **the requirement for consent may sometimes be justifiably waived.** When an HREC or, where appropriate, another review body grants a waiver of consent for research conducted prospectively or retrospectively, **research participants will characteristically not know that they, or perhaps their tissue or data, are involved in the research.*** Bold is OIC's emphasis.

²⁴ Email dated 16 April 2024. Bold is the University's emphasis.

²⁵ That is, the National Health and Medical Research Council's 2023 *National Statement on Ethical Conduct in Human Research* at <https://www.nhmrc.gov.au/research-policy/ethics/national-statement-ethical-conduct-human-research> (viewed 26 February 2024) (**National Statement**).

- ...
- *Waivers of consent are often given for de-identified data sets. ...*
21. In terms of 2. waivers of consent and 3. ethical clearances, the applicant now *'agree[s] that a participant would probably not be identified within the documents themselves'*.²⁶ However, he maintains that 1. consent materials exist and further searches to locate them are required. In this regard, consistent with his statement in his access application that he has not knowingly been involved in human research, the applicant does not contend that consent materials in which **he** provided consent exist.
22. Rather, he has submitted that his consent could have been *'given to the university by somebody with the authority to act on [his] behalf'*.²⁷ Further, he has submitted that a legal representative or guardian can provide consent – and in support of this has referred to section 4.5.5 of the National Statement and section 5 of Griffith University Research Ethics Manual Booklet 28 (**GUREM**). Relying on these, he submits *'it cannot be reasoned that my lack of knowledge regarding research undertakings I have been party to should result in this part of my request ... being a nullity'* and further searches for consent materials need to be undertaken.²⁸
23. I acknowledge that consent may be provided by a research subject's legal representative or guardian, rather than the research subject themselves, as contemplated by the National Statement and GUREM. However, identifying an abstract or hypothetical possibility that someone other than the applicant himself may have provided consent is, on its own, insufficient.
24. The applicant has at no stage provided any information or evidence about legal representatives or guardians particular to him or his circumstances. Consequently there is nothing before me to suggest the name of any legal representative or guardian, the reason for and nature of their appointment, or the circumstances in which they may have become aware of human research projects and provided consent on the applicant's behalf, either during the initial two years of the applicant's timeframe, when he was attending the University, or in the subsequent six years of the timeframe.
25. When considering the applicant's position on this issue, I have been particularly mindful of human rights considerations, given the section of the National Statement raised by the applicant mentions cognitive impairment, intellectual disability and mental health. Taking into account all information before me, I cannot identify any cause to request that the University conduct searches for consents *'given to the university by somebody with the authority to act on [the applicant's] behalf'*, when there is nothing at all before me to indicate the existence of any such individual, let alone their identity. The applicant has not met the practical onus on him to show that the University has failed to fulfil its search obligations, and I must conclude that 1. consent materials responsive to Part 1 may be refused on the ground they are nonexistent.
26. In Part 2. of his application, the applicant requested:

[Part] 2. Research Data & Primary Materials

Requested Documents:

1. *Research data & primary materials associated with human research undertakings I was party to; where the research data and primary materials contain my personal information.*
2. *Meta-data associated with the requested documents for this section (item 2 (1)).*

²⁶ Letter to OIC dated 25 November 2024.

²⁷ Letter provided with amended access application dated 10 January 2024. Bold is my emphasis.

²⁸ Letter to OIC dated 25 November 2024.

27. Consistent with my abovementioned conclusion that 1. consent materials responsive to Part 1. are nonexistent, the only basis that research data and primary materials responsive to 1. of Part 2. could possibly exist would relate to research where the requirement for consent had been waived. Given this, OIC asked the University to:²⁹
- Check its *Annual Reports for the Human Research Ethics Committee* covering the period specified by the applicant and identify any human research projects where the Human Research and Ethics Committee granted *waivers of consent*.
 - For all research projects where waivers were granted, ascertain whether or not the project in question considered de-identified data sets, by referring to information in the relevant *Annual Report* in the first instance, and otherwise through enquiries with the relevant researcher.
 - For all research projects which considered data sets that were *not* de-identified, make enquiries with the relevant researcher to establish whether any of the applicant's personal information was used in the project in question.
28. In response, the University submitted:³⁰

... the University has reviewed the Annual Reports for the Human Research Ethics Committee in relation to this external review. In reviewing the studies conducted, the University only conducted searches with the researcher on one study in 2020 as the study was proposed to consider counselling data and we considered that the applicant's data may have been used. However, when we contacted the researcher, they advised that [Study number 3 in 2020] did not proceed and no data was pulled. For the remaining studies, I have outlined the University's reasoning on why searches were not undertaken below:

Year of reports	No. of Waivers of Consent sought	No. of studies with deidentified data	Studies without deidentified data
2016	2	1	<i>One study did not use a de-identified data set. We did not search this study for the applicant's information as it related to data from an overseas hospital.</i>
2017	3	2	<i>One study did not use a de-identified data set. However, we did not search this study for the applicant's information as the data was from a 2013 research project so excluded from scope.</i>
2018	3	3	<i>N/A</i>
2019	2	2	<i>N/A</i>
2020	7	0	<p><i>In this year, all studies where waivers of consent were sought contained identified data. However, we did not search for the applicant's information on the following studies because:</i></p> <ul style="list-style-type: none"> • <i>Study 1 – The applicant was not enrolled in the course which the study focused on.</i> • <i>Study 2 – The applicant was not enrolled in the course which the study focused on.</i> • <i>Study 4 – The study was on coal mine dust in lung disease patients.</i> • <i>Study 5 – This was a nonhuman study.</i>

²⁹ Letter dated 20 September 2024.

³⁰ Letter dated 11 October 2024.

			<ul style="list-style-type: none"> • Study 6 – The study was in relation to Domestic Violence police interviews. • Study 7 – The applicant was not enrolled in the course which the study focused on. <p>We conducted searches for the applicant's information in relation to study 3 as it was proposed to contain counselling data. However, the researcher advised that the project did not go ahead and the data was not pulled.</p>
2021	6	2	<p>In this year, 4 studies did not use deidentified data sets. However, we did not search for the applicant's information in these studies because:</p> <ul style="list-style-type: none"> • Study 1 – This was observational research at a cemetery. • Study 3 – This was an overseas study. • Study 4 – This was an Australia wide hospital study. • Study 6 - The applicant was not enrolled in the course which the study focused on.
2022	11	7	<p>In this year, 4 studies did not use deidentified data sets. However, we did not search for the applicant's information in these studies because:</p> <ul style="list-style-type: none"> • Study 1 – This study used data from overseas. • Study 4 – This was a study on colorectal cancer study. • Study 5 – This was a non-human study. • Study 9 – This was a study on remote indigenous medical services.
2023	15	12	<p>In this year, 3 studies did not use deidentified data sets. However, we did not search for the applicant's information on the following studies because:</p> <ul style="list-style-type: none"> • Study 6 – This study used publicly available data. • Study 8 – This study used autoethnographic data. • Study 14 – The study used data from Brisbane Broncos players.

29. Taking into account the University's response, OIC conveyed a preliminary view to the applicant.³¹ This view proceeded on the basis that the studies *with* de-identified data noted in the University's table did *not* contain the applicant's personal information given that they were de-identified, and therefore could not be subject to the applicant's access application made under the IP Act.³² The view advised that, having carefully considered the nature of all the studies *without* de-identified data, it was considered reasonable to conclude that documents regarding these studies did *not* contain the applicant's personal information. Given these conclusions, OIC confirmed that proceeding beyond step b. noted at paragraph 27 above was not possible in the circumstances.

³¹ Letter dated 11 November 2024.

³² Section 43 of the IP Act provides that an individual may apply to an agency (or Minister) under the IP Act for access to documents to the extent they contain the individual's personal information.

30. In response, the applicant reiterated his position noted at paragraph 22 above, and stated that *'consent does not necessarily have to be sought directly from an individual so it was inappropriate to only include research activities where consent was waived'*.³³
31. In this regard, I repeat and rely on my above reasons at paragraphs 23 to 25, regarding 1. consent materials responsive to Part 1. I remain satisfied that the only responsive research data and primary materials responsive to 1. of Part 2. that could reasonably be expected to exist would relate to research where the requirement for consent had been waived, and therefore consider it reasonable and appropriate that the University's searches should be confined to such circumstances.
32. The applicant also expressed concern that the University had only searched for studies with de-identified data. However, as is apparent from the University's response at paragraph 28 above, the University's searches covered both studies *with* de-identified data and studies *without* de-identified data.
33. The applicant's submissions also state:³⁴

While re-identifiable (or de-identified) data is not commonly held in its re-identified form, all one needs is access permissions and a key-code to re-identify the data. Personally identifiable and re-identifiable are both types of information that contain personal information, it is just that the latter is a more secure form of that information. It is for these reasons [the University] should have included projects that used both personally identifiable data and re-identifiable data (i.e. de-identifiable data) in its searches.

34. When considering whether information qualifies as personal information, it is necessary to determine if an individual's identity is either *'apparent'* or *'can reasonably be ascertained'*.³⁵ The relevant term in the circumstances of this matter is *'reasonably ascertained'*, which contemplates the information in question being compared or cross-referenced with *other information* – that is, auxiliary information³⁶ – to identify the individual in question. In effect, the applicant contends that the key-codes are a form auxiliary information which, when combined with the de-identified data, could result in him being re-identified.
35. The University's submissions do not indicate how many of the studies with de-identified data included the use of key-codes and the like. Thus, the extent to which re-identification from de-identified data is possible is not clear on the information before me. However, I do not consider that further inquiries regarding key-codes are necessary. This is because I do not consider that key-codes comprise reasonably available auxiliary information. Rather, access to them is confined to a small and confined number of individuals associated with each piece of human research. Further, those individuals could not immediately connect the applicant to particular data (should there be any data about him). Assuming they had impetus to make the connection, two steps would be required – firstly searching their key-codes for a key-code connected to the applicant, and then searching their datasets for that key-code. As such, I do not consider the key-codes are widely or readily available enough for comparison or cross-checking with de-identified data to support a conclusion that the identities of the individuals to whom the de-identified datasets relate *'can reasonably be ascertained'*. Accordingly, I am satisfied that the studies with de-identified data do not contain the personal information of research subjects, including the applicant (if he were such a subject).

³³ Letter dated 25 November 2024.

³⁴ Letter dated 25 November 2024.

³⁵ Section 12 of the IP Act.

³⁶ Office of the Information Commissioner (Qld), *Privacy and Public Data: Managing re-identification risk*, Report No. 1 to the Queensland Legislative Assembly for 2020-21 tabled on 14 July 2020 at <https://documents.parliament.qld.gov.au/tp/2020/5620T1124.pdf>.

36. Further, the applicant submitted that *'I do not believe the handful of research projects relayed to the OIC by [the University] to be the extent of the research projects involving waivers for the period requested. [The University] published over 4,000 research projects alone in 2023'*.³⁷ I note that here, the applicant appears to be referring to all research projects, rather than just human research projects. Given this, and also noting the University's advice³⁸ that it reports and publishes a list of all projects where a waiver of consent was granted to the Research Committee annually in the Annual Reports of the Human Research Ethics Committee, and the subsequent provision of information from this list to OIC,³⁹ there is nothing before me to indicate that the University's response is insufficiently comprehensive.

37. The applicant also submitted:⁴⁰

The biggest issue I have with the information contained in the appendix is that it lacks any detail regarding how the searches were conducted. For example, according to Griffith's Retention Periods for Research Data Guide, there are several locations (both internally and externally) researchers can store their research data and primary materials, those being:

Internal:

- Research drive
- Research Space
- OneDrive
- Research Vault.

External:

- Microsoft Office 365 - SharePoint /Teams.

There is no mention of the searches undertaken in these locations or the search methods used. In addition, category A research records, are those that have a permanent retention period, so it is possible that certain documents have been transferred to QSA. Lastly, and as previously pointed out, searching through de-identifiable data presents additional challenges as the data must be de-coded, yet no mentions have been given regarding the process used for searches conducted on de-identified data sets.

38. Here, the distinction between what steps are *possible*, and what steps are *reasonable*, is pertinent. The applicant appears to suggest that searches of the above locations should be conducted for every human research project conducted by the University over the eight-year timeframe his application covers, whether or not consent to the research was waived, and whether or not the research used de-identified datasets. Necessarily, for each project using de-identified datasets, he considers that the extra process of cross-checking with key-codes should also occur. Further, he also considers it appropriate that searches extend to documents held by Queensland State Archives.

39. I am satisfied that the University's interrogation of lists of all research projects where a waiver of consent was granted in relevant Annual Reports for the Human Research Ethics Committee was a reasonable step – however, this step yielded results which indicated no further reasonably available avenues of inquiry. While the steps suggested by the applicant are *possible*, they are not in my opinion *reasonable*, given the complete

³⁷ Letter to OIC dated 25 November 2024.

³⁸ Email dated 16 April 2024.

³⁹ Letter dated 11 October 2024.

⁴⁰ Letter to OIC dated 25 November 2024. Applicant's footnote omitted.

absence of any evidence to suggest the existence of responsive research data and primary materials responsive to 1. of Part 2. in any of these locations.⁴¹

40. Finally, the applicant submitted that OIC should require the University to provide OIC and him with copies of the research papers resulting from the studies without deidentified data described by the University.⁴² He appears to contend that these papers should be provided to him pursuant to section 116 of the IP Act, so that he may check whether the nature and scope of the studies *without* de-identified data matches the University's descriptions. Insofar as the applicant requests that the University provide this information to him under section 116, I note that section 116 relates to the provision of information to OIC – not to an applicant. Insofar as the applicant contends it is necessary for OIC to obtain and consider these papers, I confirm that I am satisfied that the level of detail already provided by the University is adequate for me to find that the studies *without* de-identified data, and therefore documents regarding those studies, could not reasonably be expected to contain the applicant's personal information.
41. In summary, I am satisfied that the University has taken all reasonable steps to locate research projects that could reasonably be expected to contain the applicant's personal information, and therefore research data and primary materials responsive to 1. of Part 2. I therefore conclude that these documents may be refused on the ground they are nonexistent. It follows that I am also satisfied that 2. metadata associated with these requested documents does not exist and may be refused on this ground.
42. In Part 3. of his application, the applicant requested:

[Part] 3. Research outputs and findings

Requested Documents:

1. *Research outputs and / or findings; where those research outputs or findings pertain to human research undertakings I was party to.*
2. *Meta-data associated with the requested documents for this section (item 3 (1)).*

43. Given my finding that research data and primary materials responsive to 1. of Part 2. of the application are nonexistent, it follows that I consider that research outputs and findings responsive to 1. of Part 3 – which would necessarily draw on such research data and primary materials – are also nonexistent. I therefore find that access to information relating to 1. of Part 3 may be refused on the ground that it is nonexistent. Accordingly, I consider that 2. metadata associated with such information may be refused on the same ground.

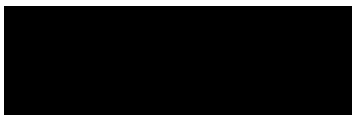
DECISION

44. For the reasons set out above, I vary the University's decision and find that access to documents responding to each of the three parts of the applicant's access application may be refused on the ground that they are nonexistent under section 67(1) of the IP Act and sections 47(3)(e) and 52(1) of the RTI Act.

⁴¹ I also note that, even if there was any evidence of the existence of any such documents, the scale of the searches the applicant proposes would, in any event, very likely amount to a substantial and unreasonable diversion of the University's resources – in which case, the University could refuse to deal with the applicant's access application under section 60 of the IP Act.

⁴² That is, the studies listed in the right-hand column of table at paragraph 28 above. Letter to OIC dated 25 November 2024.

45. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.



A Rickard
Assistant Information Commissioner

Date: 13 March 2025

APPENDIX**Significant procedural steps**

Date	Event
7 February 2024	OIC received the application for external review from the applicant. OIC requested preliminary documents from the University.
15 February 2024	OIC received the preliminary documents from the University.
21 March 2024	OIC advised the applicant and the University that the application for external review had been accepted.
28 March 2024	OIC requested information from the University.
16 April 2024	OIC received a submission from the University.
20 September 2024	OIC requested further information from the University.
11 October 2024	OIC received further information from the University.
11 November 2024	OIC conveyed a preliminary view to the applicant.
25 November 2024	OIC received a submission from the applicant.
25 February 2025	OIC conveyed a preliminary view to the University.
6 March 2025	OIC received a submission from the University.