



Decision and Reasons for Decision

Citation:	<i>1L2FOK and Department of Transport and Main Roads [2018] QICmr 35 (14 August 2018)</i>
Application Number:	313447
Applicant:	1L2FOK
Respondent:	Department of Transport and Main Roads
Decision Date:	14 August 2018
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - APPLICATION FOR ACCESS TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - scope of application included text messages sent or received by agency officers on work mobile telephones - whether searches of backup system are appropriate or required under sections 29 and 52(2) of the <i>Right to Information Act 2009</i> (Qld) - whether agency has taken all reasonable steps to locate documents but the documents cannot be found or do not exist - sections 47(3)(e) and 52 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to the Department of Transport and Main Roads (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to documents concerning his dealings with the Department.
2. The Department's decision granted the applicant access to some information and refused access to other information. The applicant then applied to the Office of the Information Commissioner (**OIC**) for an external review. He submitted that the Department had failed to locate all relevant information and, during the external review, narrowed this concern to text messages sent or received by two departmental officers on their work mobile telephones. In relation to this concern, three text messages were located and released to the applicant during the external review.
3. I find that access to any further responsive text messages may be refused under section 47(3)(e) of the RTI Act on the basis that they are nonexistent or unlocatable.

Background

4. The applicant assisted a land owner regarding the sale of the owner's land to the Queensland Government. During negotiations, the applicant complained to the Department about the conduct of a particular departmental officer (**Officer A**).

5. The applicant sought access to correspondence to and from departmental officers mentioning him in connection with the land sale, and correspondence between departmental officers and the external entity engaged by the Department to investigate the applicant's allegation regarding Officer A. The Department's decision granted the applicant access to some information and refused access to the remaining information on the grounds it was either exempt information or contrary to public interest information.
6. The applicant sought external review of the Department's decision and contended that the Department had not located all relevant documents. He subsequently confirmed¹ that his concerns regarding the sufficiency of the Department's searches related to text messages sent or received by Officer A and another departmental officer (**Officer B**) on their work mobile telephones.
7. During the review, the Department located three text messages on Officer B's mobile phone and two video recordings, which it released to the applicant.² The applicant did not contest³ OIC's preliminary view⁴ that certain information⁵ could be refused on the grounds that it was either exempt information⁶ or contrary to public interest information.⁷ Accordingly, that information is no longer in issue and is not considered in this decision.

Reviewable decision

8. The decision under review is the Department's decision dated 28 July 2017.

Evidence considered

9. Evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and Appendix⁸).
10. To the extent the applicant's submissions are relevant to the issue for determination in this review, I have addressed them below.

Issue for determination

11. The applicant maintains that the Department should have located further information in response to his access application—namely, text messages sent or received by Officer A and Officer B on mobile telephones provided to them by the Department for work purposes in the date range from 1 July 2016 to 1 May 2017 that mention him in connection with the land sale or constitute communications with the external Investigator.
12. Accordingly, the sole issue for determination in this review is whether access to the requested text messages may be refused under section 47(3)(e) of the RTI Act on the ground that they are nonexistent or unlocatable under section 52(1) of the RTI Act.

¹ Email from applicant to OIC dated 24 November 2017, confirmed in an email from OIC to applicant dated 27 November 2017.

² The three text messages were released on 15 February 2018. One video recording was released on 19 April 2018 (subject to the deletion of the personal information of a third party) and the other was released on 1 May 2018.

³ By letter dated 25 July 2018, OIC invited the applicant to provide submissions supporting his case by 7 August 2018 if he continued to contest OIC's preliminary views regarding exempt information and contrary to public interest information. OIC advised the applicant that, if he did not do so, OIC would proceed on the basis that the only issue to be addressed in a formal decision is the text messages that he considers should have been located. OIC has received no response from the applicant.

⁴ Confirmed and explained in OIC's letter to the applicant dated 25 July 2018.

⁵ That is, information the Department had decided not to disclose, and further information located but not disclosed during the external review.

⁶ Under section 47(3)(a) of the RTI Act, on the ground it was subject to legal professional privilege under schedule 3, section 7 of the RTI Act.

⁷ Under sections 47(3)(b) and 49 of the RTI Act.

⁸ Which sets out the steps in the external review relevant to the remaining issue for determination.

Relevant law

13. A person has a right to be given access to documents of an agency under section 23 of the RTI Act. This right is subject to various exemptions and considerations including grounds of refusal such as when a document is nonexistent or unlocatable.⁹
14. A document is *nonexistent* if there are reasonable grounds to be satisfied the document does not exist.¹⁰ 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.¹¹
15. To be satisfied that a document is *nonexistent*, the Information Commissioner has previously recognised that a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors, including:¹²
 - 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.
16. 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.
17. 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, all reasonable steps must be taken to locate the documents.¹³ 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.
18. To determine whether a document exists, but is *unlocatable*, the RTI Act requires consideration of whether there are reasonable grounds 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 it.¹⁴ In answering these questions, regard should

⁹ Section 47(3)(e) of the RTI Act.

¹⁰ Section 52(1)(a) of the RTI Act.

¹¹ Section 52(1)(b) of the RTI Act.

¹² *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (*Pryor*) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*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.

¹³ As set out in *PDE* at [49]. See also section 130(2) of the RTI Act.

¹⁴ Section 52(1)(b) of the RTI Act.

again be had to the circumstances of the case and the key factors set out above.¹⁵

19. Section 29(1) of the RTI Act provides clarification about the steps an agency or Minister must take to identify documents with respect to backup systems. It provides that an application for a document does not require an agency or Minister to search a '*backup system*'.¹⁶ However this does not prevent searches of a backup system if the agency or Minister considers the search appropriate.¹⁷ Section 29 also notes that, while a search from a backup system is not generally required, a search is required in the particular circumstances mentioned in section 52(2) of the RTI Act.
20. Section 52(2) provides that before an agency or Minister may be satisfied under section 52(1)(a) of the RTI Act that a '*prescribed document*'¹⁸ does not exist, a search for the document from a backup system is required, but only if the agency or Minister considers the document has been kept in, and is retrievable from, the backup system. Given the wording of section 52(2), this requirement relates only to documents that the agency considers *do not exist* under section 52(1)(a) of the RTI Act—not documents that the agency considers to be *unlocatable* under section 52(1)(b) of the RTI Act.¹⁹

Steps taken on external review

21. On external review, the applicant submitted that the Department had not located any text messages on Officer A's and Officer B's work mobile telephones. He provided OIC with copies of text messages he had received from two other departmental officers within the time period identified in the access application (**Examples**).²⁰ Noting that these Examples demonstrated departmental officers' use of text messaging in their work communications, OIC asked²¹ the Department to consider reviewing its searches for responsive text messages sent or received by Officer A and Officer B in the period from 1 July 2016 to 1 May 2017.

Text messages sent or received by Officer B

22. The Department undertook further searches and located three relevant text messages on Officer B's mobile phone, copies of which were released to the applicant.²²
23. The applicant's submissions question whether the three released text messages were, in fact, located on Officer B's mobile phone. In this regard, the applicant noted that these text messages appear to have been sent on the same date as one of the Examples of text messages provided by him to OIC. Further, he noted that the name of one of the two officers whose text messages to him constituted some of his Examples appears at the top of the released text messages. Additionally, he noted that one of the released text messages was not a message to or from Officer B; rather, it consisted of a message between the applicant and the officer whose name appears at the top of that text

¹⁵ Pryor at [21].

¹⁶ Schedule 5 of the RTI Act defines 'backup system' to mean 'a system that has, for disaster recovery purposes, copied electronic data onto a separate data storage medium, for example, onto a backup tape'.

¹⁷ Section 29(2) of the RTI Act.

¹⁸ A '*prescribed document*' is defined in section 52(4) of the RTI Act as: (a) a document required to be kept under the *Public Records Act 2002* (Qld); and (b) not a document that the agency or Minister could lawfully have disposed of under the *Public Records Act 2002* (Qld). Section 7(1) of the *Public Records Act 2002* (Qld) provides that a public authority must make and keep full and accurate records of its activities; and have regard to any relevant policy, standards and guidelines made by the archivist about the making and keeping of public records.

¹⁹ *Cullen and Department of Public Works* (Unreported, Queensland Information Commissioner, 21 January 2011) at [30] and *Hon Tim Mulherin MP and the Attorney-General and Minister for Justice* [2014] QICmr 21 (3 June 2014) at [25].

²⁰ By email dated 5 December 2017.

²¹ By letters dated 23 January 2018 and 8 February 2018.

²² As noted at paragraph 7 above.

message. Given these considerations, the applicant suggested that the Department may have located the text messages on the phone of that other officer.

24. It is my understanding that the above submissions are directed at demonstrating that the Department has not searched Officer B's mobile phone for text messages, and therefore has not conducted all reasonable searches for such messages.

Analysis

25. When OIC informed the Department of the Examples of text messages provided by the applicant, OIC did not provide copies of those Examples, nor specific information about them. Rather, OIC advised the Department that the applicant had provided text messages between him and the two other departmental officers between 4 July and 7 October 2016, and 14 September and 7 December 2016, respectively. Given this position, to the extent the applicant considers that the Department's searches focussed only on locating his Examples, I do not accept that the Department had sufficiently specific information for this to be the case.
26. Officer B's search certification²³ states that he had personally searched text messages in his allocated work phone for text messages responsive to the search criteria of the information request, and he had located the three text messages subsequently released to the applicant. However, in light of the applicant's submissions, OIC raised with the Department the presence of the other officer's name at the top of the copy of text messages released to the applicant. In response, the Department stated²⁴ that Officer B had confirmed that the text messages were from his phone and that they were messages received by him from the other officer. Officer B stated that the reason the other officer's name appeared in the copy of the text material he provided was because he had taken a screen shot of the text messages on the phone, and this resulted in the sender's name being captured.
27. In support of his contention that the Department searched the phone of the other officer, rather than Officer B, the applicant has noted that one of the released text messages is between the applicant and that other officer. In this regard, I note that the text message in question has light coloured shading. I further note that, in an iPhone, light coloured shading identifies messages *received* by that phone. I also note that the ability to copy a text message received in one phone and to send it to another person's phone is an ordinary function of mobile telephones including iPhones. I therefore do not regard the fact that the text message in question was between the applicant and the other officer as an indication that it was not located on Officer B's iPhone.
28. In support of his view that more than three text messages should have been located on Officer B's phone, the applicant has noted that the located text messages do not include a response to an inquiry contained in one of them. The applicant also contended that there were sometimes frequent communications between himself and various departmental officers. To demonstrate the frequency of communications between the applicant and departmental officers, he provided OIC with copies of five emails sent on one day, 6 October 2016, between himself and three officers, including Officer B.
29. I acknowledge that there were periods in which departmental officers' communications about the land sale were frequent. However, other than the applicant's assertion that more text messages should have been created and/or located, including a response to the text message containing an inquiry, there is no independent evidence before OIC

²³ Dated 17 January 2018.

²⁴ Email dated 20 February 2018.

pointing to the existence of further relevant text messages in Officer B's phone. The information before OIC indicates that officers used both texting and email as modes of communication about issues in the sale and negotiations. I also consider it is reasonable to expect that officers would have communicated verbally.

30. Given these considerations, there is, in my opinion, no information before me to suggest that I should doubt the veracity of Officer B's search certification, and I am satisfied that it accurately reflects the searches for text messages sent and received by Officer B. Accordingly, I am satisfied that the searches of Officer B's phone for relevant text messages covered the entire date range specified in the access application, being the period from 1 July 2016 to 1 May 2017, and resulted in the location of the three released text messages. On the material before me, there is no indication that there are additional responsive text messages on Officer B's phone that have not been located. I consider that the Department has conducted all reasonable searches of that phone for responsive text messages.

Text messages sent or received by Officer A

31. In response to OIC's inquiries,²⁵ the Department informed OIC it was unable to search Officer A's phone as the phone had been lost (**Lost Phone**) and Officer A had been issued a replacement phone on 14 August 2017 (**Replacement Phone**).
32. The access application seeks documents in the period from 1 July 2016 to 1 May 2017. As the Replacement Phone was issued several months later, in August 2017, it appears that any responsive text messages will have been sent or received using the Lost Phone.
33. Information provided by the Department regarding the Replacement Phone indicated that Officer A had not sent nor received text messages in the period from 14 August 2017 and May 2018.²⁶ When OIC queried the absence of any text messages, the Department informed OIC²⁷ of Officer A's advice that it is her practice to send emails, rather than text messages, about work related matters on her work phone. Accordingly, it may be the case that Officer A did not send or receive any text messages on the Lost Phone.
34. At OIC's request, the Department conducted further investigations in relation to the Lost Phone and the Replacement Phone. It advised OIC²⁸ that it does not hold any text messages from the Lost Phone. In this regard, it explained that it does not store SMS messages generated from or received by officers' work mobile phones; rather, SMS text information is transmitted from the relevant mobile phone via mobile server to the Department's internet service provider, Telstra. Thus, SMS messages sent or received by an officer's phone are stored on the phone's SIM card and by Telstra.
35. The Department also informed OIC that the Replacement Phone cannot assist in recovering any SMS messages sent or received using the Lost Phone. In this regard, the Department confirmed it had been advised by Telstra that SMS messages generated or received on the Lost Phone are not retrievable from the Replacement Phone because it is not possible to retrieve data, including text messages, in circumstances where a new SIM Card is placed into a new device, irrespective of whether or not the same mobile telephone number is used. The Department's IT support team conveyed the same advice to Officer A, who in turn reiterated this position in her search certification.

²⁵ Noted at paragraph 21 above.

²⁶ When the Department responded to OIC's inquiries.

²⁷ Telephone conversation on 14 June 2018.

²⁸ Emails dated 7 and 15 February 2018.

36. Further, the Department advised OIC that its contract with Telstra does not contain any provision requiring Telstra to provide the Department with SMS messages sent or received by departmental officers' mobile phones. The Department stated that it had been informed by Telstra's Integrated Service Desk that, while Telstra can physically retrieve SMS messages, it only does so if the matter is what Telstra considers to be sufficiently serious, for example, involving a court order requiring its release to police. Accordingly, the Department considers it is unable to compel Telstra to provide the Department with SMS messages sent or received using the Lost Phone.
37. I note that it is possible that copies of text messages may be made and saved by individual officers, by downloading them to another device such as a work computer, or taking and saving screen shot copies of text messages. However, on the material before me, including Officer A's search certifications, there is nothing to suggest that Officer A downloaded any data, including text messages or screen shots of text messages, from the Lost Phone into a work computer.
38. During the course of the external review, the Department's IT support team identified that both the Lost and Replacement Phones are Apple iPhones, which are able to send and receive text messages by iMessage (**iMessages**), in addition to SMS messages.
39. As iPhones connect with and store data, including iMessages, in the iCloud, the Department considered it may be possible to retrieve any iMessages sent or received by the Lost Phone from the iCloud, if Officer A had sent or received iMessages on the Lost Phone, and had undertaken backups of data on that phone to the iCloud. Officer A stated that she did not know, but did not think that she had undertaken such backups.²⁹
40. The Department's IT support team undertook attempts to locate and recover any relevant iMessages. It searched³⁰ the Replacement Phone for any iMessages saved or backed up from the Lost Phone. It informed OIC that the searches revealed that:
- there were no historical iMessages stored on the Replacement Phone
 - while iMessages were enabled on the Replacement Phone, and the message retention period was set to 'forever', the iCloud was not enabled, and therefore the Replacement Phone was not synchronised to the iCloud, with the result that the Replacement Phone was not backed up to the iCloud, and had not restored data from the iCloud; and
 - there was no indication that the Replacement Phone had ever been backed up or restored from a personal computer via iTunes.
41. The Department advised OIC that a senior Departmental IT officer then undertook a further search,³¹ using a different operating system, which enabled synchronisation of the Replacement Phone to the iCloud, in order to discern if any iMessages from the Lost Phone were stored in the iCloud. The officer identified that a backup from the Lost Phone had taken place in December 2016, within the date range of the access application; however, the backed up data did not include any iMessages or SMS messages. The officer concluded that either there were never any text messages or, if there had been, they were not part of the data that was backed up.

Analysis

42. As set out at paragraphs 40 and 41 above, the Department searched the iCloud for

²⁹ Officer A's search certification dated 6 June 2018.

³⁰ On 6 June 2018.

³¹ On 13 and 14 June 2018.

responsive text messages sent or received by Officer A. In the circumstances of this review, these searches were considered appropriate under section 29(2) of the RTI Act, given it appeared reasonably possible that such messages may have been backed up to the iCloud, and could be retrieved by the Department's IT support team if they had been. To the extent that section 52(2) of the RTI Act may apply in relation to messages stored in the iCloud,³² I am satisfied that the Department has complied with the search requirement in that section.

43. On the other hand, given the absence of any suggestion that Officer A downloaded text messages to another device or took screen shots of them, it follows that there is nothing to suggest that any such material was kept or is retrievable. In these circumstances, I do not consider that searches of devices used by Officer A for any downloads or screen shots of responsive text messages are appropriate³³ or required by section 52(2) of the RTI Act, to the extent that section may apply.³⁴
44. I have carefully considered the applicant's submissions that it is illogical to assert that text messages held by Telstra '*do not exist or cannot be located*', when it is known they are with Telstra. In the circumstances of this review, however, I consider that there is insufficient evidence to establish the existence of relevant text messages. Officer A's advice regarding her practice of using her phone to send emails rather than text messages appears to suggest the nonexistence of responsive text messages. However, given the use of text messages by Officer B and the other departmental officers, it appears reasonably possible that Officer A may, at times, have communicated with her colleagues or others about work matters via text message. In these circumstances, on the material before me, it may be the case—as the applicant submits—that responsive messages exist, but have not been located. However, it may also be the case that such messages do not exist.
45. The applicant contends that the Department has not carried out reasonable searches and inquiries for text messages, as it has not retrieved messages from Telstra. In his view, the Department owns relevant text messages and Telstra simply needs the consent of the State, as owner of the messages, in order to retrieve them. He submits that the Department's ownership arises as the text messages were produced by a public servant on a publicly owned device and concern a matter of public interest.
46. I acknowledge the applicant's desire for the Department to obtain copies of any relevant text messages from Telstra. However, if any such messages exist and are held by Telstra, the Department is not in possession of them. Further, in the absence of any contractual requirement that Telstra retrieve text messages sent or received by departmental employees on work mobile telephones, and in light of Telstra's advice that it only retrieves messages in '*sufficiently serious*' matters, it appears unlikely that the Department is presently entitled to access them.³⁵ In these particular circumstances—while I acknowledge the applicant's concern that text messages sent by departmental employees in the course of their work should be retrievable by the Department—I consider that such messages, if they exist, do not meet the definition of documents of

³² That is, to the extent that (a) this type of storage comprises a '*backup system*' (as defined in schedule 5 of the RTI Act); (b) responsive text messages are '*prescribed documents*' (as defined in section 52(4) of the RTI Act); and (c) the material before me allows a preference of the position that the text messages are unlocatable, rather than nonexistent.

³³ Under section 29(2) of the RTI Act.

³⁴ See footnote 32 above.

³⁵ The Information Commissioner has previously explained that a document will be under the control of an agency where the agency has a present legal entitlement to take physical possession of the document. See, for example, *Queensland Newspapers Pty Ltd and Ipswich City Council* [2015] QICmr 30 (26 November 2015) at [15] and [35-66], applying *Price and the Nominal Defendant* (1999) 5 QAR 80, at [18].

the Department for the purpose of the RTI Act,³⁶ and therefore Telstra's capacity to store them cannot constitute a '*backup system*' under the RTI Act.

47. Even if I am wrong in this regard, it is relevant to note that the issue OIC is required to determine in this review is whether the Department has taken all reasonable steps to locate responsive text messages. On the material before me, I am satisfied that any messages stored by Telstra (if they exist) are not presently retrievable, and that it would be necessary for the Department to take further steps, such as seeking a court order, in order to compel Telstra to search for and retrieve them. I do not consider that taking such further steps is appropriate,³⁷ nor required by section 52(2) of the RTI Act.³⁸ Further, I do not consider that taking such steps is necessary in order for the Department to have taken all *reasonable* steps.
48. I have carefully considered all of the evidence provided to OIC by the Department in relation to the searches and inquiries it conducted during the external review process in an attempt to locate relevant text messages, including the signed certifications provided to OIC by officers of the Department.³⁹ I am satisfied that these searches and inquiries have entailed a targeted and comprehensive examination of all relevant areas within the Department, by officers with appropriate knowledge of those areas. Accordingly, on the material before me, I am satisfied that the Department has conducted all reasonable searches for responsive text messages sent or received by Officer A.

Findings

49. Having reviewed all of the material before me, and in view of the nature of the Department's searches on external review, I am satisfied that:
- the Department has taken all reasonable steps to locate responsive text messages sent or received by Officer A and Officer B
 - text messages sent or received by Officer A, and further text messages sent or received by Officer B, do not exist or cannot be located;⁴⁰ and
 - the Department can refuse access to them.⁴¹

DECISION

50. I vary the Department's decision and, for the reasons set out above, find that access to the further text messages sought by the applicant may be refused under sections 47(3)(e) and 52(1) of the RTI Act, on the basis that they are nonexistent or unlocatable.
51. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

A Rickard
Assistant Information Commissioner

Date: 14 August 2018

³⁶ That is, documents in the Department's possession or control—see the definition of '*document of an agency*' at section 12 of the RTI Act.

³⁷ Under section 29(2) of the RTI Act.

³⁸ To the extent that section may apply. Again, see footnote 32 above.

³⁹ Comprising search certifications by Officer B dated 17 January 2018, Officer A dated 8 February 2018 and 6 June 2018, and the Department's RTI officer dated 7 February 2018.

⁴⁰ Under section 52(1)(a) and (b) of the RTI Act.

⁴¹ Under section 47(3)(e) of the RTI Act.

APPENDIX**Significant procedural steps**

Date	Event
14 August 2017	The applicant applied to OIC for external review of the Department's decision. OIC asked the Department to provide relevant procedural documents by 22 August 2017.
22 August 2017	The Department provided OIC with relevant procedural documents.
25 August 2017	OIC notified the applicant and the Department that the external review application had been accepted, and asked the Department to provide a copy of the documents considered in its decision by 8 September 2017.
4 September 2017	OIC received the requested information from the Department, together with officers' search certifications.
8 September 2017	OIC received further search certifications from the Department.
10 November 2017	The applicant informed OIC that he sought text messages falling within the scope of his access application. OIC asked the applicant to provide OIC with information about the requested text messages.
24 November 2017	The applicant narrowed the scope of the text messages to which he sought access.
27 November 2017	OIC confirmed the narrowed scope to the applicant and asked the applicant to provide OIC with information about the requested text messages by 4 December 2017.
5 December 2017	OIC received the requested information from the applicant.
12 December 2017	OIC asked the Department to consider undertaking further searches and inquiries for text messages.
22 January 2018	OIC received the Department's submission notifying OIC of the loss and replacement of Officer A's phone, and including an additional search certification and copies of three located text messages.
23 January 2018	OIC asked the Department to provide a further submission regarding the located text messages.
7 February 2018	OIC received the Department's further submission, including an additional search certification.
8 February 2018	OIC asked the Department to provide the applicant with copies of the three text messages and to provide OIC with an additional search certification.
15 February 2018	The Department provided OIC with the requested search certification and informed OIC it had provided the applicant with copies of the three text messages.
19 February 2018	The applicant provided a submission to OIC questioning whether the text messages came from the phone of Officer B.
20 February 2018	OIC asked the Department for a submission about Officer A's lost mobile phone and whether the located text messages were from Officer B's phone. The Department provided the requested information.

Date	Event
27 February 2018	OIC informed the applicant the Department advised that text messages from Officer A's Lost Phone could not be recovered and that the three located text messages came from Officer B's phone.
1 May 2018	The applicant made submissions questioning the small number of Officer B's text messages that had been located and about Officer A's Lost Phone.
22 May 2018	OIC requested the Department's further submission regarding its contract with its internet service provider.
25 May 2018	The Department provided the requested information and identified to OIC that, as the Lost Phone was an iPhone, text messages may have been sent by iMessage.
28 May 2018	OIC asked the Department to undertake searches for iMessages and to provide an additional search certification.
8 June 2018	OIC received the Department's submission outlining the result of its searches for iMessages.
11 June 2018	OIC received the requested search certification from the Department. OIC asked the Department to undertake steps to enable iCloud on the Replacement Phone, to search for iMessages that may have been backed up from the Lost Phone.
18 June 2018	OIC received submissions from the Department concerning its searches on iCloud for iMessages.
20 June 2018	OIC conveyed a preliminary view to the applicant that additional text messages sought by the applicant were nonexistent or unlocatable. OIC invited the applicant to provide submissions supporting his case if he did not accept the preliminary view.
6 July 2018	OIC received submissions from the applicant, which stated that he did not agree that access to additional text messages may be refused on the ground they were nonexistent or unlocatable.
25 July 2018	OIC confirmed to the applicant that OIC would issue a formal decision regarding the additional text messages.