



Decision and Reasons for Decision

Citation:	<i>Lonsdale and James Cook University</i> [2015] QICmr 34 (15 December 2015)
Application Number:	312328
Applicant:	Lonsdale
Respondent:	James Cook University
Decision Date:	15 December 2015
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - applicant contended scope of access application should be interpreted to include two documents - construction of scope of access application made under section 24 of the <i>Right to Information Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - applicant seeking documents regarding arrangements made with pet food companies - applicant contends further documents exist - whether the agency has taken all reasonable steps to locate documents - whether access may be refused on the basis that the documents do not exist or are unlocatable - sections 47(3)(e) and 52(1) of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to James Cook University (**JCU**) for access to the following documents under the *Right to Information Act 2009* (Qld) (**RTI Act**):

Please supply details of research funds, sponsorships, agreements and contracts between pet-food companies and the James Cook University, its staff and students.

Where possible please group the contributions into categories:

- a.) *Capital contributions for buildings, laboratories, library endowments, etc*
- b.) *Current account funding for research projects, lecturer salaries, textbooks, etc*
- c.) *Contributions in kind including student excursions, guest lecturers, product supply, teaching materials, teaching aids, etc*

Such agreements will for the most part be with the Veterinary Faculty. Other departments of the University may have ties with pet-food companies.

Please supply copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.

2. In the course of this application and review, the following two issues have arisen for OIC's consideration:
 - 1) whether the following documents located by JCU are within the terms of the scope of the access application:
 - a. an agreement between JCU Univet Pty Ltd and a pet food company (**Agreement**); and
 - b. Powerpoint slides from an 'unbranded' clinical nutrition lecture given by a pet food company (**Lecture Slides**); and
 - 2) whether JCU has taken all reasonable steps to locate documents relevant to the scope of the application.
3. For the reasons set out below, I vary the decision under review and find that:
 - neither the Agreement nor the Lecture Slides are within the terms of the scope of the access application; and
 - access to further documents is refused under sections 47(3)(e) and 52 of the RTI Act on the basis that they are nonexistent or unlocatable.

Background

4. Significant procedural steps relating to the application and external review are set out in the Appendix.

Reviewable decision

5. The decision under review is the deemed decision JCU is taken to have made under section 46(1)(a) of the RTI Act refusing access to the requested documents.

Evidence considered

6. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes and Appendix).
7. Whilst I have carefully considered all of the applicant's submissions, not all matters raised are relevant to the issue for determination. I have summarised and addressed the applicant's submissions below to the extent they are relevant to the issue for determination. In respect of the applicant's submissions that are not relevant to the issue for determination, these generally relate to what the applicant alleges to be illegality on the part of pet food companies. OIC's jurisdiction under the RTI Act relates only to decisions about access to documents held by agencies and does not extend to consideration of these matters.¹

¹ As explained to the applicant in a telephone discussion on 6 February 2015.

1) Scope

Relevant law

8. Section 24(2)(b) of the RTI Act provides that an access application must:

give sufficient information concerning the document to enable a responsible officer of the agency ... to identify the document[.]

9. There are sound practical reasons for the documents sought in an RTI application being clearly and unambiguously identified, including that the terms of an access application set the parameters for an agency's response and the direction of an agency's search efforts.² Accordingly, an applicant cannot unilaterally expand the terms of an application.³

10. The Information Commissioner has previously outlined the following principles to be followed in interpreting an access application which is framed in imprecise or ambiguous terms:⁴

- the object of the exercise is to ascertain the author's intended meaning
- the question is not necessarily to be approached in the same manner as the interpretation of a statute or legal document
- seeking clarification of the intended meaning of an access application is a practice to be encouraged; and
- it can rarely be appropriate to apply legal construction techniques to the words of an access application in preference to consulting with the author of the words to clarify the author's intended meaning and agree upon more precise wording for the terms of the access application.

11. However, where there is no ambiguity in an access application, it is unnecessary to seek clarification about the scope.⁵

12. Although the scope of an access application should not be interpreted legalistically or narrowly, it is important that agencies be able to restrict their searches for documents with reference to an access application's scope.⁶

a. Agreement

Background

13. JCU's initial decision⁷ found that '*[n]o documents were located as such*', and made no reference whatsoever to the Agreement. In the internal review decision, JCU referred in passing to a '*sponsorship agreement*', but did not make any decision regarding access to this document.

² *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 (**Cannon**) [8]; *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) [33].

³ *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) (**Fennelly**) [15].

⁴ *Cannon* [10].

⁵ *Robbins and Brisbane North Regional Health Authority* (1994) 2 QAR 30 [16].

⁶ *Fennelly* [21].

⁷ As noted at paragraph 5, JCU is taken to have made a deemed decision refusing access to the requested documents. Accordingly, JCU's initial decision dated 21 November 2014 and internal review decision dated 2 January 2015 (emailed 4 January 2015) were purported decisions. However, for ease of reference in this decision, I have referred to these purported decisions respectively as the initial decision and the internal review decision.

14. In the external review application, the applicant requested an external review, and made no submission about the Agreement or the 'sponsorship agreement'. In a telephone conversation with an OIC staff member to clarify the issues in respect of which the applicant sought review,⁸ the applicant referred to the Lecture Slides and to his general sufficiency of search query; however, he made no reference to the Agreement or the 'sponsorship agreement'.
15. On informing JCU that its decision was to be externally reviewed,⁹ OIC considered it necessary to ask JCU about the 'sponsorship agreement' which had been referred to in the internal review decision, in order for OIC to determine if this document came within the scope of the access application.
16. JCU provided OIC with a copy of the Agreement, and submitted that it fell outside the scope of the application.¹⁰ OIC subsequently sought¹¹ a further submission from JCU about why it did not consider the Agreement to come within the scope of the access application. In summary, JCU submitted¹² as follows:

... the Agreement is "out of scope". In support of [JCU's] view it is argued that as the original request from the applicant sought access to information about "research funds, sponsorships, agreements and contracts between pet-food companies and JCU, its staff and students", and the Agreement in question is not between the pet-food company and JCU, then it must follow that the document being sought is "out of scope".

17. OIC conveyed a preliminary view to the applicant that the Agreement did not fall within the scope of the access application.¹³ In response, the applicant submitted:¹⁴
 - he is concerned that information is being hidden from scrutiny
 - JCU Univet Pty Ltd is, on the evidence available to him, a wholly owned and controlled entity of JCU
 - regardless, the documents and information are in JCU's possession, and this is the 'defining aspect' from a previous OIC decision;¹⁵ and
 - where any ambiguity or uncertainty exists, he suggests that the Queensland Government's broad objectives of, amongst other things, '[making] Queensland the most open and accountable government in Australia', take precedence.¹⁶

Findings

18. Relevantly, in this matter, the applicant specified that he was seeking access to 'details of research funds, sponsorships, agreements and contracts between pet-food companies and the James Cook University, its staff and students'.
19. The Agreement is between the company named JCU Univet Pty Ltd and a pet food company. JCU is **not** a party to the Agreement. As OIC informed the applicant in the preliminary view,¹⁷ JCU is a separate legal entity from JCU Univet Pty Ltd, although it

⁸ On 6 February 2015.

⁹ Letter dated 11 February 2015.

¹⁰ Email on 27 February 2015.

¹¹ Letter dated 22 September 2015.

¹² Email on 4 November 2015.

¹³ Telephone discussion on 5 November 2015, and letter dated 23 November 2015.

¹⁴ Telephone discussion on 5 November 2015, and letter dated 6 December 2015.

¹⁵ *Nine Network Australia Pty Ltd and Queensland Police Service; Third Parties* (Unreported, Queensland Information Commissioner, 5 December 2013) [26]-[27].

¹⁶ The applicant quoted from a summary located at <http://www.rti.qld.gov.au/>.

¹⁷ Letter dated 23 November 2015.

is acknowledged that JCU Univet Pty Ltd is a related entity (controlled public sector entity) of JCU, being wholly owned by JCU.¹⁸

20. I am satisfied that JCU correctly interpreted the limits of the scope of the access application, and that the access application's scope does not cover agreements etc with persons or entities other than those listed in the access application. I do not consider there to be an ambiguity in interpreting the scope of the access application; rather, the applicant clearly listed only '*James Cook University, its staff and students*' as being the entity or persons in relation to whom he was seeking agreements etc.
21. As JCU Univet Pty Ltd is a separate legal entity from JCU, I consider that the access application scope does not extend to the Agreement, given it is only between JCU Univet Pty Ltd and a pet food company, and none of '*James Cook University, its staff [or] students*' are parties to the Agreement.
22. Accordingly, I consider that the access application's scope does not cover the Agreement.

b. Lecture Slides

Background

23. JCU's initial decision found that '*[n]o documents were located as such*'. However, in providing information in response to the issues raised in the access application, JCU referred to the Lecture Slides. In the internal review decision, JCU decided to refuse access to the Lecture Slides after stating:

The original decision has found no documents matching your request but in the course of considering the headings under which you sought to have the information requested reported back to you, the decision maker had identified a document [the Lecture Slides] which fell within one of these headings. The decision maker however, it would appear, has refused access to the document ...

24. On external review:
 - JCU's initial decision-maker informed OIC¹⁹ of his view that the Lecture Slides were not within the scope of the access application
 - an OIC staff member raised with the applicant²⁰ the fact that OIC would be required to consider whether the Lecture Slides came within the scope of the access application
 - in response to OIC raising this issue, the applicant submitted²¹ that:
 - it is difficult to draft an access application to capture all desired documents—on the one hand, he did not want to be too precise so as to limit what he would receive, while on the other hand, he was mindful of not engaging in a broad '*fishing expedition*' which might be rejected outright by JCU; and

¹⁸ OIC also informed the applicant that JCU Univet Pty Ltd's objectives '*include providing facilities for study, research and clinical education in the field of Veterinary Science as well as aiding in the development or promotion of research in that field, and its purpose and principal activity is the provision of veterinary services and [it] provides clinical education for students of [JCU]*': see pages 14 and 81 of JCU's 2014 Annual Report, available at https://www.jcu.edu.au/_data/assets/pdf_file/0012/121602/jcu_145416.pdf.

¹⁹ Telephone discussion on 3 February 2015.

²⁰ Telephone discussion on 6 February 2015.

²¹ Telephone discussion on 6 February 2015.

- he believes the Lecture Slides come within the scope of what he applied for, because he had listed ‘Contributions in kind including ... teaching materials’ in the access application
- JCU’s internal review decision-maker informed OIC:
 - firstly,²² that he had only addressed the Lecture Slides in the internal review decision as they had been discussed in the initial decision; and
 - subsequently²³ (and in contrast to the findings of the initial decision), that ‘[a]s the Internal Review Officer, [he] also took the view that no documents that fell within the scope of the request were located’; and
- JCU submitted²⁴ the following:

As previously stated JCU contends that [the applicant] did not request the [Lecture Slides] as part of his original access application, instead having asked for information about “research funds, sponsorships, agreements and contracts between pet-food companies and JCU, its staff and students”. Therefore, it is our view that ... this document is out of scope.

25. OIC conveyed a preliminary view to the applicant that the Lecture Slides did not fall within the scope of the access application.²⁵ In response, the applicant submitted²⁶ that:

- he is concerned that OIC was ‘trying to split hairs’ in forming the view that the Lecture Slides were out of scope
- he is concerned that information is being hidden from scrutiny
- all of the teaching material provided by ‘the junk food makers’²⁷ represents the practical manifestation of their agreements with JCU, as it is the ‘outward consummation of their agreements/contracts’
- the teaching material is clearly in JCU’s possession
- the teaching material represents contributions in kind, as requested in the access application
- Charles Sturt University had released several complete sets of lecture notes in its response to the applicant’s access application to that university; and
- where any ambiguity or uncertainty exists, he suggests that the Queensland Government’s broad objectives of, amongst other things, ‘[making] Queensland the most open and accountable government in Australia’, take precedence.²⁸

26. In his submission,²⁹ the applicant also asked the following question:

If the [Lecture Slides] are not a component of an agreement; if they are not in the possession of JCU; if they are not contributions in kind, then the question needs to be put: What are they?

Findings

27. On my reading of the scope, the applicant was essentially seeking access to the following documents:

²² Telephone discussion on 10 February 2015.

²³ Email on 27 February 2015.

²⁴ Email on 4 November 2015.

²⁵ Telephone discussion on 5 November 2015, and letter dated 23 November 2015.

²⁶ Telephone discussion on 5 November 2015, and letter dated 6 December 2015.

²⁷ By which I understand the applicant to be referring to pet food companies.

²⁸ The applicant quoted from a summary located at <http://www.rti.qld.gov.au/>.

²⁹ Letter dated 6 December 2015.

... details of research funds, sponsorships, agreements and contracts between pet-food companies and the James Cook University, its staff and students.

...

... copies of correspondence, email messages and memoranda that relate to the arrangements entered into by individuals and the University.

28. I consider that the Lecture Slides clearly do not come within the scope of any of these types of documents.
29. I note the applicant's submissions regarding his reference to teaching materials in the access application scope. However, it is relevant to note that this reference appears in the following context:

...

Where possible please **group the contributions into categories:**

- a.) Capital contributions for buildings, laboratories, library endowments, etc
- b.) Current account funding for research projects, lecturer salaries, textbooks, etc
- c.) **Contributions in kind including** student excursions, guest lecturers, product supply, **teaching materials**, teaching aids, etc

...

[emphasis added]

30. I am satisfied that the access application cannot reasonably be interpreted as seeking copies of the actual contributions in kind (eg, teaching materials or textbooks). Rather, what was clearly being requested was for any located agreements etc to be sorted into different categories according to the subject matter of the agreement etc. I do not consider the reference to teaching materials to be an ambiguity which required clarification regarding what the applicant was seeking.
31. Further, the fact that a university in another jurisdiction may have given access to complete sets of lecture notes in response to an application by the applicant is not relevant to the issue for determination in this review.
32. Accordingly, I consider that the access application's scope does not cover the Lecture Slides.

Submissions regarding 'document of an agency' and public interest issues

33. As summarised above at paragraphs 17 and 25, some of the applicant's submissions relate to whether the Agreement and the Lecture Slides are in JCU's possession and whether their disclosure would or would not, on balance, be contrary to the public interest under the RTI Act.
34. The issue of whether the Agreement and the Lecture Slides are within JCU's possession is not relevant to the preliminary issue to be determined of whether they are within the scope of the access application. The issue of whether the Agreement and the Lecture Slides are within JCU's possession is only relevant to determining whether they meet the definition of a 'document of an agency'.³⁰ In this review, given my finding that neither the Agreement nor the Lecture Slides are within the scope of the

³⁰ Under section 12 of the RTI Act.

access application, it is unnecessary to consider whether they are in the possession or under the control of JCU—ie, whether they are ‘documents of an agency’.

35. As for the public interest factors favouring disclosure advanced by the applicant, the conclusions I have reached above relate only to a preliminary step: that of assessing whether the Agreement or the Lecture Slides come within the scope of the access application. Accordingly, given my finding that neither the Agreement nor the Lecture Slides are within the scope of the access application, it is unnecessary to reach a conclusion regarding where the balance of the public interest lies in granting or refusing access to them.
36. As OIC has previously noted to the applicant,³¹ it is open to him to make a new and differently worded access application, should he still seek access to the Agreement or the Lecture Slides.

2) Sufficiency of search

Relevant law

37. Under the RTI Act, an individual has a right to be given access to documents of an agency.³² However, this right of access is subject to limitations, including the grounds on which access to information may be refused.³³
38. An agency may refuse access to documents which are nonexistent³⁴ or unlocatable.³⁵ A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.³⁶ 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.³⁷
39. To be satisfied that a document does not exist, an agency must rely on its particular knowledge and experience, having regard to various key factors including:
 - the administrative arrangements of government
 - the agency’s structure
 - the agency’s functions and responsibilities (particularly with respect to the legislation for which it has administrative responsibility and the other legal obligations that fall to it)
 - the agency’s practices and procedures (including, but not limited to, its information management approaches); and
 - other factors reasonably inferred from information supplied by the applicant, including the nature and age of the requested documents, and the nature of the government activity to which the request relates.³⁸
40. By considering the factors above, an agency may ascertain that a particular document was not created because, for example, its processes do not involve creating the

³¹ Telephone discussion on 5 November 2015, and letter dated 23 November 2015.

³² Section 23(1)(a) of the RTI Act.

³³ The grounds on which an agency may refuse access are set out in section 47(3) of the RTI Act.

³⁴ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

³⁵ Sections 47(3)(e) and 52(1)(b) of the RTI Act.

³⁶ Section 52(1)(a) of the RTI Act.

³⁷ Section 52(1)(b) of the RTI Act.

³⁸ *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*) [37]-[38]. The decision in *PDE* concerned 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 Acting Information Commissioner’s findings in *PDE* are relevant here.

specific document. In such instances, it is not necessary for the agency to search for the document. It is sufficient that the relevant circumstances to account for the non-existent document are explained.

41. An agency may also rely on searches to satisfy itself that documents do not exist. The Acting Information Commissioner indicated in *PDE* that if an agency does rely on searches to justify a decision that documents do not exist, all reasonable steps must be taken to locate the documents.³⁹ Such steps may include enquiries and searches of all relevant locations identified after consideration of the key factors listed above.
42. In assessing whether a document exists, but is unlocatable, it is necessary to consider:
 - 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.⁴⁰
43. In answering these questions, regard should be had to the circumstances of the case and to the key factors set out above.⁴¹

JCU's decisions

44. JCU's initial decision noted that searches had been conducted by the College of Public Health, Medical & Veterinary Sciences and Research Services, but found that '*[n]o documents were located as such*'. However, JCU's initial decision then noted that '*relevant staff [had] provided answers to [the applicant's] questions*' under headings a.) to c.) of the access application scope, and JCU had grouped these answers accordingly. JCU's internal review decision provided no further details about the extent of the searches.

Sufficiency of search issue raised on external review

45. In the external review application, the applicant requested an external review, and made no submission about the sufficiency of JCU's searches. In a telephone conversation with an OIC staff member to clarify the issues in respect of which the applicant sought review,⁴² the applicant raised a general sufficiency of search query by submitting that he still sought '*everything else*' he had originally applied for.
46. In an email⁴³ to OIC, the applicant stated:

For the most part I suspect you will find documents between the vet school, Hill's (Colgate-Palmolive) and Royal Canin (Mars Inc.).

JCU's search records and enquiries

47. JCU provided OIC with a copy of its search records and enquiries.⁴⁴ In summary, the documents provided to OIC show the following:
 - the initial decision-maker received signed search certifications from:

³⁹ As set out in *PDE* [49]. See also section 130(2) of the RTI Act.

⁴⁰ Section 52(1)(b) of the RTI Act.

⁴¹ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) [21].

⁴² On 6 February 2015.

⁴³ Email on 12 February 2015.

⁴⁴ Email on 27 February 2015.

- the then Head of Veterinary Science, within the unit Discipline of Veterinary Science;⁴⁵ and
- the Manager, Research Ethics & Grants, within the unit Research Services⁴⁶
- these search certifications showed:
 - desktop and manual searches of personal and business files by two senior officers (the Head of Clinical Sciences, and the Director of Veterinary Hospital) within the unit Discipline of Veterinary Science; and
 - a search of the research database which returned no results evidencing research contracts with pet food companies; and
- a large number of follow-up emails between the initial decision-maker and the then Head of Veterinary Science, in order for the initial decision-maker:
 - to ensure that no relevant documents existed—eg, a number of emails dealt with the issue of whether any further documentation existed regarding the Lecture Slides; and
 - to obtain any possible information which responded generally to the issues raised by the access application—this formed the basis of the information provided in the initial decision in response to headings a.) to c.) of the access application scope.

Applicant's submissions

48. OIC contacted the applicant to summarise JCU's search records and enquiries and to convey OIC's preliminary view that JCU had taken all reasonable steps to locate documents relevant to the access application.⁴⁷ In his response,⁴⁸ the applicant:

- submitted that:
 - he adheres to the view that JCU has not provided sufficient information as requested in the access application
 - he believes it to be '*absurd in the extreme*' that only two documents—the Agreement and the Lecture Slides—represent the sum total of all JCU documents the subject of this application; and
 - OIC should take account of the allegations of major illegality on the part of JCU colluding with its '*junk pet-food paymasters*'
- stated that he would like to draw OIC's attention to the 500 pages of documents released by Murdoch University⁴⁹
- referred to:
 - the public interest favouring disclosure related to where disclosure of information could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;⁵⁰ and
 - OIC's powers on external review in respect of requiring searches and documents etc and examining witnesses;⁵¹ and
- requested that a much more detailed forensic enquiry be carried out on JCU's '*secret dealings with junk pet-food companies*' in response to his access application.

⁴⁵ Page 8 of JCU's 2014 Annual Report indicates that the College of Public Health, Medical & Veterinary Sciences falls under the Division of Tropical Health & Medicine. The JCU website indicates that Veterinary Sciences is an area within the College of Public Health, Medical & Veterinary Sciences: <https://www.jcu.edu.au/college-of-public-health-medical-and-veterinary-sciences>.

⁴⁶ Page 8 of JCU's 2014 Annual Report indicates that Research Services falls under the Division of Research & Innovation.

⁴⁷ Telephone discussion on 5 November 2015, and letter dated 23 November 2015.

⁴⁸ Letter dated 6 December 2015.

⁴⁹ Available at the applicant's website: <http://www.rawmeatybones.com/foi.php>.

⁵⁰ Schedule 4, part 2, item 6 of the RTI Act.

⁵¹ Sections 102 to 104 of the RTI Act.

Findings

49. On the information before me, including JCU's search records and enquiries, I consider that officers of JCU have:
- conducted searches of all relevant files and databases for the types of documents raised by the applicant; and
 - identified relevant staff and made enquiries of them regarding the possible existence and location of documents requested by the applicant.
50. In these circumstances, on consideration of the entirety of searches for documents conducted by JCU and taking into account the terms of the scope of the application, I am satisfied that JCU has ensured that relevant staff have undertaken comprehensive, appropriately targeted searches of JCU's relevant document management systems for documents responsive to the applicant's application and no further documents exist or can be located.
51. Further, the fact that a university in another jurisdiction may have located hundreds of pages in response to an application by the applicant has no relevance to the issue for determination in this review—ie, that of determining whether JCU has taken all reasonable steps to locate documents relevant to the application which are in its possession or under its control.
52. Accordingly, I am satisfied that:
- JCU has taken all reasonable steps in searching for documents described in the access application; and
 - access to such documents may be refused under section 47(3)(e) of the RTI Act on the basis that they are nonexistent or unlocatable under section 52(1) of the RTI Act.

Submissions regarding public interest issues

53. As summarised above at paragraph 48, some of the applicant's submissions raise issues which relate to whether certain public interest factors favouring disclosure would arise in respect of the documents the applicant is seeking.
54. The conclusion I have reached relates only to the issue of whether the documents described in the access application may be refused on the basis that they are nonexistent or unlocatable. Accordingly, it is unnecessary to consider the applicability of public interest factors.

DECISION

55. I vary the decision under review and find that:
- neither the Agreement nor the Lecture Slides are within the terms of the scope of the access application; and
 - access to further documents is refused under sections 47(3)(e) and 52(1) of the RTI Act on the basis that they are nonexistent or unlocatable.

56. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

Assistant Information Commissioner Corby

Date: 15 December 2015

APPENDIX

Significant procedural steps

Date	Event
7 October 2014	JCU received the access application.
21 November 2014	JCU issued its purported decision in respect of the access application. JCU had been required to give written notice of the decision to the applicant by 11 November 2014, being the end of the processing period. As this did not occur, JCU was taken to have made a deemed decision refusing access to the requested documents.
7 December 2014	The applicant applied for internal review of the purported initial decision.
4 January 2015	JCU issued its purported internal review decision, which was dated 2 January 2015. OIC received the application for external review of JCU's decision.
6 January 2015	OIC notified the applicant that the external review application had been received. OIC notified JCU of the external review application and asked JCU to provide procedural documents by 13 January 2015.
12 January 2015	JCU provided the relevant procedural documents.
13 January 2015	OIC received another copy of the application for external review of JCU's decision.
14 January 2015	OIC provided an update to the applicant.
3 February 2015	An OIC staff member spoke with a JCU officer about the application.
6 February 2015	An OIC staff member spoke with the applicant about the application and the applicant made submissions.
10 February 2015	An OIC staff member spoke with a JCU officer about the application.
11 February 2015	OIC informed the applicant and JCU that the application had been accepted for external review. OIC requested that JCU provide, by 25 February 2015, a copy of the documents located in response to the access application, its search records and a submission.
12 February 2015	The applicant provided a submission.
25 February 2015	JCU requested an extension of time to provide the information requested by OIC. OIC agreed to the requested extension.
27 February 2015	OIC received the requested information from JCU, including a copy of the Agreement, but not a copy of the Lecture Slides. An OIC staff member left a telephone message with a JCU officer, requesting a copy of the Lecture Slides.
10 April 2015	An OIC staff member left a telephone message with a JCU officer, requesting a copy of the Lecture Slides.
13 April 2015	An OIC staff member left a telephone message with a JCU officer, requesting a copy of the Lecture Slides.
16 April 2015	An OIC staff member asked a JCU officer to provide a copy of the Lecture Slides. OIC received a copy of the Lecture Slides from JCU.

Date	Event
20 April 2015	An OIC staff member spoke with the applicant about the application and the applicant made submissions.
9 June 2015	OIC provided an update to the applicant.
23 June 2015	An OIC staff member left a telephone message with a JCU officer, requesting a return call.
1 September 2015	OIC provided an update to the applicant.
16 September 2015	An OIC staff member spoke with the applicant and provided an update.
22 September 2015	OIC conveyed a written preliminary view to JCU and invited it to provide submissions supporting its case by 9 October 2015 if it did not accept the preliminary view.
13 October 2015	An OIC staff member left a telephone message with a JCU officer, following up in relation to this review.
15 October 2015	A JCU officer left a telephone message with an OIC staff member.
16 October 2015	An OIC staff member spoke with a JCU officer, and JCU requested an extension of time to provide submissions.
28 October 2015	An OIC staff member spoke with a JCU officer, and JCU provided submissions.
29 October 2015	An OIC staff member spoke with a JCU officer, and JCU provided submissions.
4 November 2015	An OIC staff member spoke with a JCU officer, and JCU provided submissions. JCU also provided written submissions to OIC.
5 November 2015	OIC conveyed a preliminary view to the applicant by telephone. The applicant did not accept the preliminary view, and requested it in writing.
23 November 2015	OIC conveyed a written preliminary view to the applicant and invited him to provide submissions supporting his case by 7 December 2015 if he did not accept the preliminary view.
6 December 2015	The applicant provided submissions to OIC.