



## Decision and Reasons for Decision

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Citation:	<i>Q51 and Logan City Council [2020] QICmr 61 (20 October 2020)</i>
Application Number:	314940
Applicant:	<i>Q51</i>
Respondent:	Logan City Council
Decision Date:	20 October 2020
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - applicant seeks information regarding their employment with agency - whether disclosure would, on balance, be contrary to public interest - whether access may be refused under section 47(3)(b) of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - applicant seeks summary of his personal information - whether giving the applicant a summary of the personal information is consistent with the primary objective of the Act - section 76 of the <i>Right to Information Act 2009</i> (Qld)</p>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to Logan City Council (**Council**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to various documents relating to matters regarding his employment with Council.
2. Council located 987 pages and decided<sup>2</sup> to refuse access to 477 pages and parts of 148 pages.
3. The applicant applied<sup>3</sup> to the Office of the Information Commissioner (**OIC**) for external review of Council's decision refusing access.

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<sup>1</sup> Access application dated 30 May 2019.

<sup>2</sup> Decision dated 18 July 2019.

<sup>3</sup> External review application dated 23 October 2019.

4. For the reasons set out below, I vary Council's decision and find that:
- there is no basis under the RTI Act to refuse access to some of the information in issue;<sup>4</sup> and
  - access to the remaining information in issue<sup>5</sup> may be refused on the ground that disclosure would, on balance, be contrary to the public interest.

## Background

5. During the review, the applicant agreed that access to certain information was no longer sought<sup>6</sup> and Council agreed to release further information to the applicant.
6. Council also detailed a proposal for informally resolving<sup>7</sup> the external review whereby Council would disclose to the applicant certain information<sup>8</sup> Council maintained was contrary to the public interest to disclose if the applicant agreed to informally resolve the review. The applicant did not accept Council's proposal and maintained that access to all the information in issue should be granted.
7. Significant procedural steps taken in the external review are set out in the Appendix.

## Reviewable decision

8. The decision under review is Council's decision dated 18 July 2019.
9. Council bears the onus in this review of establishing that the decision under review was justified or that the Information Commissioner should give a decision adverse to the applicant.<sup>9</sup>

## Evidence considered

10. 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).
11. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**),<sup>10</sup> particularly the right to seek and receive information.<sup>11</sup> 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 RTI Act.<sup>12</sup> 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<sup>13</sup>: '*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.*'<sup>14</sup>

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<sup>4</sup> Referred to as the **Category A Information** in this decision.

<sup>5</sup> Referred to as the **Category B Information** in this decision.

<sup>6</sup> As set out in OIC's letter to the applicant dated 2 April 2020 and an additional page identified in OIC's letter to the applicant dated 26 August 2020.

<sup>7</sup> Under section 90(4) of the RTI Act without the need for a formal written decision to be issued.

<sup>8</sup> Referred to as the **Category A Information** in this decision.

<sup>9</sup> Section 87(1) of the RTI Act.

<sup>10</sup> The HR Act came into force on 1 January 2020.

<sup>11</sup> Section 21 of the HR Act.

<sup>12</sup> *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].

<sup>13</sup> *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

<sup>14</sup> **XYZ** at [573].

## Information in issue

12. The information remaining for consideration (**Information in Issue**) appears within the pages as set out in the below table. While I am constrained as to the level of detail that I can provide regarding the Information in Issue, it generally comprises:

Information	Description
<b>Category A Information</b> 3 whole pages <sup>15</sup> and parts of 164 pages <sup>16</sup>	File notes prepared by the applicant's supervisor during the applicant's tenure at Council, regarding his attendance and internal emails regarding staff management issues relating to the applicant.
<b>Category B Information</b> 30 whole pages <sup>17</sup> and parts of 155 pages <sup>18</sup>	Information conveyed to supervisors by other staff and discussion between supervisors and managers about the applicant.

13. A copy of the pages containing the Category A Information marked in accordance with my decision will accompany the copy of these reasons to be forwarded to Council.

## Issue for determination

14. The issues to be determined are whether:
- access to the Information in Issue may be refused on the basis that its disclosure would, on balance, be contrary to the public interest; and
  - the applicant may be provided with a summary of his personal information as contained within the Category B Information.

## Contrary to public interest

### Relevant law

15. Under the RTI Act, an individual has a right to be given access to documents of an agency,<sup>19</sup> however, this right is subject to a number of exclusions and limitations.
16. One such ground of refusal is where disclosure of information would, on balance, be contrary to the public interest.<sup>20</sup> In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:<sup>21</sup>
- identify factors irrelevant to the public interest and disregard them
  - identify factors in favour of disclosure of information
  - identify factors in favour of nondisclosure of information; and

<sup>15</sup> Pages 345-347 of the documents located.

<sup>16</sup> Pages 39-40, 161-163, 344, 351, 360, 380-460, 465-512, 533, 539-540, 599-600, 649, 663, 676-683, 822-823, 827-832, 858-860 and 862 of the documents located.

<sup>17</sup> Pages 2, 5, 30-31, 33-34, 37-38, 520, 524-525, 527-528, 530-531, 535, 542, 807-808, 811-812, 814-815, 867-871 and 873-874 of the documents located.

<sup>18</sup> Pages 1, 3-4, 25, 28-29, 32, 35-36, 356, 380-383, 385-437, 439-444, 448-460, 465-478, 485-492, 495-496, 498-499, 501-502, 504-505, 507-509, 516, 519, 521-523, 526, 529, 536-537, 541, 543, 590, 662-665, 674-675, 796, 798-799, 801-806, 809-810, 813, 818-819, 852, 855-856 and 864 of the documents located (**Note:** the remaining information in 36 pages - being pages 1, 3-4, 28-29, 32, 35-36, 509, 519, 521-523, 526, 529, 536-537, 541, 590, 662, 664, 675, 801-806, 809-810, 813, 818-819, 852, 855 and 864 - comprises irrelevant information. Therefore, no information in these pages is to be released).

<sup>19</sup> Section 23 of the RTI Act.

<sup>20</sup> Section 47(3)(b) and 49 of the RTI Act.

<sup>21</sup> Section 49(3) of the RTI Act.

- decide whether, on balance, disclosure of the information would be contrary to the public interest.
17. The term public interest refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, in general, a public interest consideration is one which is common to all members of, or a substantial segment of the community, as distinct from matters that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual.
  18. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of public interest lies in a particular case. I have carefully considered these lists, together with all other relevant information, in reaching my decision.
  19. Additionally, I have kept in mind the pro-disclosure bias<sup>22</sup> of the RTI Act and Parliament's requirement that grounds for refusing access to information be interpreted narrowly.<sup>23</sup>

### **Findings - Category A Information**

#### **Irrelevant factors**

20. I have not taken any irrelevant factors into account.

#### **Factors favouring disclosure**

21. Factors favouring disclosure arise where disclosure could reasonably be expected to enhance accountability and transparency<sup>24</sup> or reveal the reason for a government decision and any background or contextual information that informed the decision.<sup>25</sup> In circumstances where the applicant has been issued with a show cause notice, I consider that disclosure of the Category A Information could reasonably be expected to advance these factors favouring disclosure. Accordingly, I afford these two factors significant weight.
22. The Category A Information comprises the applicant's personal information.<sup>26</sup> It is important to provide individuals with access to their personal information held by government and therefore, I give significant weight to this factor favouring disclosure.<sup>27</sup>

#### **Factors favouring nondisclosure**

23. The RTI Act recognises that disclosing an individual's personal information to someone else can reasonably be expected to cause a public interest harm<sup>28</sup> and that a further factor favouring nondisclosure arises if disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy (**Personal Information and Privacy Factors**).<sup>29</sup>

<sup>22</sup> Section 44 of the RTI Act.

<sup>23</sup> Section 47(2) of the RTI Act.

<sup>24</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>25</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>26</sup> 'Personal information' is 'information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion' – see definition in schedule 5 of the RTI Act and section 12 of the *Information Privacy Act 2009* (Qld) (**IP Act**), which operates alongside the RTI Act in Queensland's information access and amendment regime.

<sup>27</sup> Schedule 4, part 2, item 7 of the RTI Act.

<sup>28</sup> Schedule 4, part 4, section 6(1) of the RTI Act.

<sup>29</sup> Schedule 4, part 3, item 3 of the RTI Act.

24. The Category A Information contains the personal information of other public sector employees. Personal information that is solely and wholly related to the routine day to day work duties and responsibilities of a public sector employee, such as a work email address or phone number, a professional opinion given wholly in a professional capacity or a work responsibility, is considered to be the routine personal work information of that public sector employee. Information that is not related wholly to the routine day to day work activities of a public sector employee is not routine personal work information, such as complaints made by or about a public sector employee, leave details and opinions about another public sector employee.<sup>30</sup>
25. Considering the nature of the Category A information as set out in the table at paragraph 12 above, that is, records of observations made about the applicant by the applicant's immediate supervisor and emails regarding staff management issues relating to the applicant, I am satisfied that the information is routine personal work information of those public sector employees as it is information generated as a result of their managerial responsibilities. I therefore consider that the weight to be afforded to these factors is substantially reduced and afford low weight to the Personal Information and Privacy Factors favouring nondisclosure.
26. Council submitted<sup>31</sup> that disclosure of the Category A Information could reasonably be expected to prejudice Council's management functions.<sup>32</sup> While Council acknowledged that it is reasonable to expect staff, particularly managers, to monitor and provide information to senior officers, Council considered that disclosure of the Category A Information may make staff reluctant to fully participate or to provide full and complete information, particularly where those communications convey concerns of a sensitive nature.
27. Council also submitted<sup>33</sup> that disclosure of parts of the Category A Information could reasonably be expected to prejudice the effectiveness of testing or auditing procedures.<sup>34</sup> While Council agreed with OIC's observations about employees being aware of monitoring or auditing, Council argued that *'the scope of the monitoring and varying methods used to monitor staff in different circumstances is not public knowledge'* and that disclosure of this detail could have a number of adverse effects, namely, limiting the capacity of future audits/assessments to achieve their purpose, enabling employees to adjust their behaviour so as to remain undetected by the audit procedures and public release could cause persons conducting the audits/assessment to be less inclined to provide full and frank account of matters relevant to the audit/assessment.
28. Further, Council submitted<sup>35</sup> that disclosure of some of the Category A Information could reasonably be expected to prejudice Council's deliberative processes<sup>36</sup> relating to managing and dealing with employee issues, predominately relating to show cause notices. Council stated that it *'routinely deliberates as to employment related matters of a similar nature'* and that similar issues arise. Therefore, disclosure may affect Council's ability to manage any future processes and may cause a decrease in the documentation of processes which would lead to a loss of knowledge and experience.
29. I have carefully considered the Category A Information. I am satisfied that the content of the observations contained within the Category A Information have previously been

<sup>30</sup> For further information, see OIC's guideline at <<https://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/processing-applications/routine-personal-work-information-of-public-sector-employees>>.

<sup>31</sup> Submission to OIC dated 5 May 2020.

<sup>32</sup> Schedule 4, part 3, item 19 and schedule 4, part 4, section 3(c) of the RTI Act.

<sup>33</sup> Submission to OIC dated 5 May 2020.

<sup>34</sup> Schedule 4, part 3, item 21 and schedule 4, part 4, section 3(a) of the RTI Act.

<sup>35</sup> Submission to OIC dated 5 May 2020.

<sup>36</sup> Schedule 4, part 3, item 20 and schedule 3, part 4, section 4 of the RTI Act.

disclosed to the applicant in the Show Cause Notice<sup>37</sup> issued to him and within other information which has been released to the applicant in response to his access application. In these circumstances, I cannot see how disclosure of the Category A Information could reasonably be expected to prejudice Council's management of its staff given it is a responsibility of a supervisor to monitor, and report to senior management about, issues regarding an employee they supervise. Further, based on the information provided by Council, it is unclear how disclosure of the Category A Information could reasonably be expected to prejudice a deliberative process.

30. Accordingly, I afford low weight to each of the nondisclosure factors relating to the management function and auditing procedures of Council and no weight to each of the nondisclosure factors relating to Council's deliberative processes.

### **Balancing the factors**

31. I have considered the pro-disclosure bias in deciding access to information. On balance, I consider the disclosure factors outweigh the nondisclosure factors in relation to the Category A Information. Accordingly, I find that the Category A Information should be disclosed.

### **Findings - Category B Information**

#### **Irrelevant factors**

32. I have not taken any irrelevant factors into account.

#### **Factors favouring disclosure**

33. Council must be transparent and accountable in how it deals with workplace employment matters.<sup>38</sup> The Category B Information relates to the applicant's employment with Council and comprises information conveyed to supervisors by other staff and discussion between supervisors and managers. I accept that disclosing this type of information would advance these factors to some degree. However, I do not consider that disclosure of the Category B Information would advance Council's accountability and transparency in any significant way, particularly given the information which has already been provided to the applicant as part of Council's disciplinary processes and in response to the access application and the impending disclosure of the Category A Information which I have found can be disclosed to the applicant. I am satisfied that the information which has been released to the applicant along with the Category A Information will further his understanding of how Council dealt with the disciplinary process relating to him, thereby reducing the weight to be afforded to these factors. Accordingly, I therefore afford these two factors favouring disclosure low weight.
34. The applicant's personal information appears within the Category B Information. I acknowledge the importance of providing individuals with access to their personal information held by government and therefore, I give significant weight to this factor favouring disclosure.<sup>39</sup>
35. In seeking an external review, the applicant stated that he was seeking access to information to use:

<sup>37</sup> Appearing at pages 875 to 976 of the documents located in response to the access application.

<sup>38</sup> Schedule 4, part 2, items 1 and 3 of the RTI Act.

<sup>39</sup> Schedule 4, part 2, item 7 of the RTI Act.

- to respond to a Show Cause Notice issued to him by Council
- as supporting evidence for:
  - a breach of his privacy and a privacy complaint
  - an allegation and investigation of bullying; and
  - an action with the Queensland Industrial Relations Commission (**QIRC**).

36. The applicant further stated:

*I sight the case of WILSFORD as I am considering pursuing a legal remedy for a loss (disciplinary action against me and for loss of employment) as without the information I am unable to provide evidence that is information contained in the documents to respond to the Show Cause Notice ... and also use the information contained in the documents for [an allegation and investigation of bullying and an action with the QIRC].*

37. Given these submissions, I have considered whether disclosing the Category B Information could reasonably be expected to:

- contribute to the administration of justice generally or to the administration of justice for the applicant, including procedural fairness;<sup>40</sup> or
- advance the applicant's fair treatment in accordance with the law in his dealings with Council.<sup>41</sup>

38. In some circumstances, information can be accessed under the RTI Act for litigation purposes,<sup>42</sup> but only if the administration of justice factor is sufficient to outweigh other public interest considerations, such as privacy. This is generally limited to circumstances where disclosure of the information sought 'would assist [an applicant] to pursue [a] remedy, or to evaluate whether a remedy is available, or worth pursuing'.<sup>43</sup> Usually, such consideration precedes any pursuit of a legal remedy. Here, however, the applicant refers to 'responding' to a Show Cause Notice and requiring information to use as 'supporting evidence' in various proceedings, some of which appear to have already been commenced. Given this, I am unable to identify how disclosure of the Category B Information could reasonably be expected to contribute to the administration of justice in the sense generally contemplated in *Willsford* in relation to the Show Cause Notice or the proceedings which appear to have already been commenced.<sup>44</sup> The applicant has also told us that he is considering pursuing Council for loss due to the disciplinary action against him and for loss of employment. Given the information which has been or will be released to him, I consider that disclosing the Category B Information will not assist him any further in assessing whether to commence such proceedings against Council. Accordingly, I do not consider that the factor favouring disclosure relating to the administration of justice generally applies in these circumstances.

39. It is my understanding that the applicant believes that disclosure of the Category B Information will contribute to the administration of justice for him, in the sense of assisting him to advance his position in relation to the Show Cause Notice and the proceedings that he appears to have already commenced. I do not consider that the notions of fair treatment and procedural fairness in this matter entitle the applicant to all information held by Council relevant to the Show Cause Notice and other proceedings relating to his employment. Moreover, it appears on the face of the Show Cause Notice that the applicant was advised of the allegations against him and given sufficient information to

<sup>40</sup> Schedule 4, part 2, items 16 and 17 of the RTI Act.

<sup>41</sup> Schedule 4, part 2, item 10 of the RTI Act.

<sup>42</sup> A public interest factor favouring disclosure arises where disclosure could contribute to the administration of justice for an individual (schedule 4, part 2, item 17). A relevant public interest consideration was also identified and analysed by the Information Commissioner in *Willsford and Brisbane City Council* (1996) 3 QAR 368 (**Willsford**) at [17].

<sup>43</sup> *Willsford* at [17](c).

<sup>44</sup> *Willsford* at [17](c).

respond to the allegations, and was therefore afforded procedural fairness. Additionally, having carefully examined the Category B Information, the information which has been released to him by Council, including within the Show Cause Notice, and the Category A Information, I do not consider that disclosure of the Category B Information would assist the applicant in any significant way in such proceedings. Regardless, I think it is relevant to note that in any proceedings commenced by the applicant, such as his action with the QIRC, disclosure or discovery processes are available to him. Given the availability of these disclosure mechanisms, and also noting that '[t]he RTI Act was not ... designed to serve as an adjunct to court processes',<sup>45</sup> I conclude that disclosure of the Category B Information could not reasonably be expected to contribute to the administration of justice for the applicant in this sense in any significant way. Accordingly, I afford the factors favouring disclosure relating to administration of justice for the applicant and advancing his fair treatment low weight.

### Factors favouring nondisclosure

40. The RTI Act recognises that disclosing an individual's personal information to someone else could reasonably be expected to cause a public interest harm<sup>46</sup> and that a further factor favouring nondisclosure arises if disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy.<sup>47</sup>
41. Council submitted:<sup>48</sup>

*... the [Category B Information] contains personal information in the form of opinions about the Applicant in the context of incidents that have occurred, observations, and comments, which informed a decision and constituted non-routine personal information and should not be disclosed. Council submits that this personal information cannot be de-identified and that there is a reasonable possibility that disclosure of the Information in Issue would reveal the identity of the individuals to which the information relates.*
42. I have carefully considered the Category B Information and I agree with Council's assessment that it contains non-routine personal work information of public service employees. As set out at paragraph 24 above, non-routine personal work information is information that is not solely and wholly related to the day to day work duties and responsibilities of a public sector employee. As noted at paragraph 33 above, the Category B Information comprises information conveyed to supervisors by other staff and discussion between supervisors and managers. This can be contrasted with the Category A Information which comprises records of observations made about the applicant by the applicant's immediate supervisor and emails regarding staff management issues relating to the applicant. I am satisfied that, considering the nature of the personal information of other individuals comprising the Category B Information, it is not routine personal work information and it is reasonable to expect that disclosing it would be a significant intrusion into the privacy of those other individuals. Therefore, I afford significant weight to these two factors favouring nondisclosure.
43. Council argued<sup>49</sup> that disclosure of the Category B Information could reasonably be expected to:

<sup>45</sup> *Phyland and Department of Police* (Unreported, Queensland Information Commissioner, 31 August 2011) at [24].

<sup>46</sup> Schedule 4, part 4, section 6(1) of the RTI Act.

<sup>47</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>48</sup> Submission to OIC dated 5 May 2020. Footnotes referencing OIC's decision in *Maffliet and Department of Education, Training and Employment* [2014] QICmr 31 (17 July 2014) at [34], *Maffliet and Department of Justice and Attorney-General* [2015] QICmr 5 (19 March 2015) at [23] and *Brodsky and Gympie Regional Council* [2014] QICmr 17 (2 May 2014) at [35] removed.

<sup>49</sup> In the decision and submission to OIC dated 5 May 2020.



- prejudice the management function of an agency;<sup>50</sup> and
  - cause a public interest harm where disclosure could have a substantial adverse effect on the management by an agency of an agency's staff.<sup>51</sup>
44. As set out above, some of the Category B Information is the non-routine personal work information of public service employees. Council submitted<sup>52</sup> that it is *'reasonable to expect that disclosing this information could make staff reluctant to fully participate in, or to provide full and complete information to, future employee management issues.'* Similarly, in relation to the discussions between supervisors and managers, Council submitted<sup>53</sup> that disclosure *'would have a detrimental effect on [Council's] management of its staff [as these records] convey concerns of a sensitive nature to management, and release of such information would likely make staff reluctant to fully participate in future workplace investigations of this nature. That is, they may provide a less detailed account of their experience and observations. This, in turn, would significantly impact the effectiveness of future investigations into employment related issues...'*
45. I have carefully considered the Category B Information and I accept Council's argument. I am satisfied that disclosing the Category B Information would impact Council's management functions and cause a public interest harm as disclosure could have a substantial adverse effect on Council's management of its staff as staff would be more likely to be reluctant to fully participate in, or provide detailed information for, future staff management investigations. Accordingly, I afford significant weight to these two factors favouring nondisclosure.

### **Balancing the factors**

46. I have considered the pro-disclosure bias in deciding access to information.<sup>54</sup> On balance, I consider the nondisclosure factors outweigh the disclosure factors in relation to the Category B Information. Accordingly, I find that access to the Category B Information may be refused on the basis that its disclosure would, on balance, be contrary to the public interest.

### **Giving summary of personal information to applicant**

47. The applicant submitted that he is *'of the view that the documents /information [he] seek[s] can be de-identified or at the very least summarised /summaries there of, rather than blanket refusal.'*
48. I have taken this submission to mean that where access is refused to the applicant's personal information, he is seeking that consideration be given to whether he can be provided with a summary of that personal information under section 76 of the RTI Act.
49. If access has been refused to personal information, section 76(2) of the RTI Act requires the agency to consider *'whether it is consistent with the primary object of this Act to give the applicant ... a summary of the applicant's personal information on conditions of use or disclosure'* agreed between the parties. The primary object of the RTI Act is to provide for a right of access to information unless, on balance, it is contrary to the public interest.<sup>55</sup>

<sup>50</sup> Schedule 4, part 3, item 19 of the RTI Act.

<sup>51</sup> Schedule 4, part 4, section 3(c) of the RTI Act.

<sup>52</sup> Submission to OIC dated 5 May 2020.

<sup>53</sup> Submission to OIC dated 5 May 2020.

<sup>54</sup> Section 44 of the RTI Act.

<sup>55</sup> Section 3(1) of the RTI Act.

50. While some of the Category B Information comprises the personal information of the applicant, it is also the personal information of other individuals. As explained in my reasons at paragraph 46 above, I consider that disclosure of the Category B Information, including the personal information of the applicant contained within the Category B Information, is contrary to the public interest. Therefore, I consider that disclosure of the applicant's personal information contained within the Category B Information is inconsistent with the primary object of the RTI Act.
51. Even if I was somehow able to conclude that providing a summary of the applicant's personal information was consistent with the primary object of the RTI Act, given the content of the Category B Information and the context in which it appears, I consider it reasonable to conclude that there is no reasonable prospect of obtaining the agreement of relevant third parties, as required by section 76(3)(a) and (b) of the RTI Act.
52. In these circumstances, I am satisfied that giving a summary of the applicant's personal information under section 76 of the RTI Act is not possible in the circumstances of this review.

## **DECISION**

53. For the reasons set out above, I vary Council's decision and find that access to:
- the Category A Information is granted; and
  - the Category B Information may be refused on the ground that its disclosure would, on balance, be contrary to the public interest under section 47(3)(b) of the RTI Act.
54. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

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**Assistant Information Commissioner Corby**

**Date: 20 October 2020**

## APPENDIX

### Significant procedural steps

Date	Event
23 October 2019	OIC received the applicant's application for external review.
25 October 2019	OIC notified the applicant and Council that the application for external review had been received and requested procedural documents from Council.
28 October 2019	OIC received the requested procedural documents from Council.
12 December 2019	OIC advised the applicant and Council that the external review application had been accepted and requested a copy of the documents located from Council.
13 December 2019	OIC received a copy of the documents located from Council.
2 April 2020	OIC wrote to the applicant, seeking confirmation as to whether the applicant was willing to eliminate specified types of information from further consideration in the review. OIC received the applicant's confirmation that the specified types of information could be excluded from further consideration.
14 April 2020	OIC conveyed a preliminary view to Council.
5 May 2020	OIC received Council's submission.
15 June 2020	OIC asked Council to release information to the applicant as agreed and requested further information about the nature of the content of certain documents.
22 June 2020	OIC received confirmation from Council that information had been released to the applicant as agreed.
6 July 2020	OIC received Council's further submission, including an informal resolution proposal.
26 August 2020	OIC conveyed a preliminary view to the applicant. OIC received the applicant's submission.