



Decision and Reasons for Decision

Citation: *O79 and Legal Services Commission* [2021] QICmr 41 (16 August 2021)

Application Number: 315534

Applicant: O79

Respondent: Legal Services Commission

Decision Date: 16 August 2021

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENT NONEXISTENT - communications between agency and Attorney-General about complaints made about the applicant - searches conducted - whether there are reasonable grounds to be satisfied that documents are nonexistent - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(e) and (52(1)(a) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - EXEMPT CLASS OF DOCUMENTS - all documents regarding complaints about the applicant and any subsequent investigation - whether access application expressed to relate to a stated subject matter - whether all documents to which application relates appear to comprise exempt information - whether agency may refuse to deal with the application - section 59 of the *Information Privacy Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Legal Services Commission (**LSC**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to various documents regarding complaints that had been made about him and any subsequent investigation of those complaints, including any correspondence between the LSC and the then Attorney-General of Queensland, Yvette D'Ath.

¹ Access application dated 6 April 2020. LSC consulted with the applicant under section 53 of the IP Act and took the application to be compliant with relevant application requirements on 22 April 2021

2. The LSC decided² to:
 - refuse access to documents comprising correspondence between the LSC and the then Attorney-General on the basis that such documents were nonexistent; and
 - otherwise refuse to deal with the access application on the basis that it requested access to all documents about a stated subject matter, and it appeared that all such documents comprised exempt information, namely information the disclosure of which could reasonably be expected to prejudice an ongoing investigation.
3. The applicant applied³ to the Office of the Information Commissioner (**OIC**) for external review of the LSC's decision.
4. For the reasons set out below, I affirm the LSC's decision.

Reviewable decision

5. The decision under review is the LSC's decision dated 28 July 2020.

Evidence considered

6. Significant procedural steps taken during the external review are set out in the Appendix.
7. In reaching my decision, I have had regard to the submissions, evidence, legislation, and other material referred to throughout these reasons (including footnotes and Appendix). I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁴ 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 the *Right to Information Act 2009* (Qld) (**RTI Act**).⁵ 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 made by Bell J on the interaction between equivalent pieces of Victorian legislation:⁶ '*it is perfectly compatible with the scope of that positive right in the Charter of Human Rights and Responsibilities Act for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act.*'⁷

Issues for determination

8. The issues for determination are:
 - **Nonexistent documents** – whether access to certain documents requested by the applicant may be refused on the ground that these documents are nonexistent.
 - **Exempt class documents** – whether the remainder of the access application may be the subject of a refusal to deal decision, on the basis that it requests access to all documents about a stated subject matter, and it appears that all such documents comprise exempt information, namely information the disclosure of which could reasonably be expected to prejudice an ongoing investigation.

² Decision dated 28 July 2020.

³ Application for external review dated 28 July 2020.

⁴ Section 21 of the HR Act.

⁵ *XYZ v Victoria Police (General)* (2010) 33 VAR 1 (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 at [111].

⁶ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

⁷ *XYZ* at [573].

Nonexistent documents

Relevant law

9. Access to documents may be refused where they are nonexistent.⁸ A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist (for example, it was never created).⁹ To be satisfied that documents are nonexistent, a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors.¹⁰
10. When proper consideration is given to relevant factors, it may not be necessary for searches to be conducted. This is the case in circumstances where it is ascertained 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 that the relevant circumstances to account for the nonexistent document are adequately explained by the agency.
11. However, searches may also be relied on to satisfy the decision-maker that a document does not exist. If searches are relied on to justify a decision that the documents do not exist, the agency must demonstrate that all reasonable searches and enquiries have been undertaken.¹¹ Whether all reasonable steps have been taken will depend on the circumstances of each case, as the search and enquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances.

Findings

12. In part, the applicant's access application seeks access to the following (**Attorney-General Correspondence**):

Any correspondence about the complaints about [the applicant] and the investigation of those complaints between the Legal Services Commission and ... the [then] current Attorney-General of Queensland, Yvette D[A]th...

13. The LSC refused access to Attorney-General Correspondence on the basis that such correspondence was nonexistent.
14. The LSC has explained¹² that during the processing of the access application, searches were conducted of the LSC's electronic records management system, LP Central, and physical files. The LSC explained¹³ that LP Central '*is a document generation system which provides for all template/precedent letters utilised by employees of the LSC*' and

⁸ Sections 47(3)(e) and 52(1)(a) of the RTI Act. Section 67 of the IP Act provides that an agency may refuse access to a document of the agency in the same way and to the same extent the agency could refuse access to the document under section 47 of the RTI Act.

⁹ Section 52(1)(a) of the RTI Act.

¹⁰ The key factors include: the administrative arrangements of government; the agency 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 exclusive to its information management approach) and other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates. See *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19] which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*). 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 Information Commissioner's findings in *PDE* are relevant here.

¹¹ As set out in *PDE* at [49]. See also section 130(2) of the RTI Act.

¹² Submission to OIC dated 7 October 2020.

¹³ Submission to OIC dated 7 October 2020.

that it ‘contains all saved communications on specific files, including emails and scanned copies of physical documents received by the Commission.’ These searches identified a file that was relevant to other aspects of the applicant’s application.¹⁴ However, the searches ‘did not locate any communications between the [then] Attorney - General of Queensland, or her office, with the LSC.’

15. I have carefully considered the information before me (including the explanation and outcome of the searches undertaken by the LSC as set out above). On the material before me, I am satisfied that the LSC searched in all appropriate locations in which any Attorney-General Correspondence could reasonably be expected to be stored.
16. The substance of the above was conveyed to the applicant.¹⁵ While the applicant’s submissions in response¹⁶ referred to the then Attorney-General herself, they did not mention the Attorney-General Correspondence. Accordingly, they did not address the existence of such correspondence and did not outline any additional searches or enquiries which the applicant considered could reasonably be undertaken.¹⁷
17. In these circumstances, I am satisfied that:
 - the LSC has conducted all reasonable searches and enquiries to locate the Attorney-General Correspondence
 - no responsive documents could be located; and
 - accordingly, access to the Attorney-General Correspondence may be refused under section 67 of the IP Act and section 47(3)(e) of the RTI Act on the basis that they are nonexistent in accordance with section 52(1)(a) of the RTI Act.

Exempt class of documents

Relevant law

18. If an access application is made to an agency under the IP Act, the agency should deal with the application unless this would not be in the public interest.¹⁸ One of the circumstances where it is not in the public interest to deal with an access application is set out section 59 of the IP Act, which permits an agency to refuse to deal with an access application where:
 - **Class of documents** - the application is expressed to relate to all documents, or all documents of a stated class, that contain information of a stated kind or relate to a stated subject matter; and
 - **Exempt information** - it appears to the agency that all the documents to which the application relates are comprised of exempt information.
19. Section 59(2) provides that the agency may refuse to deal with the access application without having identified any or all of the documents.

¹⁴ That is, the remainder of the access application noted at paragraph 21 below.

¹⁵ By letter dated 6 May 2021.

¹⁶ Dated 19 May 2021.

¹⁷ The applicant’s submissions are set out in full at paragraph 311 below.

¹⁸ Section 58(1) of the IP Act.

Findings

Class of documents

20. In order to consider whether the application is expressed to relate to all documents, or to all documents of a stated class, that contain information of a stated kind, or relate to a stated subject matter, it is necessary to examine the relevant terms of the access application.
21. Once the Attorney-General Correspondence¹⁹ is excluded from consideration, the remainder of the applicant's access application requests:

Copies of the files on the complaints and the investigation into the complaints made about [the applicant] to the Legal Services Commission between 2015 and current.

All meeting notes and phone records about the complaints made about [the applicant] and the investigation of those complaints, including meeting notes and phone records of [four named LSC staff members], between 2015 and current.

Any correspondence about the complaints about [the applicant] and the investigation of those complaints between the Legal Services Commission and the Queensland Police Service or any officers of the Queensland Police Service ... or any other external party between 2015 and current.

22. I am satisfied that the remainder of the access application is framed as a request for all documents of a particular class that relate to a stated subject matter – specifically, all documents in relation to complaints made about the applicant to the LSC and the investigation of those complaints (**Complaint and Investigation Documents**).

Exempt information

23. I must also be satisfied that it appears that all of the documents to which the remainder of the access application relates are comprised of 'exempt information'.²⁰ Of relevance to this review, information will comprise exempt information under schedule 3, section 10(1)(a) of the RTI Act if:

- disclosure of the information could reasonably be expected to prejudice the investigation of a contravention or possible contravention of the law in a particular case – and therefore schedule 3, section 10(1)(a) of the RTI Act is applicable; and
- the information does not consist of any of the kinds of matter and reports listed in schedule 3, section 10(2) of the RTI Act that are excluded from qualifying as exempt information under schedule 3, section 10(1).²¹

Schedule 3, section 10(1)(a) of the RTI Act

24. I will firstly consider whether schedule 3, section 10(1)(a) of the RTI Act applies to the Complaint and Investigation Documents.

¹⁹ Which is addressed at paragraphs 12 to 17 above.

²⁰ In schedule 5 of the IP Act, 'exempt information' is defined to mean 'information that is exempt information under the [RTI Act]'. The definition of 'exempt information' in schedule 5 of the RTI Act says simply 'see section 48'. Section 48(4) of the RTI Act states that 'exempt information means the information that is exempt information under schedule 3'. Accordingly, schedule 3 of the RTI Act lists the various types of information that constitute exempt information.

²¹ These considerations, in this order, being the proper approach according to Holmes CJ (Fraser JA and Boddice J concurring) at [52] *Commissioner of the Police Service v Shelton & Anor* (2020) 4 QR 297 (**Shelton**).

25. For schedule 3, section 10(1)(a) of the RTI Act to apply, the investigation must be an ongoing investigation.²² The contravention, or possible contravention, of the law being investigated is not confined to the criminal law. It also includes ‘a statute imposing a legal duty of general or specific application but imposing no criminal penalty for a breach of the duty, usually because enforcement of the duty is intended to be achieved by other means, which are often specifically provided for in the statute itself’.²³

26. In its decision, the LSC explained that:²⁴

... [the applicant had] previously been provided notice pursuant to section 437 of the Legal Profession Act 2007 (the Act) that the Legal Services Commissioner had decided to institute an own motion investigation into [the applicant’s] alleged conduct.

The investigation related to conduct which, if proven, could amount to unsatisfactory professional conduct or professional misconduct as defined by the Act which can result in the filing of formal disciplinary proceedings. Therefore, such conduct related to a contravention or possible contravention of the law in a particular case.

I note that the Commissioner provided [the applicant] with notice on 12 November 2019, that she was satisfied that there was a reasonable likelihood of a finding by a disciplinary body that [the applicant’s] conduct amounted to unsatisfactory professional conduct or professional misconduct in respect to the investigation. Accordingly, [the applicant was] advised that a discipline application was to be filed.

Although [the applicant has] been provided such notice, to date no disciplinary application has been lodged. Ultimately it is the Commissioner’s decision whether to institute proceedings and/or seek further investigative processes to be undertaken. This may include exploring case theories, considering the strengths and weakness of the investigation, gathering further evidence (such as affidavits from witnesses), discussing the direction and progression of the investigation with the assigned investigator and prospective prosecutor, and if required obtaining advice from Counsel and considering what specific charges should be brought against a Respondent.

These processes should proceed without the burden that the information could be released prior to the finalisation of the investigation.

27. The LSC has confirmed²⁵ that [a]t this stage, no disciplinary application has been filed.’ Therefore, the investigation is still ongoing.

28. The LSC submits²⁶ that premature release of the type of information sought by the applicant:

... would have a real propensity to significantly jeopardise the integrity of the investigation as a whole. Such disclosure may enable persons, subject to investigation, to construct defences, tamper with evidence and interfere with witnesses (such as LSC employees).

29. Further, the LSC submits²⁷ that:

Should [the applicant] be provided with the information, prior to the investigation being completed, it might arguably result in [the applicant] forwarding further correspondence to the Commission, which will again impact on its progress including having to assess whether that

²² Gill and Brisbane City Council (2001) 6 QAR 45 at [56].

²³ T and Department of Health (1994) 1 QAR 386 at [16]. For example, investigations by environmental compliance officers into breaches of environmental regulations or licence contraventions, investigations by local government officers into breaches of local law, investigations into breaches of liquor licensing laws and misconduct investigations.

²⁴ At page 2.

²⁵ Submission to OIC dated 20 April 2021 and again confirmed by email dated 12 August 2021.

²⁶ Submission to OIC dated 7 October 2020.

²⁷ Submission to OIC dated 7 October 2020.

conduct is relevant to the disciplinary proceedings, whether additional charges are required and/or whether amendment is required to the particulars. This will ultimately delay the progress of the matter and further resources would be needed to respond to [the applicant].

30. As to why these expectations are reasonable in the circumstances of this matter, the LSC submits:²⁸

I appreciate that [the applicant] may wish to have access to documents, that are subject to investigation, but the LSC investigation process required to be undertaken (some of which is outlined above) before any disciplinary application is filed, should be able to proceed without the burden of that information potentially being released, prior to its finalisation.

...

The Commission has taken into consideration [the applicant's] conviction for stalking, which formed part of the original conduct that was considered, as well as, his continuing behaviour in forwarding significant amounts of correspondence to the LSC.

31. The applicant's submissions in this review are:²⁹

I can understand in principle, the theoretical concerns around jeopardising the integrity of the investigation. However, given this principle, I must also note the following:

- a. *I am currently being investigated by the LSC commissioner (Megan Mahon) who is potentially strongly biased, with a high potential for conflicts of interest because; she was previously with the Queensland Law Society and spent significant time with Bond University Limited (whom are associated with my concerns and claims).*
- b. *I note that Robert Brittan, the ex-chairman of the LSC reported significant concern around conflict of interest and breach of the Australian BUDS test, with Megan Mahon being the new commissioner. However, Yvette, the Attorney General, who has connections and commercial agreements with Bond University Limited, disregarded Robert's concerns.*
- c. *Therefore, the personnel foundations of the LSC already has the propensity to significantly jeopardise a fair investigation into myself. I do not accept any word from the LSC saying that Megan Mahon would not influence this investigation.*
- d. *Therefore, if the LSC uses such reasoning against me, they must also dismantle their current personnel structure. If their current personnel structure is sound, then I should be afforded this information without redaction, due to their current and real propensity to bias the investigation.*

32. These submissions are founded on unsubstantiated allegations regarding the Legal Services Commissioner and assert that the former Attorney-General disregarded these allegations. It is on this basis that the applicant contends that the Legal Services Commissioner and/or other officers of the LSC involved in the investigation have a conflict of interest. This concern, however, is not pertinent to the issue of whether disclosure of the Complaint and Investigation Documents prior to finalisation of the investigation would prejudice the conduct of the investigation. Rather, this concern arises in the context of schedule 3, section 10(2)(a) of the RTI Act, and has been considered below in this context.³⁰

33. Having carefully considered the submissions of the LSC and the applicant, along with the content of the documents located by LSC in response to the applicant's application, I am satisfied that release of the Complaint and Investigation Documents before the investigation is finalised could prejudice the investigation relating to the applicant in the ways the LSC has identified. Further, in the circumstances of this matter, noting in particular the LSC's submissions and the responsive documents, I consider that such expectations are reasonably based.

²⁸ Submission to OIC dated 7 October 2020.

²⁹ Submissions to OIC dated 19 May 2021.

³⁰ See paragraphs 38 and 39.

34. Accordingly, on the material before me, I find that disclosure of the Complaint and Investigation Documents could reasonably be expected to prejudice the LSC's investigation of a contravention or possible contravention of the *Legal Profession Act 2007* (Qld) by the applicant, and therefore schedule 3, section 10(1)(a) of the RTI Act applies to those documents.

Schedule 3, section 10(2) of the RTI Act

35. I will now consider whether the Complaint and Investigation Documents consist of any of the kinds of matter and reports listed in schedule 3, section 10(2) of the RTI Act that are excluded from qualifying as exempt information under schedule 3, section 10(1).
36. Schedule 3, section 10(2) of the RTI Act requires determination of whether the information in question consists of any of the listed kinds of matter or reports – and therefore seemingly requires the identification and consideration of the documents containing the information. However, section 59(2) of the IP Act provides that the agency need not identify the documents in question in order for the agency to refuse to deal with the application under section 59(1) of the IP Act. The Court of Appeal has provided the following guidance to reconcile the operation of these provisions:³¹

... The important distinction between the subsections is that while Sch 3, s 10(1) is concerned with the characterisation of information by the (reasonably expected) effects of its disclosure, Sch 3, s 10(2) focusses on what the information in question actually consists of: whether it is matter or a report with a specified content. The difficulty with taking the s 59(2) approach of not identifying the documents in question is that while the enquiry as to what may reasonably be expected from disclosure lends itself to that approach, and to a conclusion drawn by reference to the nature of the documents, the second enquiry, as to whether their actual content meets a particular description, inevitably requires consideration of the documents themselves.

...

...an agency cannot reach the view necessary under s 59(1)(b) in relation to information which may be exempt under sch 3, s 10 of the Right to Information Act 2009 without a consideration of the documents the subject of the application to ascertain whether they fall within Sch 3, s 10(2)... If the information meets any of the descriptions in Sch 3, s 10 (2), it is not exempt and it cannot appear to be.

In sum, the inference I draw from s 59(2) of the Act is that it is permissible (but not obligatory), in considering Sch 3, s 10(1) of the Right to Information Act 2009 factors, to draw conclusions as to the effects of disclosure by reference to the nature of information that documents of the kind to which access is sought usually contain, without reference to the particular content of the documents in question. But although s 59(2) extends the discretion to refuse to deal with the application by enabling its exercise without any requirement to identify the relevant documents, the latter dispensation will have no practical content where a provision such as Sch 3, s 10(2) makes the actual consideration of those documents a necessary earlier step, in deciding the exemption issue. However, that will not necessarily be the case for other categories of exempt information under Sch 3, which may permit the forming of an opinion in relation to the documents subject to a particular application by reference to the kind of information sought, without more.

37. In accordance with the Court of Appeal's observations, I requested³² that the LSC provide OIC with copies of the Complaint and Investigation Documents, so that I may consider whether the documents consist of any of the kinds of matter and reports listed in schedule 3, section 10(2) of the RTI.

³¹ *Shelton* at [45]-[48] per Holmes CJ (Fraser JA and Boddice J concurring).

³² By letter dated 14 June 2021.

38. The applicant's submissions in this review (set out at paragraph 31 above) raise unsubstantiated concerns about the LSC's investigation relating to him – namely, that the Legal Service Commissioner is '*potentially strongly biased*' against him and would influence officers of the LSC involved in the investigation, and therefore there is a '*current and real propensity*' that those officers are also biased against him. On this basis, the applicant asserts that the LSC officers have a conflict of interest and/or will not conduct a fair and unbiased investigation. Arguably, the applicant's submissions may be construed as raising the exclusion in schedule 3, section 10(2)(a) of the RTI Act, which provides that information consisting of '*matter revealing that the scope of a law enforcement investigation has exceeded the limits imposed by law*' is not exempt information under schedule 3, section 10(1).
39. Having received and had the opportunity to consider the Complaint and Investigation Documents, I am unable to identify any information in them which a fair-minded lay observer could rely on to reasonably apprehend that any LSC officer might not bring an impartial and unprejudiced mind to the resolution of this matter.³³ Further, I am unable to identify any information which could reveal that the LSC's investigation has otherwise exceeded legal limits. Accordingly, I am satisfied that the Complaint and Investigation Documents do not consist of matter listed at schedule 3, section 10(2)(a) of the RTI Act.
40. I have also turned my mind to the other kinds of matter or reports listed in schedule 3, section 10(2) of the RTI Act, and am satisfied that the Complaint and Investigation Documents do not consist of any of these kinds of matter or reports.

Conclusion

41. For the reasons outlined above, I am satisfied that:
- **Class of documents** - the remainder of the access application is expressed to relate to all documents of a particular class that relate to a stated subject matter – that is, the Complaint and Investigation Documents; and
 - **Exempt information** - schedule 3, section 10(1)(a) of the RTI Act applies to the Complaint and Investigation Documents; schedule 3, section 10(2) of the RTI Act does not exclude them from qualifying as exempt information under schedule 3, section 10(1); and, accordingly, it appears that the Complaint and Investigation Documents are comprised of exempt information.
42. Given these considerations, I am satisfied that the LSC may refuse to deal with the remainder of the access application (ie. the Complaint and Investigation Documents) under section 59(2) of the IP Act.

DECISION

43. I affirm the LSC's decision to refuse access to the Attorney-General Correspondence responsive to the access application on the ground that it is nonexistent.³⁴
44. Further, I affirm the LSC's decision to refuse to deal with the remainder of the access application (that is, the Complaint and Investigation Documents) on the basis that it requests access to all documents of a particular class that relate to a stated subject

³³ Paraphrasing the test for assessing apprehended bias for a decision maker, as described by the High Court – see *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at [6] per Gleeson CJ, McHugh, Gummow and Hayne JJ; *Michael Wilson & Partners Limited v Nicholls* (2011) 244 CLR 427 at [31] per Gummow ACJ, Hayne, Crennan and Bell JJ; and *Isbester v Knox City Council* (2015) 255 CLR 135 at [20] per Keifel, Bell, Keane and Nettle JJ.

³⁴ Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.

matter, and it appears that all such documents comprise exempt information, namely information the disclosure of which could reasonably be expected to prejudice an ongoing investigation.³⁵

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: 16 August 2021

³⁵ Section 59(2) of the IP Act and schedule 3, section 10(1)(a) of the RTI Act.

APPENDIX**Significant procedural steps**

Date	Event
28 July 2020	OIC received the application for external review.
30 July 2020	OIC notified the LSC and the applicant that the application for external review had been received and requested procedural documents from the LSC. OIC received the requested procedural documents from the LSC.
3 September 2020	OIC notified the LSC and the applicant that the application for external review had been accepted.
18 September 2020	OIC requested a submission from the LSC, together with any relevant search records.
7 October 2020	OIC received the requested submission from the LSC.
7 April 2021	OIC requested a further submission from the LSC.
20 April 2021	OIC received the requested submission from the LSC.
6 May 2021	OIC conveyed a preliminary view to the applicant.
19 May 2021	OIC received a submission from the applicant.
14 June 2021	OIC requested copies of the documents claimed to comprise the exempt class of documents from the LSC.
10 August 2021	OIC received copies of the requested documents from the LSC.
12 August 2021	OIC received confirmation from the LSC that the investigation is still ongoing.