



Decision and Reasons for Decision

Citation:	<i>G63 and Department of the Environment, Tourism, Science and Innovation</i> [2025] QICmr 39 (19 June 2025)
Application Number:	317960 and 317991
Applicant:	G63
Respondent:	Department of the Environment, Tourism, Science and Innovation
Decision Date:	19 June 2025
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - employment and recruitment information - whether disclosure would, on balance, be contrary to the public interest - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - applicant alleges further documents should exist - whether agency has taken all reasonable steps to locate relevant documents - whether further documents are nonexistent or unlocatable - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(e) and 52(1) of the <i>Right to Information Act 2009</i> (Qld)</p>

REASONS FOR DECISION

Background

1. The applicant made two separate access applications¹ to the Department of the Environment, Tourism, Science and Innovation (**Department**)² under the *Information Privacy Act 2009* (Qld) (**IP Act**) seeking access to various documents regarding complaints made against him in the workplace, and information about a recruitment process.
2. On the first application³, the Department decided⁴ to refuse access to 30 pages on the basis that disclosure would, on balance, be contrary to the public interest.⁵ The applicant

¹ On 30 September 2023 in relation to external review 317960, and on 18 May 2023 in relation to external review 317991.

² At the time of the access applications being made, the Department was known as the Department of Environment and Science. Machinery of Government changes were made to Ministerial portfolios and departmental arrangements on 18 December 2023 and 1 November 2024. As a result, the Department was renamed the Department of Environment, Science and Innovation and later, the Department of the Environment, Tourism, Science and Innovation.

³ Subject of external review 317960.

⁴ Decision dated 6 February 2024.

⁵ The Department also decided to refuse to deal with part of the access application on the basis that the applicant had previously sought access to the same documents, and parts of 9 pages (mobile phone numbers) on the basis that disclosure would, on balance, be contrary to the public interest. The applicant did not seek internal or external review of those aspects of the decision.

applied to the Department for internal review⁶ and questioned the searches conducted, specifically of Microsoft (**MS**) Teams. The Department decided⁷ to uphold the original refusal of access decision and explained that searches of MS Teams had been conducted, including additional searches on internal review, however, no documents responding to the scope were located.⁸ The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of the internal review decision.⁹

3. On the second application,¹⁰ the Department decided¹¹ to refuse access to 340 pages and parts of 2 pages on the basis that disclosure would, on balance, be contrary to the public interest. The applicant applied to OIC for external review of that decision.¹²
4. During the external review process, the Department agreed¹³ that further information, comprising internal correspondence within the business unit and human resources about the complaints management and investigation process (**Process Information**), could be disclosed to the applicant.¹⁴ However, the applicant remained dissatisfied¹⁵ with the amount of information disclosed, continued to raise concerns about missing documents, and provided submissions to OIC in support of his case.¹⁶ I have examined the applicant's submissions for the purpose of making this decision, and have addressed them to the extent they are relevant to the issues for determination in these reviews.

Issues for determination

5. The information remaining in issue can generally be described as internal Department communications in relation to workplace matters/complaints about the applicant including communications with the complainant and management, and the names and other identifying details of public sector officers (**Remaining Information**).¹⁷ The pages containing the Remaining Information are listed in the table below:¹⁸

Review No.	File A	File B	File C
317960	8-14	3-4, 8-25 and 28-30	
317991		1-30, 34-35, 38-39, 40-42, 44-60, 63-65, 74-82, 84-98, 100, 113, 115-117, 119-132, 134-135, 143-148, and 150-163	1-4, 7, 9-54, 63-79, 80-82, 86-87, 89, 91-96, 98-116, 127-153, 164- 168, 170-172 and 179-195

6. The issue I must determine is whether access to the Remaining Information may be refused on the basis that its disclosure would, on balance, be contrary to the public

⁶ On 2 March 2023.

⁷ Internal review decision dated 3 April 2024.

⁸ Internal review decision, page 5.

⁹ On 20 April 2024.

¹⁰ Subject of external review 317991.

¹¹ Decision dated 10 April 2024.

¹² On 6 May 2024.

¹³ By emails dated 23 January 2025 and 20 February 2025 following a preliminary view being conveyed to the Department on 25 November 2024 and an email dated 13 February 2025.

¹⁴ The Department disclosed the Process Information to the applicant on 27 March 2025.

¹⁵ Following disclosure of the Process Information and a preliminary view being conveyed to the applicant on 20 March 2025.

¹⁶ Submissions dated 22 August 2024, 29 October 2024, 14 and 18 December 2024, 18 March 2025, 12 and 26 April 2025 and 3 May 2025. The applicant's submissions relate to both reviews. As the applicant did not raise concerns with the refusal of access to the signatures and mobile phone numbers of public sector employees, I have proceeded on the basis that the applicant does not contest refusal of this information and have therefore not considered it in these reasons for decision.

¹⁷ I am limited in the extent to which I can describe the documents due to the operation of section 121 of the IP Act.

¹⁸ Some information is duplicated due to it appearing within email "chain" communications; also, some documents in File B were located in response to both applications.

interest.¹⁹ Given the applicant's continuing concerns about missing documents, I have also examined the reasonableness of the Department's searches and made a finding on whether access to further documents may be refused on the basis they are nonexistent or unlocatable.²⁰

7. In reaching my decision in these reviews, I have taken into account evidence, submissions, legislation and other material as set out in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information²¹ and in doing so, I have acted in accordance with section 58(1) of the HR Act.²²
8. For the reasons set out below:
 - In 317960, I vary the Department's internal review decision and find that:
 - access to the relevant Remaining Information²³ may be refused as disclosure would, on balance, be contrary to the public interest;²⁴ and
 - access to further documents may be refused on the basis they cannot be located.²⁵
 - In 317991, I vary the Department's decision and find that:
 - access to the relevant Remaining Information²⁶ may be refused as disclosure would, on balance, be contrary to the public interest;²⁷ and
 - access to further documents may be refused on the basis they do not exist.²⁸

Issue: Remaining Information

Relevant law

9. Under the IP Act, an individual has a right to be given access to documents in the possession or under the control of an agency to the extent they contain their personal information.²⁹ While the legislation is to be administered with a pro-disclosure bias³⁰, the right of access is subject to certain limitations, including grounds for refusing access, as set out in the IP Act and RTI Act.³¹ Relevantly, access to information may be refused where it would, on balance, be contrary to the public interest to disclose the information.³²
10. The term '*public interest*' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. In general, a public interest consideration is one which is common to all members of, or a substantial segment of the community, as distinct from matters that concern purely private or personal interests.³³

¹⁹ Under section 67(1) of the IP Act and section 47(3)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

²⁰ Under section 67(1) of the IP Act and sections 47(3)(e) and 52(1) of the RTI Act.

²¹ Section 21 of the HR Act.

²² OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

²³ As identified in the table at paragraph 5 above.

²⁴ Under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

²⁵ Under sections 47(3)(e) and 52(1)(b) of the RTI Act.

²⁶ As identified in the table at paragraph 5 above.

²⁷ Under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

²⁸ Under sections 47(3)(e) and 52(1)(a) of the RTI Act.

²⁹ Section 40 of the IP Act.

³⁰ Section 64 of the IP Act.

³¹ Section 67(1) of the IP Act and section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 67(2) of the IP Act.

³² Sections 47(3)(b) and 49 of the RTI Act.

³³ However, there are some recognised public interest considerations that may apply for the benefit of an individual.

11. The RTI Act requires a decision maker to undertake certain steps in determining where the balance of the public interest lies.³⁴ Schedule 4 of the RTI Act non-exhaustively lists factors that may be relevant in determining where the balance of the public interest lies in a particular case.

Submissions

12. In summary, the applicant has raised the following in support of his right of access to information under the IP Act:³⁵
- individuals have a right to access their personal information, particularly where they have been identified and that information has been used in the making of decisions that may affect them
 - he has been advised of serious allegations against him but was *'never told what it was about or who the complainants were, denying [him his] basic right to procedural fairness'*
 - he has been denied natural justice and his reputation has been damaged
 - a small group of staff made the applicant's role untenable and his personal life *'absolute hell as a consequence'*
 - as the veracity of the allegations were not tested, they should not have been used against him
 - the public service Code of Conduct enshrines *'a responsibility to make fair, transparent and consistent decisions regarding allegations, where the principles of procedural fairness and natural justice is to be applied in all cases'*
 - he missed out on a job which would have enabled him to move on, and the panel chair advised him *'they vetted [his] appointment with HR, yet the person they mentioned, does not work in the HR department'*
 - the Department has engaged in *'dishonesty, chicanery and cover-up'*
 - he wants *'transparency and accountability which should apply to every public service organisation'*
 - he has been *'warned if any untested allegations against [him] persisted, there would be more serious consequences, regardless of their veracity'*
 - he had to leave a job that he cherished, move home and start over, however when seeking to move to another business unit within the Department, he was prevented from doing so with *'further rumour and innuendo'*
 - he is *'asking for the truth'* which he has a reasonable right to
 - his colleagues *'cannot speak out through fear of retribution';* and
 - at *'no stage did management provide enough information for [him] to reasonably understand the substance of the grievance so [he] could at least exercise [his] basic right to respond.'*

Findings

Irrelevant factors

13. I have not taken any irrelevant public interest factors into account in making this decision.

³⁴ Section 49(3) of the RTI Act. The steps include: identify and disregard any irrelevant factors, identify any factors favouring disclosure, identify any factors favouring nondisclosure; and decide whether, on balance, disclosure of the information would be contrary to the public interest.

³⁵ As detailed in the applications for external review dated 20 April 2024 (external review 316960) and 6 May 2024 (external review 317991) and submissions to OIC dated 22 August 2024, 29 October 2024, 14 and 18 December 2024, 18 March 2025, 12 and 26 April 2025 and 3 May 2025.

Factors favouring disclosure

14. There is a public interest in government agencies being transparent and accountable in their operations and decision making, and I am satisfied this extends to managing workplace and employment matters. The Remaining Information appears within a workplace context and I am satisfied that several pro-disclosure factors relevant to enhancing the Department's transparency³⁶ arise in this case, as discussed below.
15. The Remaining Information relates to the applicant's employment with the Department and comprises communications with the complainant and the personal information of other individuals. I accept that disclosing this type of information would advance the relevant public interest factors to some degree as it would provide the applicant with further insight into the nature and extent of information that was before the Department for the purpose of making decisions in connection with his employment.
16. However, I have also taken into account the information which has already been disclosed to the applicant by the Department, including the Process Information. I am satisfied that its disclosure has served to discharge the relevant public interest factors by providing a moderate level of transparency to the Department's processes and generally outlining how the Department dealt with the allegations. For these reasons, I consider the weight to be afforded to these factors as they relate to the particular information is reduced to low.
17. The applicant's personal information³⁷ inevitably appears within some of the Remaining Information as it relates to matters in connection with his employment. I acknowledge the importance of providing individuals with access to their personal information held by government and particularly in relation to public sector employment.³⁸ While this factor favouring disclosure is generally afforded significant weight, in the circumstances of this matter, those portions of the applicant's personal information are so closely intertwined with the personal information of other people, that, in my view, they cannot be disclosed without also disclosing the personal information of those other people. In my view, this reduces the weight of the factor favouring disclosure and raises factors favouring nondisclosure which I must also consider.³⁹
18. The public interest will also favour disclosure where it could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct of an agency.⁴⁰ The threshold for establishing that this factor applies has previously been recognised by the Information Commissioner as low.⁴¹ In my view, disclosure of the Remaining Information would, to some degree, allow or assist inquiry into *possible* deficiencies in how the Department it responds to, and deals with, complaints in the workplace. I therefore afford this factor moderate weight.
19. The applicant's submissions also raise factors favouring disclosure regarding advancing his fair treatment in his dealings with the Department and contributing to the administration of justice, including procedural fairness.⁴² In the context of workplace investigations, procedural fairness requires, amongst other things, that a person is

³⁶ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act

³⁷ 'Personal information' is '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' – see definition in schedule 5 of the RTI Act and section 12 of the IP Act.

³⁸ Schedule 4, part 2, item 7 of the RTI Act.

³⁹ Discussed below at paragraphs 22-24.

⁴⁰ Schedule 4, part 2, item 5 of the RTI Act.

⁴¹ *L80 and Queensland Police Service* [2023] QICmr 28 (19 June 2023) at [32], applied in *E92 and Crime and Corruption Commission* [2024] QICmr 73 (19 December 2024) at [89].

⁴² Schedule 4, part 2, items 10 and 17 of the RTI Act.

adequately informed of the allegations against them and the outcome of those allegations, including, where appropriate, information about the evidence relied on.

20. In relation to fair treatment, this public interest factor does not require a decision maker to ensure that an applicant is provided with sufficient information to enable that applicant to be *subjectively* satisfied that he or she received fair treatment.⁴³ Having reviewed the information which has been disclosed to the applicant, I consider that he has been provided with some details of the allegations against him,⁴⁴ however, I acknowledge these details were limited given disclosing further information about the allegations would reveal the identity of the complainant. Further, the documents released to the applicant indicate⁴⁵ the Department dealt with the allegations by way of discussing behaviour expectations with the applicant and incorporating these within the applicant's personal development plan, rather than commencing formal disciplinary proceedings.
21. Given the nature of the Remaining Information (ie communications with complainant and personal information of other individuals, rather than information about the way in which the Department managed the complaint), and the management approach taken by the Department and communicate with the applicant, I am satisfied that disclosure of the Remaining Information will not further advance the applicant's fair treatment in his dealings with the Department, nor contribute to the administration of justice, to any significant degree. Therefore, I afford these factors low weight.

Factors favouring nondisclosure

22. The RTI Act recognises that disclosing an individual's personal information to someone else can reasonably be expected to cause a public interest harm.⁴⁶ Further, a factor favouring nondisclosure arises if disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy.⁴⁷
23. As noted above, the Remaining Information comprises the personal information of the complainant and other individuals in a workplace complaint context. Generally, information relating to the day-to-day work duties and responsibilities of a public sector employee may be disclosed under the RTI Act, despite it falling within the definition of personal information. However, agency documents can also contain personal information of public sector employees which is not *routine* work information.⁴⁸
24. The Remaining Information appears in a workplace context, and comprises individuals' personal accounts of and emotional reactions to events in the workplace, including concerns of a sensitive nature conveyed to management. I am satisfied it is not related wholly to the day-to-day work activities of a public sector employee and is therefore, not routine personal work information. I consider that disclosure of the Remaining information could reasonably be expected to prejudice the protection of the third parties' right to maintain a level of privacy in relation to their involvement in workplace complaint matters, and cause a public interest harm by disclosing their personal information in a sensitive context. On this basis, I afford significant weight to these two factors favouring nondisclosure.

⁴³ *Gapsa and Department of Transport and Main Roads* (Unreported, Queensland Information Commissioner, 6 September 2013) at [20].

⁴⁴ Pages 1-3 and 21 of File A (in relation to external review 317960) as released to the applicant.

⁴⁵ Pages 1-3 and 13 of File A (in relation to external review 317960) as released to the applicant.

⁴⁶ Section 4, part 4, section 6(1) of the RTI Act.

⁴⁷ Schedule 4, part 3, item 3 of the RTI Act.

⁴⁸ *Underwood and Department of Housing and Public Works* (Unreported, Queensland Information Commissioner, 18 May 2012) at [60].

25. Factors favouring nondisclosure also arise where disclosure could reasonably be expected to:
- prejudice an agency's ability to obtain confidential information⁴⁹
 - prejudice the management function of an agency;⁵⁰ and
 - cause a public interest harm disclosure could have a substantial adverse effect on the management or assessment by an agency of the agency's staff.⁵¹
26. I am satisfied that disclosing sensitive information provided by other individuals in relation to workplace complaints under the IP and RTI Acts, where there can be no restriction on its use, dissemination or republication, could reasonably be expected to erode confidence in the workplace complaints process, prejudice the flow of information from individuals who would otherwise provide relevant information, and impact the need to protect sensitive communications between managers and/or human resources staff regarding the handling of workplace complaints. This, in turn, could reasonably be expected to adversely impact the Department's ability to conduct investigations of workplace complaints and manage staff. Accordingly, I afford the relevant nondisclosure factors significant weight in the circumstances of this case.

Balancing the public interest

27. I have taken into account the pro-disclosure bias⁵² and the factors favouring disclosure outlined above. I accept that the public interest in enhancing the Department's transparency and accountability, assisting inquiry into possible deficiencies, fair treatment in the applicant's dealings with the Department, and the administration of justice are relevant in this case and support the applicant's right of access to the Remaining Information, but only to a low to moderate degree. The applicant gaining access to his own personal information is also relevant and supports the applicant's right of access to those portions of the Remaining Information to a significant degree. However, I consider the public interest in protecting the personal information and privacy of other individuals, and safeguarding the Department's ability to obtain sensitive information and manage workplace complaint processes, carry higher weight so as to favour of nondisclosure of the Remaining Information.
28. On balance, I am satisfied that the nondisclosure factors outweigh the disclosure factors and therefore, the Remaining Information would, on balance, be contrary to the public interest to disclose, and access to it may be refused under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

Issue: Reasonableness of searches

29. The applicant has outstanding concerns regarding missing documents as follows:⁵³
- in external review 317960, MS Teams messages referred to within an email dated 19 April 2023 (**Email**)⁵⁴ had not been provided to him (**MS Teams Messages**);⁵⁵ and
 - in external review 317991, he has not received communications between a named officer (**Officer A**), whom he states was '*wrongfully acting in a HR capacity*', and the

⁴⁹ Schedule 4, part 3, item 16 of the RTI Act.

⁵⁰ Schedule 4, part 3, item 19 of the RTI Act.

⁵¹ Schedule 4, part 4, section 3(c) of the RTI Act.

⁵² Section 64 of the IP Act.

⁵³ Submissions dated 12 April 2025 and 3 May 2025.

⁵⁴ Disclosed within the Process Information.

⁵⁵ Submission dated 26 April 2025.

panel chair in relation to the ‘vetting’ of his application (**Recruitment Communications**).

Relevant law

30. The Information Commissioner’s external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.⁵⁶ However, where a document is nonexistent or unlocatable, access to it may be refused.⁵⁷ A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.⁵⁸ A document is unlocatable if it has been or should be in the agency’s possession and all reasonable steps have been taken to find the document, but it cannot be found.⁵⁹
31. To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency’s structure, its recordkeeping practices and procedures and the nature and age of requested documents.⁶⁰ By considering relevant key factors, a decision-maker may conclude that a particular document was not created because, for example the agency’s processes do not require creation of that specific document. In such instances, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained by the agency. If searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.
32. To determine whether a document exists, but is unlocatable, the RTI Act requires consideration of whether there are reasonable grounds for the agency to be satisfied that the requested document has been or should be in the agency’s possession; and whether the agency has taken all reasonable steps to find the document.⁶¹ What constitutes reasonable steps will, as noted above, vary case by case as the search inquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the circumstances.⁶²
33. On an external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.⁶³ However, where the issue of missing documents is raised, the applicant bears a practical onus of

⁵⁶ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 115 of the RTI 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.

⁵⁷ Sections 47(3)(e) and 52 of the RTI Act.

⁵⁸ Section 52(1)(a) of the RTI Act.

⁵⁹ Section 52(1)(b) of the RTI Act.

⁶⁰ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (*Pryor*) at [19], which adopted the Information Commissioner’s comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[38] (*PDE*). These factors were more recently considered in *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [15], *T12 and Queensland Police Service* [2024] QICmr 8 (20 February 2024) [12], and *G43 and Office of the Director of Public Prosecutions* [2023] QICmr 50 (12 September 2023) [19].

⁶¹ In answering these questions, regard should again be had to the circumstances of the case and the relevant key factors (*Pryor* at [21]).

⁶² Such steps may, for example, include inquiries and searches of all relevant locations identified after consideration of relevant key factors.

⁶³ Section 87(1) of the RTI Act.

demonstrating that the agency has not discharged its obligation to locate all relevant documents.⁶⁴ Suspicion and mere assertion will not satisfy this onus.⁶⁵

Findings

MS Teams Messages

34. In its internal review decision, the Department stated:

...searches were conducted by the department in MS Teams to locate any documents responsive to the revised scope ... there were no relevant MS Teams messages or documents identified.

As part of the internal review process, I sought advice from the Human Resources and Safety and requested that additional searches be conducted. I received a response back ... advising that following additional searches being conducted on MS Teams, there were no documents identified that were responsive to the revised scope of your application. I am therefore satisfied that no relevant MS Teams documents are held by the Department...

35. Search records provided⁶⁶ to OIC by the Department reveal that:

- on 16 October 2023 the author of the Email conducted searches of MS Teams but did not locate any responsive messages; and
- on 22 March 2024 the author of the Email confirmed, 'I did another search today in MS Teams to be sure (in case I had missed anything) and I did not find any messages within scope of the ... RTI request.'

36. I am satisfied that the information set out in the preceding two paragraphs demonstrates that two rounds of searches have been conducted by the author of the Email of their records within MS Teams and that those searches were unable to locate responsive documents within scope of the IP Act application.

37. I acknowledge the applicant's submission that the Email refers to a 'message exchange' having occurred on MS Teams. However, given the searches conducted on internal review and repeated at external review by the author of the Email, I am unable to identify what further searches could reasonably be undertaken in this case. Based on the information available to me, I accept that the Email points to the occurrence of a discussion on MS Teams regarding the matter, but that the Department has been unable to locate a copy of those messages. The legislation does not require the agency to provide an explanation as to why documents are unlocatable, but rather to demonstrate that reasonable searches have been conducted. In this case, I am satisfied that such searches have been conducted and that the MS Teams messages within the scope of the IP Act application, are unlocatable in accordance with section 52(1)(b) of the RTI Act.

Recruitment Communications

38. In relation to the recruitment process, the applicant sought access, for the period 1 February 2023 to 18 May 2023, as follows:⁶⁷

In respect of [the applicant's] employment with the department, all documents including text messages and deletions, in respect of:

⁶⁴ See *Mewburn and Department Local Government, Community Recovery Resilience* [2014] QICmr 43 (31 October 2014) [13].

⁶⁵ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) [38].

⁶⁶ By email dated 2 May 2025.

⁶⁷ As amended by email to the Department dated 24 May 2023. This application is the subject of external review 317991.

... [the applicant's] *application for [a specified role] and the related recruitment process, excluding:*

- *the initial documents [the applicant] submitted in support of his application; and*
- *all recruitment and selection documents which do not contain [the applicant's] personal information*

39. In its decision, the Department stated that searches had been conducted within Queensland Parks and Wildlife Services & Partnerships and Workforce Relations and Integrity, Corporate Services. Search records provided by the Department⁶⁸ confirm that searches were conducted of various locations, including emails,⁶⁹ by a number of officers, including Officer A and the panel chair. The searches located 46 pages responding to the scope set out in the preceding paragraph which were disclosed⁷⁰ to the applicant and comprise:

- an application assessment tool
- text messages with the applicant regarding the assessment process
- panel member notes regarding the applicant's interview
- emails with the applicant arranging an interview, confirming referees and about other matters relevant to the job application process
- a recruitment and selection report regarding the relevant job application process
- referee reports
- an email to Officer A from the panel chair attaching selection paperwork; and
- an email from Officer A to various departmental officers advertising the position and asking for it to be distributed amongst networks.

40. As noted above, the Department did locate an email to Officer A from the panel chair and this email has been disclosed to the applicant.⁷¹ Having considered the email, there is nothing on its face to suggest that further communications occurred between Officer A and the panel chair, nor that Officer A was involved in '*vetting*' the applicant's job application.

41. The applicant's assertion that further documents exist in relation to '*vetting*' of his application is insufficient to demonstrate that the Department has not conducted all reasonable searches. Based on the scope as set out at paragraph 38 and the information available to me regarding the searches conducted and the located documents as set out at paragraph 39, I do not consider there is a reasonable basis to believe that further communications involving Office A exist and therefore, there is no reasonable basis to require the Department to undertake further searches.

42. Based on the above, I am satisfied that all reasonable searches have been conducted and that there are reasonable grounds to be satisfied that further Recruitment Communications are nonexistent in accordance with section 52(1)(a) of the RTI Act.

⁶⁸ On 2 June 2025.

⁶⁹ Other locations searched were network drives; hard copy files; MS Teams; mobile phones; and calendars/diaries.

⁷⁰ Subject to the deletion of irrelevant information and the personal information of panel members and other applicants appearing within the recruitment and selection report.

⁷¹ The email, dated 8 May 2023, appears at page 27 of File A, in external review 317991.

DECISION

43. In external review 317960, I vary the Department's internal review decision and find that:
- access to the relevant Remaining Information⁷² may be refused under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act as disclosure is, on balance, contrary to the public interest; and
 - access to MS Teams Messages may be refused under section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(b) of the RTI Act on the basis they cannot be located.
44. In external review 317991, I vary the Department's decision and find that:
- access to the relevant Remaining Information⁷³ may be refused under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act as disclosure is, on balance, contrary to the public interest; and
 - access to Recruitment Communications may be refused under section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act on the basis they are nonexistent.
45. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Katie Shepherd
Assistant Information Commissioner

Date: 19 June 2025

⁷² See the table at paragraph 5 above.

⁷³ See the table at paragraph 5 above.