



Decision and Reasons for Decision

Citation:	<i>J6Q8CH and Department of Justice and Attorney-General</i> [2018] QICmr 49 (10 December 2018)
Application Number:	313709
Applicant:	J6Q8CH
Respondent:	Department of Justice and Attorney-General
Decision Date:	10 December 2018
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - communications about applicant - hostile communications and threats by the applicant - whether disclosure of information could reasonably be expected to result in a serious act of harassment or intimidation against certain individuals - whether access to information may be refused under section 67 of the <i>Information Privacy Act 2009</i> (Qld) and section 47(3)(a) and schedule 3, section 10(1)(d) of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - REFUSAL OF ACCESS - EXEMPT INFORMATION - LEGAL PROFESSIONAL PRIVILEGE - whether information would be privileged from production in a legal proceeding on the ground of legal professional privilege - schedule 3, section 7 of the <i>Right to Information Act 2009</i> (Qld) - whether access to information may be refused under section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(a) and 48 of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - personal information and privacy - accountability and transparency - fair treatment and administration of justice - whether disclosure would on balance be contrary to the public interest - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - applicant contends agency did not locate all relevant documents - whether agency has taken all reasonable steps to locate documents but the documents cannot be found or do not exist - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(e) and 52 of the <i>Right to Information Act 2009</i> (Qld)</p>

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Department of Justice and Attorney-General (**Department**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to documents recording certain communications about her during the period 1 May 2011 and 12 October 2017.²
2. The Department located 401 pages in response to the access application and decided³ to refuse access to some of that information.⁴ The Department also deleted portions of information on six pages on the basis that it was irrelevant to the application.
3. The applicant sought⁵ internal review of the Department's decision and, on internal review, the Department affirmed⁶ its original decision.
4. The applicant then applied⁷ to the Office of the Information Commissioner (**OIC**) for an external review of the Department's decision refusing access to information.⁸
5. During the external review, the applicant raised concerns that the Department had not located all relevant documents. At OIC's request, the Department conducted further searches for potentially relevant documents. These searches located additional documents (**Additional Documents**) and the Department disclosed some information in the Additional Documents to the applicant.
6. For the reasons set out below, I vary the Department's decision and find that access to the information being considered in this review may variously be refused on the grounds that:
 - (a) it is exempt information
 - (b) its disclosure would, on balance, be contrary to the public interest; and
 - (c) it is nonexistent or unlocatable.

Background

7. Significant procedural steps taken in the external review are set out in Appendix 1.

Reviewable decision

8. The decision under review is the Department's internal review decision dated 18 January 2018.

¹ Access application dated 12 October 2017.

² Being communications and emails (1) to and from Magistrates; (2) to and from judicial and registry officers at District Courts (3) to and from judicial and registry staff at the Queensland Civil and Administrative Tribunal (**QCAT**); (4) to and from the Office of the Attorney-General; and (5) between prosecutors, the Office of the Department of Public Prosecutions and clerks employed by the Department.

³ On 18 December 2017.

⁴ Comprising 18 pages and portions of information appearing on 317 pages on the grounds that it was exempt information and its disclosure would, on balance, be contrary to the public interest.

⁵ On 19 December 2017.

⁶ On 18 January 2018.

⁷ External review application dated 18 January 2018.

⁸ The applicant did not seek external review of the Department's deletion of information on the basis it was irrelevant to the application. Accordingly, that deleted information was not considered on external review. This was confirmed to the applicant on 20 July 2018 and the applicant raised no objection to this information being excluded from consideration in the external review.

Evidence considered

9. Evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including footnotes and appendices).
10. The applicant has provided extensive submissions to OIC.⁹ A large proportion of the applicant's submissions focus on a number of court proceedings in which the applicant was involved within the date range of the access application and her belief that she has been maliciously prosecuted and that various government agencies have conspired to 'bring about wrongful convictions'.¹⁰ Some of the applicant's submissions also relate to complaints and applications that she has made to other agencies, Ministers and various entities.
11. In these reasons for decision, I have only considered and addressed submissions made by the applicant to the extent they raise issues *relevant* to the issues for determination in this review, as set out below.

Preliminary Issue

12. Before proceeding to consider the substantive issues in this external review, I must first address certain allegations of the applicant concerning the OIC. During the external review, the applicant alleged that, the external review process illustrated that OIC were biased and had a conflict of interest in this matter. In relation to bias, the applicant alleged that OIC's decision not to engage in further telephone communications with her showed bias. In relation to the allegation of a conflict of interest, in her submission dated 21 July 2018, the applicant submitted that OIC's letter conveying a preliminary view showed an 'unusual level of vitriol and subjectivity' and she considered the author of that letter may have a conflict of interest.
13. I note that external review by the Information Commissioner¹¹ is merits review¹² and the procedure to be followed on external review is, subject to the IP Act, within the discretion of the Information Commissioner.¹³ The decision to cease telephone communications with the applicant was not made lightly but as a result of the way the applicant had conducted herself in conversations with OIC staff, including the language used towards OIC staff. OIC endeavors to maintain all lines of communication with all applicants but this must be weighed with ensuring the wellbeing of our staff. In this matter, I consider that despite ceasing telephone communication with the applicant, she was nonetheless afforded procedural fairness, for example, by conveying a preliminary view to the applicant and inviting her to provide further submissions supporting her case.
14. As to the preliminary view letter sent to the applicant, it contained information about the applicant's conduct with officers of the respondent agency, including details about the behavior and language used when engaging with staff of that agency. It was necessary to include the information in order to explain how the preliminary view had been formed. Additionally, I reject the applicant's assertion that the letter was subjective. It was written with great care in a neutral tone:
 - to ensure the applicant was appraised of the facts and the law applicable in the matter

⁹ As set out in Appendix 1.

¹⁰ Submissions dated 10 April 2018, 11 July 2018, 20 July 2018 and 28 August 2018.

¹¹ Or delegate.

¹² Merits review is an administrative reconsideration of a case that can be described as 'stepping into the shoes' of the decision-maker, to determine what is the correct and preferable decision.

¹³ Section 108 of the IP Act.

- stating the relevant background, the preliminary views, relevant law, the information to be released to the applicant and identifying other avenues open to the applicant to refer certain of her concerns; and
 - to ensure the applicant was given an opportunity to provide an informed submission to this office.
15. In these circumstances and taking into consideration the material before me, I am satisfied that none of the matters raised by the applicant evidence bias or a conflict of interest by OIC staff or in the external review process.
16. The applicant also made further allegations of bias and conflict of interest stemming from separate processes she has with OIC¹⁴—as those separate processes are not relevant to the issues for determination in this review, they are not addressed in these reasons for decision, however, I am satisfied that none of these further allegations evidence bias or a conflict of interest on the part of OIC or its staff regarding this external review.

Information in issue

17. Turning now to the substantive issues in this review; the **Information in Issue** is identified in Appendix 2 and consists of:
- 18 pages and parts of 317 pages to which access was refused in the Department’s decision; and
 - parts of 12 pages in the Additional Documents.
18. I am unable to disclose the content of the **Information in Issue**,¹⁵ however, I generally categorise it as follows:

Category	Description
Category A Information	Names and contact details of various public sector officers.
Category B Information	Signatures and information about the personal circumstances of various public sector officers.
Category C Information	Information about the applicant’s interactions with certain public sector officers.
Category D Information	Identities and contact details of non-public sector individuals and records of information provided about the applicant by non-public sector individuals.
Category E Information	Information refused on the basis that it is subject to legal professional privilege.

Issues for determination

19. Some issues were informally resolved on external review.¹⁶ The remaining issues to be determined are whether access to information sought by the applicant may be refused on the grounds that:
- it is exempt information

¹⁴ I am unable in these reasons for decision to provide any further details of these matters, however, certain of these matters related to other functions of this office.

¹⁵ Section 121 of the IP Act.

¹⁶ As noted in footnote 8 above, the applicant did not seek external review of the information deleted by the Department on the basis it was irrelevant to the access application and that information was not considered in the external review. The applicant was notified, on 20 July 2018, that 33 pages of the Additional Documents fell outside the scope of the application (because they were documents outside the date range specified in the application) and, notwithstanding this, the Department disclosed information in those 33 pages to the applicant. As these 33 pages were outside the scope of the terms of the application, I have no jurisdiction in this external review to further consider the information appearing in those 33 pages.

- its disclosure would, on balance, be contrary to the public interest; and/or
- it is nonexistent or unlocatable.

Relevant law

20. An individual has a right to be given access to documents of an agency to the extent they contain the individual's personal information.¹⁷ While the IP Act is to be administered with a pro-disclosure bias,¹⁸ the right of access is subject to a number of exclusions and limitations, including grounds for refusal of access.
21. Section 67(1) of the IP Act provides that access to a document may be refused on the same grounds upon which access to a document could be refused under section 47 of the *Right to Information Act 2009* (Qld) (**RTI Act**). Section 47(3) of the RTI Act relevantly permits an agency to refuse access to documents:
- to the extent they comprise exempt information¹⁹
 - to the extent they comprise information the disclosure of which would, on balance, be contrary to the public interest;²⁰ and
 - because documents are nonexistent or unlocatable.²¹

Findings - Category A Information and Category C Information

22. Before considering the Category A and Category C Information below, I make the following observations in relation to the Category A Information:
- most of the information in the pages on which the Category A Information appears has been disclosed to the applicant—that is, for most of the pages on which the Category A Information appears, the applicant is aware of the substance of the recorded communications and the work titles of the public sector officers who were parties to them but access has been refused to the names and contact details of those officers; and
 - a small amount of the Category A Information appears in emails which the applicant herself has sent or received—as a result, it is reasonable to assume that the applicant may be aware of some of the Category A Information.
23. Schedule 3 of the RTI Act specifies the types of information the disclosure of which Parliament has determined is exempt because its release would be contrary to the public interest. Relevantly, information is exempt if its disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation (**Harassment or Intimidation Exemption**).²²

¹⁷ Under section 40(1)(a) of the IP Act. *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'.

¹⁸ Section 64(1) of the IP Act.

¹⁹ Section 47(3)(a) of the RTI Act.

²⁰ Section 47(3)(b) of the RTI Act.

²¹ Section 47(3)(e) of the RTI Act.

²² Schedule 3, section 10(1)(d) of the RTI Act. This provision is subject to the exceptions contained in schedule 3, section 10(2) of the RTI Act.

24. As the RTI Act does not define ‘a *serious act of harassment or intimidation*’, those terms are given their ordinary meanings.²³ In this regard, the Information Commissioner has previously accepted the following definitions:²⁴
- ‘harass’ includes ‘to trouble by repeated attacks, ... to disturb persistently; torment’; and
 - ‘intimidate’ includes ‘to make timid, or inspire with fear; overawe; cow ... to force into or deter from some action by inducing fear’.
25. For the Harassment and Intimidation Exemption to apply, the expected harassment or intimidation must be ‘serious’ in nature²⁵—conduct which is competitive, disparaging, unpleasant or ‘*irksome and annoying*’ is not sufficient to establish the exemption.²⁶ There must also be a reasonable expectation of serious harassment or intimidation—this requires that the expectation be reasonably based on an objective examination of the relevant evidence²⁷ and must not be irrational, absurd or ridiculous,²⁸ nor a mere possibility.²⁹ Finally, the expectation of serious intimidation or harassment must arise as a **result of disclosure**, rather than from other circumstances³⁰—that is, I must be satisfied that the disclosure of the Category A and C Information, rather than the nature of the pre-existing relationship between the relevant parties, could reasonably be expected to cause the serious act of harassment or intimidation.
26. The applicant submitted that the refusal of access to information in this review ‘*was the first time [she had] ever been informed that there are allegations by this department’s employees*’ about her³¹ and that she considered such allegations to be unproven, highly defamatory and false.³² The applicant has also characterised the allegations against her as ‘*whistleblower reprisals*’.³³

(i) Is the expected harassment or intimidation serious in nature?

27. Yes, for the reasons set out below.
28. The applicant has submitted³⁴ that there is no evidence shown that she harassed anyone or acted beyond her rights. Again, I am constrained as to the level of detail I can provide about the Category A and C Information.³⁵ I have carefully considered the information

²³ *Sheridan and South Burnett Regional Council (and Others)* (Unreported, Queensland Information Commissioner, 9 April 2009) (**Sheridan**) at [188]. The decision in *Sheridan* concerned section 42(1)(ca) of the repealed *Freedom of Information Act 1992* (Qld). Schedule 3, section 10(1)(d) of the RTI Act is drafted in substantially the same terms as this provision, and the reasoning in *Sheridan* has since been cited with approval in relation to the RTI Act, in decisions including *Mathews and Department of Transport and Main Roads* [2014] QICmr 37 (19 September 2014) and *Bowmaker Realty and Department of Justice and Attorney-General; Andrews* [2015] QICmr 19 (17 August 2015) (**Bowmaker**).

²⁴ *Richards and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 28 March 2012) at [13] and *Ogawa and Queensland Police Service* (Unreported, Queensland Office of the Information Commissioner, 21 June 2012) at [13], applying the Macquarie Dictionary Online (Fourth Edition) definitions referred to in *Sheridan* at [194]-[200].

²⁵ ‘Serious’ relevantly means ‘weighty or important’, ‘giving cause for apprehension; critical’: Macquarie Dictionary Online (as at 12 December 2018).

²⁶ *Bowmaker* at [31].

²⁷ *Murphy and Treasury Department* (1995) 2 QAR 744 (**Murphy**) at [45]-[47].

²⁸ *Attorney-General v Cockcroft* (1986) 64 ALR 97 (**Cockcroft**).

²⁹ *Murphy* at [44]. In reaching a finding, it is not necessary for a decision-maker ‘to be satisfied upon a balance of probabilities’ that disclosing the document will produce the anticipated prejudice, or, in this case, serious harassment or intimidation: see *Sheridan* at [192-193] citing *Cockcroft*. In *Sheridan*, the Information Commissioner identified factors that might be relevant in considering whether an event could reasonably be expected to occur as including past conduct or a pattern of previous conduct, the nature of the information in issue, the nature of the relationship between the parties and/or third parties and relevant contextual and/or cultural factors.

³⁰ *Watson v Office of Information Commissioner Qld & Ors* [2015] QCATA 95 per Thomas J at [19].

³¹ External review application.

³² External review application and submissions dated 20 July 2018.

³³ External review application. The applicant also submitted that if the allegations were made by people that she had complained about ‘officially’, they would amount to reprisals.

³⁴ Submissions dated 20 July 2018.

³⁵ Section 121 of the IP Act.

available to OIC—some of this information is sensitive in nature and cannot be set out in these reasons—and I am satisfied that there is a demonstrated history of enmity on the part of the applicant towards various public sector offices (and certain officers employed at a number of those public sector offices). More specifically, the evidence available to me demonstrates that the applicant has:

- (a) previously threatened to harm certain Department staff³⁶
- (b) previously been convicted of using a carriage service to menace, harass or offend³⁷
- (c) engaged in hostile correspondence with various public sector officers, including Department officers;³⁸ and
- (d) employed hostile and inflammatory language in her verbal communications with Department officers.

29. On an objective assessment, I consider that the conduct identified in paragraph 28 above has repeatedly and persistently troubled, tormented and disturbed certain officers of the Department, and other individuals, and caused them to experience significant and prolonged distress,³⁹ even if this was not the applicant's intention. Accordingly, I find that the applicant has engaged in a pattern of unreasonable behaviour that constitutes harassment for the purposes of the RTI Act.

30. Further, I am satisfied that this pattern of behaviour constitutes '*serious*' harassment. The applicant submitted that Department officers do not need protection as she is not violent and has a history of only '*petty offences*',⁴⁰ however, I note that it is not necessary to demonstrate a likelihood of criminal behaviour (such as assault) for the Harassment and Intimidation Exemption to apply.⁴¹ In this case, I consider the conduct referred to in paragraph 28 above is beyond merely unpleasant or annoying, and is a cause for serious concern by a number of individuals, particularly given the hostile nature of the applicant's interactions with Department officers and the threats the applicant has made against various individuals.

(ii)-(iii) Is the expectation of serious harassment reasonably based and does it arise from disclosing the Category A and C Information?

31. Yes, for the reasons that follow.

32. The applicant submitted that it is discriminatory to take her '*unrecorded*' and '*spent*' conviction for an incident that occurred some years ago into consideration.⁴² I note from the applicant's submissions that she considers a range of Department officers, including judicial officers, have '*colluded*', planned '*acts of vengeance*' and '*collectively planned revenge*'⁴³ against her. Given the nature of the Category A and C Information, I consider the applicant's prior conviction for using a carriage service to menace, harass or offend is relevant evidence to be considered in determining whether a reasonable expectation of serious harassment would arise as a result of disclosing information which includes the names and contact details of public sector officers and records about certain of the applicant's interactions with Department officers.

³⁶ An email dated 10 October 2017, which has been partially released to the applicant, characterised one such threat as '*a death threat*'.

³⁷ To avoid identifying the applicant, I am unable to provide further details about this conviction in these reasons.

³⁸ For example, the information released to the applicant records that the Department was notified that, in a court proceeding, the applicant had been ordered not to contact certain public sector officers as a result of her behaviour.

³⁹ Refer to *Toogood and Cassowary Coast Regional Council* [2018] QICmr 13.

⁴⁰ Submissions dated 11 July 2018.

⁴¹ *Conde and Queensland Police Service* (Unreported, Queensland Information Commissioner, 18 October 2012) at [23].

⁴² Submissions dated 11 July 2018. The applicant further submitted that it is against the law to '*withhold [her] government information based on an [unrecorded] and historic conviction*'.

⁴³ Submissions dated 10 April 2018.

33. Having carefully considered the content of the Category A and C Information, I am satisfied that its disclosure would result in *further* harassment of particular individuals. While the applicant's enmity towards the Department is pre-existing and relatively longstanding, on the evidence available to me, I am satisfied that disclosure of the Category A and C Information could reasonably be expected result in further conduct similar to the conduct identified in items (a), (c) and (d) of paragraph 28 above. To the extent the Category A and C Information relates to other public sector officers, I am also satisfied that disclosure of this information could reasonably be expected result in further conduct similar to the conduct identified in items (a), (c) and (d) of paragraph 28 above.

(iv) Do any of the exceptions in schedule 3, section 10(2) of the RTI Act apply?

34. Having carefully considered the Category A and C Information, I am satisfied that none of the exceptions listed in schedule 3, section 10(2) of the RTI Act⁴⁴ apply.

Conclusion

35. I find that the Category A and C Information comprise exempt information, to which the Department is entitled to refuse access.⁴⁵
36. I note that the applicant has submitted that release of the Information in Issue to her is '*in the public interest*'⁴⁶ and it is important that she be allowed to answer the serious allegations made against her. Further, the applicant submitted that she wishes to access the Information in Issue, and more specifically the names of public sector officers,⁴⁷ '*in order to seek redress in court for wrongful convictions and malicious prosecution*'.⁴⁸ These, and similar, submissions seek to raise public interest factors favouring disclosure.
37. Given I have found that the Category A and C Information is exempt information, there is no requirement for me to consider the applicant's public interest submissions in respect of that information.⁴⁹ This is because Parliament has determined that disclosure of exempt information would, on balance, be contrary to the public interest in all instances.⁵⁰

⁴⁴ The exceptions specified in schedule 3, section 10(2) of the RTI Act arise when information consists of: (a) matter revealing the scope of a law enforcement investigation has exceeded the limits imposed by law; (b) matters containing a general outline of the structure of a program adopted by an agency for dealing with a contravention or possible contravention of the law; (c) a report on the degree of success achieved in a program, adopted by an agency for dealing with a contravention or possible contravention of the law; (d) a report prepared in the course of a routine law enforcement inspection or investigation by an agency whose functions include that of enforcing the law (other than the criminal law or the law relating to corruption under the *Crime and Corruption Act 2001*); and (e) a report on a law enforcement investigation that has already been disclosed to the entity the subject of the investigation.

⁴⁵ Under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act.

⁴⁶ Submissions dated 20 July 2018. More specifically, the applicant submitted that this public interest arises because she is a university trained human rights and public interest advocate.

⁴⁷ However, I also note that the applicant has made contrary submissions. For example, in submissions dated 28 August 2018, the applicant stated '*I don't need names. I need everything communicated about me and the business department responsible and that person's position*'. In respect of this particular submission, I have previously noted in paragraph 22 that much of the information released to the applicant includes the substance of the communications and the work titles of the public sector officers who were parties to them.

⁴⁸ Submissions dated 11 July 2018. In effect, this submission raises the public interest factors favouring disclosure in schedule 4, part 2, items 10, 16 and 17 of the RTI Act.

⁴⁹ *BL v Office of the Information Commissioner, Department of Communities* [2012] QCATA 149 where QCAT accepted that it was appropriate for the Information Commissioner to firstly consider whether information was exempt information and, if it was not, to proceed to consider whether disclosure would, on balance, be contrary to the public interest. Refer also to the following comments of Judicial Member Dodds in *Minogue v Information Commissioner & Queensland Health* [2014] QCATA 98 at [15]: '*The RTI Act deems such information to be exempt information. Once the delegate found that, she had no power to direct access to the information*'.

⁵⁰ Section 48(2) of the RTI Act.

Findings – Category E Information

38. Information will also qualify as exempt information if it would be privileged from production in a legal proceeding on the ground of legal professional privilege.⁵¹
39. This exemption reflects the requirements for establishing legal professional privilege at common law.⁵² Accordingly, for information to be subject to legal professional privilege, it must comprise a communication:
- made in the course of a lawyer-client relationship
 - that was and remains confidential; and
 - which was made for the dominant purpose of seeking or providing legal advice or for use in existing or reasonably anticipated legal proceedings.⁵³
40. When each of these requirements is met, legal professional privilege is established. However, qualifications and exceptions to privilege⁵⁴ may, in particular circumstances, affect the question of whether information attracts or remains subject to it.
41. Within the date range of the access application, the applicant was involved in a number of matters before various Queensland courts and Tribunals. As noted in Appendix 2, the Category E Information appears on 10 pages. I also note that there is some duplication in the Category E Information—for example, the information refused on page 49, is duplicated on pages 240, 250 and 263.
42. The applicant submitted⁵⁵ that:
- there should be no legally privileged documents about her to public servants⁵⁶
 - the privilege applies to protect those who are being sued or prosecuted from an adversary; and
 - a Department of Public Prosecutions lawyer is a neutral party, not a party ‘*hiding the government’s motives*’.
43. The common law recognizes that legal professional privilege attaches to confidential, professional communications between government agencies and their salaried legal officers, made for the dominant purpose of seeking or giving legal advice or in connection with anticipated or pending litigation.⁵⁷ The courts have also recognised that the Director of Public Prosecutions (**DPP**) may stand in the position of professional legal adviser to agencies who seek legal advice or provide instructions in respect of criminal prosecution matters.⁵⁸
44. I have carefully considered the content of the Category E Information and I am satisfied that it comprises communications which meet each of the requirements of legal

⁵¹ Schedule 3, section 7 of the RTI Act.

⁵² The doctrine of legal professional privilege is both a rule of evidence and a common law right. The High Court in *Daniels Corporation International Pty Ltd v Australian and Consumer Commissioner* (2002) 213 CLR 543 (**Daniels**) at [552] relevantly noted ‘It is now settled that legal professional privilege is a rule of substantive law which may be availed of by a person to resist the giving of information or the production of documents which would reveal communications between a client and his or her lawyer made for the dominant purpose of giving or obtaining legal advice or the provision of legal services, including representation in legal proceedings’ (footnotes omitted). See also *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49 (**Esso**).

⁵³ *Esso* and *Daniels*.

⁵⁴ Such as waiver or improper purpose.

⁵⁵ External review application.

⁵⁶ Further, in the applicant’s submissions dated 10 April 2018, the applicant submitted that ‘legal privilege [sic] is not for DPP acting as the public’.

⁵⁷ *Waterford v Commonwealth of Australia* (1987) 163 CLR 54 at [63-64].

⁵⁸ *Price and Director of Public Prosecutions*, (1997) 4 QAR 157 at [37], citing relevant authorities.

professional privilege identified above.⁵⁹ Accordingly, I find that the Category E Information comprises exempt information, to which the Department is entitled to refuse access.⁶⁰

45. For the reasons set out in paragraph 37 above, as I have found that the Category E Information is exempt information, there is no requirement for me to consider the applicant's public interest submissions in respect of that information.

Findings – Category B Information and Category D Information

46. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:⁶¹

- 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
- decide whether, on balance, disclosure of the information would be contrary to the public interest.

47. 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.⁶²

Irrelevant factors

48. The applicant submitted⁶³ that disclosure of the Information in Issue to her is essential because she is '*a Whistleblower and from a traditionally discriminated class of people with protections in the Antidiscrimination Act*'.⁶⁴
49. The IP Act applies equally to all individuals seeking access to information. The applicant does not have any additional access entitlement under the IP Act due to the matters referenced in paragraph 48 above. Accordingly, I have not taken this, or any other irrelevant factor, into account in making my decision.

Factors favouring disclosure

Applicant's personal information

50. There is a public interest in individuals being able to access their own personal information held by government. Parts of the Category D Information comprise the applicant's personal information.⁶⁵ This gives rise to a factor favouring disclosure⁶⁶ that

⁵⁹ Again, section 121 of the IP Act prevents me from providing further details about the nature and content of these communications.

⁶⁰ Under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act.

⁶¹ Section 49(3) of the RTI Act.

⁶² However, there are some recognised public interest considerations that may apply for the benefit of an individual.

⁶³ Submissions dated 11 July 2018.

⁶⁴ The applicant has also submitted that because she is a university trained human rights and public interest advocate, release of the information in issue is in the public interest.

⁶⁵ '*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*'.

⁶⁶ Schedule 4, part 2, item 7 of the RTI Act.

I consider should be afforded high weight in respect of those parts of the Category D Information which comprise the applicant's personal information.⁶⁷

Accountability and transparency

51. Public interest factors favouring disclosure arise where disclosure of information could reasonably be expected to enhance the Government's accountability and reveal the reason for a government decision and any background or contextual information that informed the decision.⁶⁸
52. Disclosing the Category D Information would provide the applicant with a more complete picture of the information obtained by the Department about her. I am therefore satisfied that the factors favouring disclosure which relate to the Department's accountability and transparency apply to the Category D Information. However, taking into consideration the nature of the Category D Information, I consider the weight attaching to these factors must be discounted because disclosure of that information would only marginally advance the Department's accountability and transparency. In the circumstances, I attach low weight to these factors favouring disclosure in respect of the Category D Information.
53. I consider that disclosure of the signatures within the Category B Information would enhance the Department's accountability, to a limited extent, as it shows that the information to which it is attached has been endorsed by the particular officer engaged in the performance of public service. However, I afford low weight to the accountability and transparency factors favouring disclosure in respect of those signatures as the officer's titles are apparent. The remaining Category B Information comprises information about the personal circumstances of public sector officers.⁶⁹ Having carefully considered this personal circumstance information, I am satisfied that its disclosure could not reasonably be expected to promote open discussion of public affairs or enhance the Department's accountability nor reveal the reasons or contextual information for any decision by the Department. For these reasons, I do not consider that these accountability and transparency factors apply to the personal circumstance information within the Category B Information.

Disclosure would reveal that the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant

54. As noted in paragraph 26 above, the applicant submitted that allegations about her within the Information in Issue are unproven and false and this raises a public interest disclosure factor for consideration, where disclosing information could reasonably be expected to reveal that the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.⁷⁰
55. In terms of the Category B Information, I am satisfied that the personal details which comprise this information are those of the individuals who received or created the surrounding released information, or were referred to in that information. The applicant has not identified how she is in a position to be possessed of knowledge that the Category B Information is not correct. Further, I am satisfied that the Category D Information consists of information recording the recollections and opinions of individuals other than the applicant. Such information is, by its very nature, the opinions and

⁶⁷ I am satisfied that this factor does not apply to the Category B Information, which comprises the personal information of individuals other than the applicant.

⁶⁸ Schedule 4, part 2, items 1 and 11 of the RTI Act.

⁶⁹ Again, I am unable to further describe this information—see section 121 of the IP Act.

⁷⁰ Schedule 4, part 2, item 12 of the RTI Act.

versions of events expressed by relevant individuals, which are shaped by factors such as the individuals' subjective impressions. This inherent subjectivity does not mean that the Category D Information is necessarily incorrect or unfairly subjective and indeed, in this instance, there is nothing on the face of any of the Category B or D Information, nor any other information before me, to suggest that the details recorded in the Category B and D Information are incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant. In these circumstances, I consider that this factor favouring disclosure⁷¹ does not apply.

Deficiencies in the conduct or administration of an agency or official

56. The applicant, as previously noted, submitted that Department officers have colluded against her and she has characterised allegations about her within the Information in Issue as whistleblower reprisals for several complaints she made against Queensland courts and certain Department employees '*for gross incompetence and corruption*'.⁷² The applicant also submitted⁷³ that such allegations raise a suspicion of bad faith, deceit and a conflict of interest on the part of Department officers. I have therefore considered the public interest factors favouring disclosure which arise where disclosure of information could reasonably be expected to allow or assist with inquiry into possible deficiencies in the conduct or administration of an agency or official⁷⁴ and reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.⁷⁵
57. The applicant has not enunciated how disclosing the Category B and D Information—such as signatures and information non-public sector individuals provided to the Department about the applicant—could reasonably be expected to allow or assist inquiry into, or reveal or substantiate deficiencies in public sector conduct. Nor has the applicant indicated how disclosure of these categories of information could reasonably be expected to reveal or substantiate her reprisal allegations. Having carefully considered the Category B and D Information, together with the information which has been released to the applicant, I consider there is nothing in the Category B and D Information which gives rise to a reasonable expectation that its disclosure would allow or assist enquiry into, or reveal or substantiate, any deficiencies in the conduct of the Department or its officers. Accordingly, I consider that these factors favouring disclosure⁷⁶ do not apply.

Advance fair treatment and contribute to the administration of justice

58. The RTI Act also recognises that public interest factors favouring disclosure will arise where disclosure of information could reasonably be expected to:
- advance the fair treatment of individuals in their dealings with agencies;⁷⁷ and
 - contribute to the administration of justice generally (including procedural fairness) and the administration of justice for a person.⁷⁸
59. The public interest factor relating to advancing the fair treatment of individuals does not require a decision-maker to ensure that an applicant is provided with sufficient

⁷¹ Schedule 4, part 2, item 12 of the RTI Act.

⁷² Submissions dated 10 April 2018. I also note that the applicant's submissions reference other public sector actions which she alleges constitute reprisals for her disclosures of 'corrupt conduct'.

⁷³ External review application. The applicant raised similar issues in her submissions dated 10 April 2018 and additionally alleged that Department officers '*planned false evidence*' and denied her procedural fairness.

⁷⁴ Schedule 4, part 2, item 5 of the RTI Act.

⁷⁵ Schedule 4, part 2, item 6 of the RTI Act.

⁷⁶ Schedule 4, part 2, items 5 and 6 of the RTI Act.

⁷⁷ Schedule 4, part 2, item 10 of the RTI Act.

⁷⁸ Schedule 4, part 2, items 16 and 17 of the RTI Act.

information to enable the applicant to be subjectively satisfied that he or she received fair treatment. Rather, it is about providing information to ensure fair treatment in an applicant's future dealings with agencies.⁷⁹ Given the nature of the Category B and D Information, I am not satisfied that its disclosure would advance the applicant's fair treatment in her future dealings with the Department, or any other agency. I therefore consider that this factor does not apply in the circumstances of this review.

60. Natural justice refers to the common law requirement to act fairly in the making of administrative decisions which affect a person's rights, interests or legitimate expectations. The fundamental requirements of procedural fairness—that is, an unbiased decision-maker and a fair hearing—should be afforded to a person who is the subject of a decision.⁸⁰ Accordingly, the person who is the subject of a decision must be provided with adequate information about material that is credible, relevant and significant to the adverse finding to be made, so that the person can be given the opportunity to make effective representations to the decision-maker.⁸¹
61. In this case, however, the Category B and D Information does not relate to, nor record, adverse findings against the applicant. Instead, it is personal information of certain public sector officers and information about the applicant which the Department received from non-public sector individuals. While disclosure of the Category D Information would inform the applicant of information non-public sector individuals provided about her, I am not satisfied that disclosure of the Category B and D Information is required to inform, or provide relevant information to, the applicant about any adverse finding which the Department (including judicial officers) intended to make. In these circumstances, I do not consider that disclosure of the Category B and D Information would contribute to procedural fairness for the applicant or any other individual and, in these circumstances, this factor favouring disclosure does not apply.
62. In determining whether the public interest factor concerning the administration of justice for a person applies, I must consider whether:
 - the applicant has suffered loss, or damage, or some kind of wrong, in respect of which a remedy is, or may be, available under the law
 - the applicant has a reasonable basis for seeking to pursue the remedy; and
 - disclosing the information held by an agency would assist the applicant to pursue the remedy, or evaluate whether a remedy is available or worth pursuing.⁸²
63. I acknowledge the applicant's belief that she has been convicted of crimes she did not commit, that this has destroyed her career and reputation and note her submissions that she is seeking redress for this in court.⁸³ It is then relevant to consider whether disclosing the Category B and D Information would assist the applicant to evaluate or pursue a remedy.
64. As noted in paragraph 22 above, the substance of the Department's documented communications about the applicant and the work titles of the public sector officers who were parties to them has, for the most part, been disclosed to the applicant. I am satisfied that the information released to the applicant has provided her with a level of detail concerning the Department's communications about her that would enable the applicant to evaluate whether a remedy is available and worth pursuing against the Department

⁷⁹ *F60XCX and Department of Natural Resources and Mines* [2017] QICmr 19 (9 June 2017) at [89]-[90].

⁸⁰ *Kioa v West* (1985) 159 CLR 550 (*Kioa*) per Mason J.

⁸¹ *Kioa* per Brennan J.

⁸² *Willsford and Brisbane City Council* (1996) 3 QAR 368 at [17] and confirmed in *10S3KF and Department of Community Safety* (Unreported, Queensland Information Commissioner, 16 December 2011).

⁸³ Submissions dated 10 April 2018 and 11 July 2018.

(or any of its officers) in respect of the applicant's treatment by Department officers, the actions taken by the Department's officers and the manner in which the applicant's complaints about Department officers have been dealt with. Taking this and the nature of the Category B and D Information into account, I do not consider that disclosure of the Category B and D Information is required to enable the applicant to:

- evaluate whether a legal remedy against any particular individual or entity is available or worth pursuing; or
- pursue legal action against any particular individual or entity.

For these reasons, I do not consider that this factor favouring disclosure applies.

Contribute to positive and informed debate

65. A public interest factor favouring disclosure will arise where disclosure could reasonably be expected to contribute to positive and informed debate on important issues or matters of serious interest.⁸⁴ The applicant's submissions reference complaints she has made about judicial incompetence and corruption. I consider these are matters of serious interest. However, I do not consider that disclosure of signatures, personal circumstance information of public sector officers or information third parties provided about the applicant could contribute to a debate on the serious issues of judicial competence and corruption. Accordingly, I am satisfied that this factor favouring disclosure does not apply to the Category B and D Information.

Other factors favouring disclosure

66. I have carefully considered all factors listed in schedule 4, part 2 of the RTI Act, and can identify no other public interest considerations in favour of disclosure of the Category B and D Information. Given the nature of the Category B and D Information—which includes information about personal circumstances of various public sector officers and information about the applicant which was provided to the Department by non-public sector individuals—I do not consider, for example, that disclosure could reasonably be expected to ensure the effective oversight of expenditure of public funds⁸⁵ or contribute to the maintenance of peace and order.⁸⁶

Factors favouring nondisclosure

Personal information and privacy of other individuals

67. Public interest factors favouring nondisclosure will arise under the RTI Act where disclosure of information could reasonably be expected to prejudice the protection of an individual's right to privacy⁸⁷ and cause a public interest harm because it would disclose personal information of a person, whether living or dead.⁸⁸
68. The Category B Information is the personal information of individuals other than the applicant, being the public sector officers about whom the information relates. The Category D Information also records information about other individuals and information provided by those other individuals and, therefore, I am satisfied that the Category D Information is also the personal information of those other individuals. This personal information is sensitive in nature—it includes the personal circumstances of public sector

⁸⁴ Schedule 4, part 2, item 2 of the RTI Act.

⁸⁵ Schedule 4, part 2, item 4 of the RTI Act.

⁸⁶ Schedule 4, part 2, item 15 of the RTI Act.

⁸⁷ Schedule 4, part 3, item 3 of the RTI Act.

⁸⁸ Schedule 4, part 4, section 6(1) of the RTI Act.

officers and the names, contact details, observations and opinions of non-public sector individuals. As noted in paragraph 50 above, some of the Category D Information is also the personal information of the applicant. I am able to confirm that where the personal information of the applicant appears in the Category D Information, it is intertwined with the personal information of other individuals. On careful consideration of it, I am satisfied that it is not possible to separate the applicant's personal information from the personal information of those other individuals. That is, disclosing the personal information of the applicant in the Category D Information would necessarily also disclose the personal information of individuals other than the applicant.

69. Taking into consideration the sensitive and personal nature of the personal information within the Category B and D Information and the context in which it appears, I am satisfied that its disclosure would be a significant intrusion into the personal sphere of these individuals. I also consider that the extent of the harm that could be anticipated from disclosure of information which includes the names, personal circumstances, observations and opinions of (or about) these individuals under the IP Act would be significant. Accordingly, I afford these personal information and privacy factors favouring nondisclosure significant weight.

Balancing of the factors

70. For the reasons set out above, I am satisfied that the significant weight afforded to the nondisclosure factors relating to protection of personal information and privacy⁸⁹ outweighs the relevant factors favouring disclosure⁹⁰ of the Category B and D Information.
71. I therefore find that disclosing the Category B and D Information would, on balance, be contrary to the public interest and access to it may be refused.⁹¹

Nonexistent or unlocatable documents

72. On external review, the applicant raised general concerns that the Department had not located all relevant documents. The applicant also nominated the manner in which she considered searches for responsive information should be undertaken.
73. I have distilled the applicant's general submissions concerning unlocated documents to the following three categories of documents:⁹²

Type (i) documents	copies of the applicant's complaints addressed to the Attorney-General and documents evidencing where those complaints were sent
Type (ii) documents	emails about the applicant sent to or from Magistrates or judicial officers, which are contained in the records of Magistrates or judicial officers; and
Type (iii) documents	communications about the applicant contained in the Department's server data, internet or internal memo system.

74. As noted in paragraph 5 above, the Department conducted further searches for documents responsive to the application, including the three categories of documents

⁸⁹ Schedule 4, part 3, item 3 and schedule 4, part 4, section 6(1) of the RTI Act.

⁹⁰ Schedule 4, part 2, items 1, 7 and 11 of the RTI Act.

⁹¹ Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

⁹² This was confirmed to the applicant on 11 April 2018 and the applicant did not subsequently identify any additional categories of documents that she considered exist, are responsive to the applicant and have not been located by the Department.

specified above. The Additional Documents located as a result of these further searches comprise Type (i) documents. The Department did not locate any Type (ii) and (iii) documents.

75. Following the Department's disclosure of some of the information in the Additional Documents, the applicant submitted that the conducted searches were inadequate⁹³ and that there are 'a great number of judicial bias, incompetence, breach of code of ethics complaints to the chief justice, attorney general, chief magistrate that have not been included'.⁹⁴

Relevant law

76. Access to a document may be refused if the document is nonexistent or unlocatable.⁹⁵
77. To be satisfied that documents are **nonexistent**, a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors, including:⁹⁶
- 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.
78. 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.
79. However, 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. What constitutes reasonable steps will vary from case to case as the search and enquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the particular circumstances.
80. To determine whether a document exists, but is **unlocatable**, the RTI Act requires consideration of whether there are reasonable grounds for the agency to be satisfied that the requested document has been or should be in the agency's possession; and whether the agency has taken all reasonable steps to find the document. In answering these

⁹³ Submissions dated 20 July 2018. More specifically the applicant submitted that 'There are no communications from judicial officers included whatsoever and therefore they have not even be [sic] searched'.

⁹⁴ Submissions dated 11 July 2018.

⁹⁵ Sections 47(3)(e) and 52 of the RTI Act. 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—section 52(1)(b) of the RTI Act. A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist—section 52(1)(a) of the RTI Act.

⁹⁶ *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* [2009] QICmr 7 (9 February 2009).

questions, regard should again be had to the circumstances of the case and the key factors.⁹⁷

81. Generally, an access application does not require an agency to search for a document from a backup system,⁹⁸ except in circumstances where an agency is refusing access to a document on the ground it does not exist and the agency considers the document has been kept in and is retrievable from the backup system.⁹⁹

Findings

82. The Department has relied on searches by its officers to demonstrate that all relevant documents have been located. Accordingly, the question I must consider is whether the Department has taken *all reasonable steps* to locate documents responsive to the access application, including the three categories of documents referred to in paragraph 73 above.

83. The Department has relevantly submitted that:

- its documents are held within the Department's electronic data storage system¹⁰⁰ and on each business unit's computer systems
- in processing the access application, the Department's searches included searches of the computer systems of each relevant business unit (namely, the Office of the Director-General, the Office of the Deputy Director-General, the Magistrates Court, the Supreme and District Courts, the Office of the Chief Magistrate, Executive Services, the ODPP and QCAT)
- on external review, the Department searched for further responsive information (including the Type (i), (ii) and (iii) documents) in electronic files and email records
- the searches conducted on external review included a search of the Department's internet and intranet sites, using the applicant's name as the search term, and no responsive information was located; and
- the Department does not have an internal memo system as referenced by the applicant.

84. Generally, the applicant submitted¹⁰¹ that further communications about her by 'registry', QCAT members, magistrates, judges, DPP and the Attorney-General must exist because:

- she has made multiple complaints about '*gross incompetence and corruption*' of public sector officers; and
- as a result of those complaints, various judicial officers colluded to secure her convictions and planned acts of vengeance against her.

85. The applicant's assertion or belief that further responsive information, including the Type (i), (ii) and (iii) documents, *may* have been created does not mean that further documents of this nature were in fact created.¹⁰²

⁹⁷ Pryor at [21].

⁹⁸ Sections 29 and 52(3) of the RTI Act.

⁹⁹ Section 52(2) of the RTI Act.

¹⁰⁰ These are known as eDocs.

¹⁰¹ Submissions dated 10 April 2018.

¹⁰² In submissions dated 20 July 2018, the applicant stated '*If there is such acrimony as alleged, then judicial officers would have communicated on the subject*'. However, this is not objective evidence that leads to any expectation that further documents recording judicial officer communications exist.

86. Having carefully considered the terms of the access application, the nature of the documents located by the Department, the Department's submissions about searches undertaken and the applicant's submissions, there is nothing before me, other than the applicant's assertions, to support a reasonable expectation that further responsive documents, including the Type (i), (ii) and (ii) documents, exist. I am satisfied there is no evidence before me to warrant further searches of 'server data', as the applicant has requested, or the Department's backup system.
87. The applicant also asserts¹⁰³ that the further responsive information '*should be collected by IT not by the offenders themselves*'. Given the nature of the requested documents—being communications and emails '*to or from*' various judicial officers about the applicant—it is reasonable to expect that such documents would be located in the Department's electronic data storage systems and the computer systems of the relevant business units. There is no evidence before me to suggest that the officers who conducted the searches for responsive documents, either initially or on external review, have not undertaken those searches appropriately. I am therefore satisfied that additional responsive documents, if they existed, would be located within the Department's records that have been searched by the Department and in these circumstances, I consider it unnecessary for further searches to be conducted in the manner requested by the applicant.
88. Taking into account the entirety of the searches conducted by the Department and the information before me, I consider that the Department has conducted searches of all relevant locations where it was reasonable to expect that the types of information requested in the access application (including the Type (i), (ii) and (iii) documents) would, if they existed, be found.
89. In conclusion, for the reasons set out above, I am satisfied that:
- the Department has taken all reasonable steps to locate documents responsive to the access application (including Types (i), (ii) and (iii) of the applicant's sufficiency of search concerns); and
 - there are reasonable grounds to be satisfied that any further responsive documents, including the Types (i), (ii) and (iii) documents are nonexistent or unlocatable and may be refused on this ground.¹⁰⁴

DECISION

90. I vary the Department's decision and find that access to the information being considered in this review may be refused on the grounds that it is variously exempt information; its disclosure would, on balance, be contrary to the public interest; and it is nonexistent or unlocatable.
91. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Assistant Information Commissioner Corby

Date: 10 December 2018

¹⁰³ Submissions dated 10 April 2018.

¹⁰⁴ Under 67(1) of the IP Act and section 47(3)(e) of the RTI Act.

APPENDIX 1**Significant procedural steps**

Date	Event
18 January 2018	OIC received the external review application.
15 February 2018	OIC received the applicant's submissions.
7 and 12 March 2018	OIC received the applicant's emails addressed to other agencies (which were copied to OIC).
14 March 2018	OIC received the applicant's further submissions by telephone.
6 April 2018	OIC received the applicant's further submissions.
10 April 2018	OIC received the applicant's further submissions by email and telephone.
11 April 2018	OIC asked the applicant to confirm the types of additional relevant documents she considered the Department had not located.
27 April 2018	OIC notified the applicant that OIC staff would not engage in further telephone communication with the applicant and any submissions the applicant wished to make were required in writing.
11 May 2018	OIC asked the agency to conduct further searches for responsive information.
30 May 2018	OIC received further documents located by the Department.
13 June 2018	OIC requested further information from the Department about its searches for responsive documents.
20 June 2018	OIC received the Department's submissions and search certifications.
22 June 2018	OIC received the applicant's notification that she wished to make no further submissions.
11 July 2018	OIC received the applicant's further submissions.
20 July 2018	OIC conveyed its preliminary view to the applicant.
20-21 July 2018	OIC received the applicant's further submissions.
28 August 2018	OIC received the applicant's further submissions.

APPENDIX 2

Information in Issue

Initial Documents

Page	Part or full refusal	Category of information refused	Refusal ground
1-2	part	Category A	Exempt
4-16	part	Category A	Exempt
20-28	part	Category A	Exempt
30-32	part	Category A	Exempt
34	full	Categories A and B	Exempt and CTPI
35-36	part	Category A	Exempt
37	full	Category D	CTPI
38	part	Categories A and D	Exempt and CTPI
39	part	Category A	Exempt
40	part	Categories A, B and D	Exempt and CTPI
41	part	Category A	Exempt
42	part	Categories A and D	Exempt and CTPI
43	part	Category A	Exempt
44-45	part	Categories A and D	Exempt and CTPI
46-47	part	Category A	Exempt
48	full	Category D	CTPI
49	full	Category E	Exempt
50-52	part	Category A	Exempt
54-55	part	Category A	Exempt
56	part	Categories A and E	Exempt
57	part	Category A	Exempt
59	part	Category A	Exempt
61-62	part	Categories A and E	Exempt
64-101	part	Category A	Exempt
103-116	part	Category A	Exempt
118-120	part	Category A	Exempt
123	part	Category A	Exempt
124	part	Categories A and B	Exempt and CTPI
125-128	part	Category A	Exempt
129	part	Categories A and D	Exempt and CTPI
130-132	part	Category A	Exempt
134-142	part	Category A	Exempt
144-147	part	Category A	Exempt
150	part	Category A	Exempt
152-155	part	Category A	Exempt
157	part	Category A	Exempt
159-162	part	Category A	Exempt
164-169	part	Category A	Exempt
171-173	part	Category A	Exempt
175-177	part	Category A	Exempt
180-182	part	Category A	Exempt
184-186	part	Category A	Exempt
188-194	part	Category A	Exempt
196-198	part	Categories A and B	Exempt and CTPI
199-201	part	Category A	Exempt
202	part	Category A ¹⁰⁵	Exempt
205-208	part	Category A	Exempt
210-211	part	Category A	Exempt

¹⁰⁵ An additional portion of information on this page was deleted as being irrelevant to the application. As noted in footnote 8 above, this information was not considered in the external review.

Page	Part or full refusal	Category of information of refused	Refusal ground
213	part	Category A	Exempt
214	part	Category A ¹⁰⁶	Exempt
215-217	part	Category A	Exempt
219-233	part	Category A	Exempt
234	full	Category E	Exempt
235-237	part	Category A	Exempt
239	full	Category D	CTPI
240	full	Category E	Exempt +
242-246	part	Category A	Exempt
249	part	Category A	Exempt
250	full	Category E	Exempt
251-255	part	Category A	Exempt
257-258	part	Category A	Exempt
262	full	Category D	CTPI
263	full	Category E	Exempt
264	full	Category D	CTPI
265	full	Category E	Exempt
267	part	Category B	CTPI
268	part	Category A	Exempt
269	part	Categories A and E	Exempt
270	part	Category A	Exempt
272-273	part	Category A	Exempt
274	part	Categories A and D	Exempt and CTPI
275	part	Category A	Exempt
276-277	part	Categories A and D	Exempt and CTPI
278	part	Category A	Exempt
279	part	Categories A and D	Exempt and CTPI
280-282	part	Category A	Exempt
284-316	part	Category A	Exempt
317	full	Category E	Exempt
318-320	part	Category A	Exempt
321	part	Category A	Exempt
323	part	Category A	Exempt
329	part	Category A	Exempt
331	part	Category A	Exempt
338	part	Category A ¹⁰⁷	Exempt
339-341	part	Category A	Exempt
342	part	Categories A and C	Exempt
343	part	Category A	Exempt
345-346	part	Category A	Exempt
347	part	Categories A and C	Exempt
348	full	Category C	Exempt
349-351	part	Category A	Exempt
352	part	Category A ¹⁰⁸	Exempt
353-363	part	Category A	Exempt
364	part	Categories A and C	Exempt
365-367	part	Category A	Exempt
368	part	Category A ¹⁰⁹	Exempt

¹⁰⁶ An additional portion of information on this page was deleted as being irrelevant to the application. As noted in footnote 8 above, this information was not considered in the external review.

¹⁰⁷ An additional portion of information on this page was deleted as being irrelevant to the application. As noted in footnote 8 above, this information was not considered in the external review.

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¹⁰⁹ An additional portion of information on this page was deleted as being irrelevant to the application. As noted in footnote 8 above, this information was not considered in the external review.

Page	Part or full refusal	Category of refused information	Refusal ground
370	part	Category A	Exempt
372-373	part	Category A	Exempt
374	part	Categories A and B	Exempt and CTPI
375-376	part	Category A	Exempt
378-379	part	Category A	Exempt
381-388	part	Category A	Exempt
390	part	Category A	Exempt
392-393	part	Category A	Exempt
394	part	Category A	Exempt
396	part	Category A	Exempt
397-401	full	Category C	Exempt

Additional Documents

Page	Part or full refusal	Category of refused information	Refusal ground
36	part	Category A	Exempt
37	part	Category A	Exempt
41	part	Category A	Exempt
42	part	Category A	Exempt
46	part	Category A	Exempt
48	part	Category A	Exempt
51	Part	Categories A and B	Exempt and CTPI
54	Part	Categories A and B	Exempt and CTPI
55	Part	Category A	Exempt
60-61	Part	Category A	Exempt
71	Part	Category A	Exempt