



Decision and Reasons for Decision

Citation:	S59 and Griffith University [2025] QICmr 29 (3 June 2025)
Application Number:	318033
Applicant:	S59
Respondent:	Griffith University
Decision Date:	3 June 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - SCOPE OF APPLICATION - whether certain documents fall within the scope of the application - whether terms of the application can be unilaterally expanded on external review - section 43 of the <i>Information Privacy Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - DOCUMENTS NONEXISTENT OR UNLOCATABLE - whether agency has conducted reasonable searches - where agency has explained why documents do not exist - whether there are reasonable grounds to be satisfied the requested documents do not exist - whether access to further documents may be refused on the basis they are nonexistent - section 67(1) of the <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)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Griffith University (**University**) under the *Information Privacy Act 2009* (Qld) (**IP Act**). His application was divided into four parts and requested, in summary, student file documents, timetables, documents relating to any person authorised to represent the applicant, and student misconduct documents.²
2. The University located 28 pages comprising student file documents and a timetable. It decided³ to release this information in full. In relation to the remainder of the requested information, it decided to refuse access to the information on the ground that it is nonexistent.⁴

¹ On 19 March 2024.

² For the timeframe 1 January 2016 to 18 March 2024.

³ Decision dated 24 April 2024.

⁴ Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**). Section 67(1) of the IP Act provides that an agency may refuse access to information in the same way and to the same extent that the agency could refuse access to the document under section 47 of the RTI Act were the document the subject of an access application under the RTI Act.

3. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of the University's decision.
4. For the reasons set out below, I vary the University's decision and find that:
 - the further student file documents, the metadata and the student misconduct documents raised by the applicant may be refused on the ground they do not exist;⁶ and
 - the authorised representative documents raised by the applicant fall outside the scope of the access application.

Background

5. The applicant contends that further documents exist and should have been located by the University.

Reviewable decision

6. The decision under review is the University's decision dated 24 April 2024.

Evidence considered

7. Significant procedural steps relating to the external review are set out in the Appendix.
8. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix). I have taken into account the applicant's submissions to the extent they are relevant to the issue for determination in this review.
9. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁷ I consider a decision-maker will be '*respecting, and acting compatibly with*' that right, and others prescribed in the HR Act, when applying the law prescribed in the IP Act and RTI Act.⁸ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations of Bell J on the interaction between equivalent pieces of Victorian legislation:⁹ '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*'.¹⁰

Preliminary matters

10. As noted at paragraph 2, the University located 28 pages of information and released these in full to the applicant. During the external review, the applicant requested further copies of two documents that had been disclosed to him by the University.
11. Firstly, he requested a further copy of page four of the documents on the basis that it was '*illegible*'.¹¹ The University explained to OIC that page three of the located

⁵ External review application received 22 May 2024.

⁶ Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.

⁷ Section 21(2) of the HR Act.

⁸ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. I further note that OIC's approach to the HR Act set out in this paragraph was considered and endorsed by the Queensland Civil and Administrative Tribunal (**QCAT**) in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (where Justice Member McGill saw '*no reason to differ*' from OIC's position).

⁹ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹⁰ *XYZ* at [573].

¹¹ External review application received 22 May 2024.

documents comprised a ‘*change of personal details*’ form and it was understood that, although this form was one page in length, it had been scanned as double-sided and accordingly page four comprised the back of page three which was blank.¹² The applicant accepted the University’s explanation, but requested ‘*clarification of whether page 4 still exists as a readable copy (if so, I would still like a readable version of the document)*’.¹³

12. Secondly, the applicant requested a further copy of the timetable in a ‘*a non-excel format (i.e. the format it is currently stored in)*’.¹⁴ In its decision the University explained that:

... as the timetabling information is over 7 years old, the timetables are not kept in their original format and the timetables were exported into an excel spreadsheet to provide this information to you.

13. Section 83 of the IP Act deals with the form in which access can be provided to a document.¹⁵ In terms of the applicant’s request regarding page four, I consider it unnecessary to address this request for a readable version of a blank page.¹⁶ Further, given the University has provided the applicant with a copy of the timetable, there is no requirement for the University to provide the applicant with a further copy in a particular format specified by the applicant.

Issues for determination

14. During the review, the applicant made no submissions about the timetable¹⁷ other than his submission regarding format noted at paragraphs 12 and 14 above. He also accepted that his official transcript may be refused.¹⁸ Accordingly, I need not make a determination regarding these documents.
15. The applicant’s concerns on external review are that the University has:
- located some, but not all, of the student file documents;¹⁹ and
 - failed to locate any of the metadata,²⁰ authorised representative documents,²¹ and student misconduct documents.²²
16. Consequently, the primary issue for determination involves whether access to documents may be refused on the ground that they are nonexistent. However, alongside this issue, it is also necessary to consider whether the applicant’s application can be taken to include some documents raised by him on external review. This consideration is required, given the University is only required to conduct searches for documents within the scope of the application.

¹² Letter dated 25 July 2024.

¹³ Letter dated 28 March 2025.

¹⁴ Letter dated 28 March 2025.

¹⁵ For example, providing a copy of a document or a reasonable opportunity to inspect a document.

¹⁶ In this regard, I have taken into account both the applicant’s comments regarding his disabilities and requirements of the HR Act and *Anti-Discrimination Act 1991* (Qld).

¹⁷ Requested by him at part 2.a. of his application.

¹⁸ See OIC’s letter to the applicant dated 6 March 2025, in which OIC conveyed a preliminary view that other access is available to his official transcript through the University’s academic transcript program and accordingly access to the transcript could be refused under section 67(1) of the IP Act and sections 47(3)(f) and 53(d) of the RTI Act; and the applicant’s letter dated 28 March 2025, in which he accepted this view.

¹⁹ Requested at part 1.a. of the access application.

²⁰ Requested at parts 1.b. and 2.b. of the access application.

²¹ Requested at part 3. of the access application.

²² Requested at part 4. of the access application.

Relevant law

17. Under section 40 of the IP Act, an individual has a right to be given access to documents of an agency to the extent they contain the individual's personal information.²³
18. The IP Act requires that an access application must '*give sufficient information concerning the document to enable a responsible officer of the agency or the Minister to identify the document*'.²⁴ The Information Commissioner has previously recognised²⁵ that the scope of an application should not be interpreted legalistically or narrowly – however, balanced against this is the need for agencies to be able to restrict their searches for documents with reference to the terms used in the application. There are sound practical reasons for the documents sought being clearly and unambiguously identified. The terms of an application set the direction and parameters of an agency's search efforts²⁶ and are therefore of primary importance where an applicant contends – as is the case in this review – that the agency has not located all relevant documents. For these reasons the scope of an application may not be unilaterally widened on external review.²⁷
19. The Information Commissioner's external review functions include investigating whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.²⁸ However, access may be refused in circumstances where a document is nonexistent.²⁹
20. A document will be *nonexistent* if there are reasonable grounds to be satisfied it does not exist.³⁰ To be satisfied that a document does not exist, the Information Commissioner has previously had regard to various key factors, including an agency's record keeping practices and procedures (including, but not limited to, its information management approaches).³¹ By considering relevant factors, the decision maker may conclude that a particular document was not created because, for example, the agency's processes do not involve creating that specific document. In such instances, it is not necessary for the agency to search for the document. Rather, it is sufficient the relevant circumstances to account for the nonexistent document are adequately explained by the agency.

²³ 'Personal information' is defined in section 12 of the IP Act as 'information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion'.

²⁴ Section 43(2)(b) of the IP Act.

²⁵ *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) at [21].

²⁶ In this regard, I note the following observations of the Information Commissioner in *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 at [8], when addressing similar considerations under the predecessor to the RTI Act, the *Freedom of Information Act 1992* (Qld) (**FOI Act**): 'The terms in which an FOI access application is framed set the parameters for an agency's response under Part 3 of the FOI Act, and in particular set the direction of the agency's search efforts to locate all documents of the agency which fall within the terms of the FOI access request. The search for the relevant documents is frequently difficult and has to be conducted under tight time constraints. Applicants should assist the process by describing with precision the document or documents to which they seek access'. These observations were cited with approval in *Rolfe and Banana Shire Council* (Unreported, Queensland Information Commissioner, 9 October 2009) at [104], *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [33] and *Ciric and Queensland Police Service* [2018] QICmr 30 (29 June 2018) at [20].

²⁷ *Robbins and Brisbane North Regional Health Authority* (1994) 2 QAR 30 at [17]; *Arnold and Redland City Council* (Unreported, Queensland Information Commissioner, 17 October 2013) at [21].

²⁸ Section 137(2) of the IP Act. The Information Commissioner also has power under section 115 of the IP Act to require additional searches to be conducted during an external review. QCAT confirmed in *Webb v Information Commissioner* [2021] QCATA 116 (**Webb**) 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.

²⁹ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

³⁰ Section 52(1)(a) of the RTI Act. For example, a document has never been created.

³¹ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19] which adopted the Information Commissioner's comments in *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (**PDE**) at [37]-[38]. *PDE* addresses the application of section 28A of the now repealed *FOI Act*. 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.

21. The Information Commissioner may also take into account the searches and inquiries conducted by an agency in determining whether a document is nonexistent. The key question then is whether those searches and inquiries amount to ‘*all reasonable steps*’.³² What constitutes reasonable steps will vary from case to case, as the search and inquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances. Such steps may include inquiries and searches of all relevant locations identified after consideration of relevant key factors.³³
22. The agency that made the decision under review has the onus of establishing that the decision was justified, or the Information Commissioner should give a decision adverse to the applicant.³⁴ However, where an external review involves the issue of missing documents, the applicant bears a practical onus to establish reasonable grounds which demonstrate that the agency has not discharged its obligation to take all reasonable steps to locate the requested documents. Suspicion and mere assertion will not satisfy this onus.³⁵ In assessing an agency’s searches, the relevant question is whether the agency has taken *all reasonable steps* to identify and locate documents, as opposed to *all possible steps*.³⁶

Findings

Part 1.a. Further student file documents

23. Part 1.a. of the application requests:

1. Student File Documents

a. All documents contained within my student file.

24. In his external review application, the applicant referred to the *University Sector Retention and Disposal Schedule (University RDS)* and submitted that this RDS refers to various types of documents (which the applicant listed) that should exist on a student file and had not been located by the University. He stated:

... I hold serious doubts about the sufficiency of the searches conducted on my student file ... and consider it a possibility that searches conducted on my student file were not as comprehensive as I am being led to believe.

25. During the review, OIC provided the University with a list of the documents the applicant considered had not been located. In response, the University submitted that the applicant had misunderstood the type of information the University holds on a student’s file. Further, in relation to the University RDS, the University submitted that it:³⁷

... lists a range of information that may be kept on a student’s file. However, the Schedule clearly states that “some or all” of these documents may exist on a student’s file. It does not state that all the documentation will be kept on the student’s file.

The University has provided the applicant with all information contained on his student file. The University does not operate a centralised record system. This means that if information

³² As set out in *PDE* at [49].

³³ As set out in *PDE* at [38].

³⁴ Section 100(1) of the IP Act.

³⁵ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

³⁶ See *Webb* at [6], where Judicial Member McGill observed that ‘even if, at least in theory, further and better searches might possibly disclose additional documents’... [t]he question in any particular case is whether the tests in s 52 of the Act have been met’. See also *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

³⁷ Letter dated 3 December 2024.

exists that relates to the applicant regarding academic progress, assessments, enrolment, fees and charges, graduation, loans and repayments, prizes and awards and program advice it will be kept within the business system of the group in the University responsible for that area, not on the applicant's student file. For example, any physical exams the applicant may have undertaken during his time with the University will be kept by the individual school they related to, if they are retained at all. We have identified at least 8 separate business groups we would need to search to determine whether further information exists relating to the individual, however there are likely many more.

In his application, the applicant requested access to his "student file". We have provided this. The other documents requested do not exist on his student file and therefore, fall outside the scope of his request. ... If the applicant is seeking access to additional information that may be held by the University in relation to him, we request he lodges another application with the University outlining the specific information he seeks access to. We will then undertake searches to determine whether the information exists.

26. I conveyed the University's submission to the applicant. The applicant maintained his position and submitted that:³⁸

There are no documents associated with my enrollment, [sic] graduation, fees and charges, academic progress, program advice, assessments, or loans and repayments. This is pretty standard information and regardless of whether it is a prescription of the [University] RDS, the notion that this sort of information would be contained within a student file (given the enduring value of such information) is an inherently logical conclusion.

27. I accept, as submitted by the University, that the University RDS does not prescribe a mandatory list of documents that must be maintained on a student's file. While the applicant considers or expects that certain information *should* have been on his student file, the University's submission explains that this information may be located elsewhere within the University.³⁹ There is no information before me to suggest that the submission provided by the University about how it maintains its records is incorrect.
28. Having considered the University's explanation, I am satisfied that it provides a reasonable explanation as to why the documents listed by the applicant were not located on his student file. In light of this explanation, I find that the documents listed by the applicant are nonexistent insofar as they may be located on the applicant's student file, and may be refused on this ground.
29. The documents listed by the applicant may possibly be located elsewhere within the University, in such locations that fall outside the scope of the request for the applicant's student file in part 1.a of the application – however, it was not necessary for the University to conduct searches of any such locations for the listed documents.

Parts 1.b. and 2.b. Metadata

30. Parts 1.b. and 2.b. of the application request:

1. Student File Documents

...

b. Meta-data associated with all documents contained in my student file.

2. Timetables

...

b. Meta-data associated with my class timetables.

³⁸ Letter dated 28 March 2025.

³⁹ Assuming it existed, and still exists, noting that the applicant attended the University in 2016-2017.

31. In its decision the University stated:

The RTI team has spoken at length with the IT team in the University about accessing this information. As you know the information you have requested access to was created in 2016, 2017 and 2018. Since then, the University has changed IT systems. This had led to data being transferred from one system to the new system. This means that the original metadata associated with these documents no longer exists as new metadata was created when the University changed IT systems and the documents were transferred.

32. The applicant referred to the *General Retention and Disposal Schedule (General RDS)* and submitted that the General RDS ‘*mandates the retention of metadata for at least the lifetime of the corresponding documents’ existence*.⁴⁰ In addition, the applicant stated that the Queensland State Archives (QSA) guideline *Migrating Digital Records (Guideline)* advises that, if a data migration occurs, ‘*any metadata associated with those transfers must be uploaded to the new system*’,⁴¹ and that retention of the original metadata is a ‘*legal requirement*’.⁴²
33. As noted above under the heading ‘Part 1.a. Further Student File Documents’, the applicant considers that the University had failed to locate certain documents on his student file. The applicant submitted that he was ‘*requesting further inquiry into the whereabouts of the student file metadata*’ as it would enable him to verify the University’s submission as to what information it recorded on a student’s file.⁴³
34. Leaving aside the extent to which the General RDS and Guideline may require the retention of the metadata sought by the applicant, I am satisfied from the University’s explanation that it did not take steps to maintain this metadata when the University changed IT systems and accordingly, although the metadata previously existed, it no longer does. While the applicant considers the University’s explanation to be ‘*unlikely*’,⁴⁴ there is no information before me to suggest that what the University stated occurred to previous metadata when it changed IT systems did not occur.⁴⁵
35. Based on the information before me, I find that access to the metadata may be refused on the ground that it is nonexistent.

Part 3. Authorised representative documents

36. Part 3. of the application requests:

3. Authorised Representative Documents

- a. Applications made to release information or conduct business on my behalf (e.g. authority to release information or transact business on behalf of student forms).*
- b. Any documents submitted to the university by a person authorised to represent me.*
- c. Any documents given to a person authorised to represent me by the university.*
- d. Any communications made between the university and any person authorised to represent me.*

Please note: a “person authorised to represent me” is not limited to persons that have filed an authority to release information or transact business on behalf of student form.

⁴⁰ External review application received 22 May 2024.

⁴¹ External review application received 22 May 2024.

⁴² Under the *Public Records Act 2023*. Letter dated 28 March 2025.

⁴³ Letter dated 28 March 2025.

⁴⁴ Letter dated 28 March 2025.

⁴⁵ In particular, noting that section 186 of the IP Act, provides that it is an offence to provide false or misleading information to OIC.

37. By way of background, the University provides students with the ability to complete and submit a form (**Authority Form**)⁴⁶ to the University to either nominate an individual to transact business on their behalf or to enable the individual to access the particular student's information. In its decision, the University stated that this type of information would be kept on the applicant's student file. The University searched the applicant's student file, and all documents located on the file were disclosed to the applicant. Among these, there were no documents or communications between the University and any other individual authorised to represent the applicant.
38. In his external review application, the applicant accepted that any Authority Form would be held on his student file but referred to the note included by him at part 3. of his application which as set out above, stated '**Please note: a "person authorised to represent me" is not limited to persons that have filed an authority to release information or transact business on behalf of student form**' and submitted that:

[The University] seems to be overlooking other locations which could reasonably be expected to hold documents associated with people conducting business on my behalf.

39. During the review, I asked the applicant to provide further information about this contention.⁴⁷ In response, the applicant submitted⁴⁸ that the scope of part 3. of the application extended to documents created under the *Disability Standards for Education 2005 (Standards)* and the University should conduct further searches for any documents created under the Standard. Generally, the applicant submitted that the Standards require the University to make adjustments for a student with a disability; before this can occur, either the student or an associate of the student must be consulted regarding the proposed change; and that an associate extends to a person who has a relationship with the person affected by the disability. He also explained why he considered that the University may have created documents under the Standards in relation to him – submitting that he had just located a report that stated that he has a number of mental disabilities; the University would have known that he had a number of disabilities when he enrolled at the University; accordingly, the University would have been required under the Standards to take all reasonable steps to ensure that he could partake in the various aspects of his university education on the same basis as a person without a disability; however, the University did not consult him in relation to any reasonable adjustments; given this, an associate would have been consulted about any reasonable adjustments that were considered by the University; and every time the University consulted an associate about a proposed adjustment for him under the Standards, this individual was an '*authorised representative*' as referred to in part 3. of his application.
40. In this regard, the applicant appeared to conceptualise an '*authorised representative*' as someone authorised by the Standards, rather than himself. He stated '*the people authorised to represent me could extend to any number of people, including other students I had any kind of relationship with (even those that may have been extremely casual)*'⁴⁹ and provided a list of the names of ten individuals whom he believed the University may have consulted under the Standards.⁵⁰ Subsequently,⁵¹ the applicant provided the names of two further individuals. and stated that his above submission:

... was not intended to limit or narrow the scope of the application should that have been the case otherwise. I am still after documents associated with people authorised to represent me and those documents should be found by searching the relevant locations.

⁴⁶ Titled '*Authority to Release Information or Transact Business on behalf of a Student*'.

⁴⁷ Email dated 8 November 2024.

⁴⁸ Letter dated 20 November 2024.

⁴⁹ Letter dated 20 November 2024.

⁵⁰ Letter dated 20 November 2024 and email dated 13 December 2024.

⁵¹ Email dated 13 December 2024.

41. I conveyed a preliminary view to the applicant that I considered that documents relating to consultations under the Standards did not fall within the scope of the application, as I did not consider that a reasonable reading of the note in part 3. of the scope would lead a responsible officer of the University to conclude the applicant was seeking access to such documents.⁵² In response, the applicant submitted that:⁵³

... there has never been any argument advanced by [the University] that the information I provided was insufficient. [The University] may have refused to deal with my application by stating that I had not provided sufficient information, however it chose to proceed under the misconception that the student file was the only location authorised representative documents would be located. ... [e]xplanations regarding its searches demonstrate that it has failed to consider university policy, legislation and educational standards, or even undertake rudimentary enquiries with the relevant people such as disability service officers regarding the scope of the application.

42. While the scope of an application should not be interpreted legalistically or narrowly, unilateral expansion of scope is not possible. As noted at paragraph 18, the terms of an application set the parameters of an agency's search efforts, and an application must give sufficient information concerning the document to enable a responsible officer of the agency to identify the document.
43. The text of the application does not, in part 3. or as a whole, make any reference to the Standards, reasonable adjustments, associates, disabilities, or disability service officers; nor does the applicant's external review application. It was only after I requested further information from the applicant about part 3. of his application that the applicant advised that he had *'located some information relevant to this review which should be of assistance in determining the scope of [his] application'*⁵⁴ and made submissions regarding the Standards. It was not until this point that it became apparent to OIC that the documents the applicant considered to be missing relate to consultations by the University with an associate about reasonable adjustments for him.
44. It is, of course, to be expected that the University would have greater familiarity than OIC with the circumstances in which representatives act on behalf of students, and associated policies, procedures, guidelines and the like. However, even taking this into account, I do not consider that inclusion of the note at part 3. of his application – which states ***'Please note: a "person authorised to represent me" is not limited to persons that have filed an authority to release information or transact business on behalf of student form'*** – gives the University sufficient information to understand that these are the documents being requested, and conduct requisite searches for them.
45. It could be contended that the wording of part 3, including the note relied on by the applicant, is broad enough to comprise a category which would include the documents raised by the applicant. However, the absence of any relevant detail or specificity in the terms of the application, in a context where an applicant is required to give sufficient information regarding the documents requested by them, counteracts this contention. If, at the time of making his application, the applicant had intended to request documents regarding consultation with associates, I consider that it would be reasonable to expect the application would make some reference to reasonable adjustments, disabilities, or perhaps disability service officers, if not the Standards later raised by him.

⁵² Letter dated 6 March 2025.

⁵³ Letter dated 28 March 2025.

⁵⁴ Letter dated 20 November 2024.

46. Given the lack of any such detail or specificity in the wording of part 3., I am satisfied that the application cannot reasonably be taken to request these documents. I find that documents relating to consultation under the Standards or otherwise with any associate of the applicant regarding reasonable adjustments for his disabilities do not fall within the scope of the application. Consequently, whether or not such documents exist, the University was not required to conduct inquiries or request searches for them, either of its disability service officers or elsewhere.

Part 4. Student misconduct documents

47. Part 4. of the application requests:

4. Student Misconduct Documents

- a. Student misconduct allegations made against me, and all documents associated with those student misconduct allegations.
- b. Documents and materials associated with any preliminary investigations or investigations undertaken in response to misconduct allegations made against me.
- c. Issued warning/s; where those issued warnings concern me.
- d. Allegation notice/s; where those allegations concern me.
- e. Any documents held by the Student Misconduct Committee, Register, or Deputy Register, pertaining to student misconduct allegations made against me and any subsequent actions taken in response to those allegations.
- f. Meta-data associated with all documents found in relation to section 4 (a-e).

48. In its decision, the University stated:

... The RTI team requested that the Student Integrity Unit (SIU) conduct searches for this information. SIU confirmed that they searched [the applicant's] student file and student misconduct files and did not locate any documents in response to [the applicant's] request. SIU also advised that any outcomes of misconduct processes, if they exist, are recorded on a student's unofficial transcript.

49. The University went on to state that a copy of the unofficial transcript had been released to the applicant and there were no student misconduct processes recorded on the transcript.
50. In his application for external review, the applicant stated that he has concerns about the searches the University states it has conducted and he considered the University's explanations about its searches to be 'inadequate'.⁵⁵
51. During the review, I conveyed a preliminary view to the applicant that, while he considered the University's searches to be inadequate, he had not provided any information or evidence to suggest that documents in response to part 4. of the application exist and had not been located by the University.⁵⁶ Given this, I did not consider that there were any reasonable grounds to request the University conduct further searches to locate documents responsive to this part of the application.
52. In response, the applicant did not provide any information or evidence about particular circumstances involving allegations of misconduct; rather he referred to the University's *Student Misconduct Policy (Policy)*⁵⁷ and noted that while documents associated with such matters are 'typically placed on a student's student file, that does not necessarily

⁵⁵ External review application received 22 May 2024.

⁵⁶ Letter dated 6 March 2025.

⁵⁷ The applicant referred to the Policy, however he provided OIC with a copy of the University's 'Student Misconduct Procedures', which was revised on 12 November 2019, after the time the applicant attended the University. Section 6.2.1 of the Procedure states that if no further action is taken after a preliminary investigation, it is at the discretion of the decision-maker whether any record is added to the student file.

apply to documents associated with student misconduct matters that did not progress past a preliminary investigation'.⁵⁸ The applicant referred to the various decision-makers under the Policy and listed the individuals that he considered should conduct searches for the existence of documents associated with any preliminary investigations. Furthermore, the applicant submitted that, despite the University's comment that student misconduct matters are recorded on a student's unofficial transcript, only matters involving exclusions, suspensions or terminations are recorded on that document. Given this, the applicant considered that the University should be '*directed*' to provide further information about relevant locations, systems and practices, and how the University considered these when it undertook its searches for documents responsive to part 4. of the application.⁵⁹

53. The information provided by the University indicates that, when conducting searches for documents responsive to part 4. of the application, it conducted searches of the applicant's file *and* the student misconduct files on its G drive, and that there were no records of allegations of student misconduct against the applicant.⁶⁰ While, in theory, it would be *possible* for the University to request that the individuals referred to by the applicant conduct searches, or to undertake the enquiries regarding locations, systems and practices suggested by him, it is necessary to distinguish between what steps are *possible* and what steps are *reasonable*.
54. The applicant's submissions discuss only policy and processes that would apply *if* allegations were made against him. The applicant has provided no information or evidence about any allegations that *were* made against him, or even any circumstances which may have led to such allegations. Consistent with this, the University has identified no information to suggest that any allegations were made against the applicant. In these circumstances, I do not consider that requiring the University to conduct the further searches or enquires suggested by the applicant would be a *reasonable* step.
55. The applicant has not satisfied the practical onus on him to show that the University failed to conduct all reasonable searches for documents responsive to part 4. I am satisfied that the University has taken all reasonable steps to locate these documents in the locations where they could be expected to be located. Accordingly, I find that access to these documents may be refused on the ground they are nonexistent.

Other issues

56. The applicant requested that OIC issue a direction to the University under section 116 of the IP Act to require it to provide OIC with various documents relating to the University's record management policies and procedures.⁶¹ I have previously advised the applicant that section 116 of the IP Act relates to the provision of documents to the Information Commissioner (or their delegate) – not the applicant. The applicant may hold the view that this information is relevant and is needed to satisfy himself about the adequacy of the searches undertaken by the University; however, as the delegate decision-maker, I consider that this step goes beyond what is *reasonable* in this matter.
57. The applicant also submitted that further searches should be conducted for documents that may have been transferred to QSA.⁶² Given my conclusions outlined above that no responsive documents exist, it follows that I am satisfied that there can be no reasonable basis for expecting that any responsive documents were transferred to QSA, and I need

⁵⁸ Letter dated 28 March 2025.

⁵⁹ Letter dated 28 March 2025.

⁶⁰ Email from the Manager of Student Integrity to the RTI Unit dated 10 April 2024.

⁶¹ Letter dated 28 March 2025.

⁶² Letter dated 20 November 2024.

not address this aspect of the applicant's submissions further. This is mere speculation by the applicant and does not demonstrate any need for searches of QSA in order for the University to have taken all reasonable steps.

DECISION

58. For the reasons set out above, I vary the University's decision and find that:

- the further student file documents,⁶³ the metadata⁶⁴ and the student misconduct documents⁶⁵ raised by the applicant may be refused on the ground they do not exist;⁶⁶ and
- the documents raised by the applicant regarding his request for authorised representative documents⁶⁷ fall outside the scope of the access application.

59. 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: 3 June 2025

⁶³ Requested at part 1.a. of the access application.

⁶⁴ Requested at parts 1.b. and 2.b. of the access application.

⁶⁵ Requested at part 4. of the access application.

⁶⁶ Section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.

⁶⁷ Requested at part 3. of the access application.

APPENDIX

Significant procedural steps

Date	Event
22 May 2024	OIC received the application for external review from the applicant.
22 May 2024	OIC requested preliminary documents from the University.
27 May 2024	OIC received the preliminary documents from the University.
5 July 2024	OIC advised the applicant and the University that the application for external review had been accepted and requested further information from the University.
25 July 2024	OIC received a submission from the University.
8 November 2024	OIC requested further information from the applicant in relation to his submission relating to part 3. of the application.
15 November 2024	OIC requested the University provide a submission in response to some of the applicant's concerns.
20 November 2024	OIC received a submission from the applicant.
3 December 2024	OIC received a submission from the agency.
13 December 2024	OIC received an email from the applicant.
6 March 2025	OIC conveyed a preliminary view to the applicant.
28 March 2025	OIC received a submission from the applicant.