



Decision and Reasons for Decision

Citation:	<i>I27 and Queensland Police Service [2019] QICmr 29 (12 August 2019)</i>
Application Number:	314471
Applicant:	I27
Respondent:	Queensland Police Service
Decision Date:	12 August 2019
Catchwords:	ADMINISTRATIVE LAW - INFORMATION PRIVACY - compliance with relevant application requirements - whether the agency was entitled to decide an access application did not comply with all relevant application requirements - requirement to provide sufficient information about documents sought - section 43(2)(b) of the <i>Information Privacy Act 2009</i> (Qld) - section 53 of the <i>Information Privacy Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to various documents about herself and her contact with QPS.
2. In response, QPS wrote² to the applicant advising that QPS intended to refuse to deal with the application on the basis that it did not comply with the requirements of section 43(2)(b) of the IP Act. QPS provided the applicant with an opportunity to consult with a view to amending the application to remove the grounds for refusal.
3. QPS decided³ to refuse to deal with the application on the basis that it considered the applicant had failed to respond with a view to identifying the documents being sought.⁴
4. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of the decision refusing to deal with her application.

¹ By paper application dated 12 December 2018 and emails dated 12 December 2018 at 11:48 am, 1:04 pm and 3:06 pm.

² Letter dated 7 January 2019.

³ On 22 February 2019.

⁴ Under section 53 of the IP Act.

⁵ On 22 February 2019.

5. For the reasons set out below, I affirm QPS' decision to refuse to deal with the application under section 53 of the IP Act on the basis that it did not comply with the requirements of section 43(2)(b) of the IP Act.

Background

6. Prior to accepting the application for external review, OIC secured QPS' agreement to process a fresh application with an amended scope.⁶ The applicant rejected the proposal and elected to proceed with the application for external review.
7. Significant procedural steps relating to the external review are set out in the Appendix.

Reviewable decision

8. The decision under review is QPS' decision dated 22 February 2019.

Evidence considered

9. Evidence, submissions, legislation and other material I have considered in reaching this decision are set out in these reasons (including footnotes and Appendix).

Issue for determination

10. The issue for determination is whether QPS was correct in deciding to refuse to deal with the application under section 53 of the IP Act on the basis that it was non-compliant with the requirements of section 43(2)(b) of the IP Act.

Relevant law

11. The IP Act affords a person a right to be given access to documents of an agency to the extent they contain the applicant's personal information. However, this right is subject to other provisions of the IP Act.⁷
12. Of relevance in this matter is section 43(2)(b) of the IP Act which states that an access application must '*give sufficient information concerning the document to enable a responsible officer of the agency or the Minister to identify the document*'. This means an applicant must describe the documents they want to access clearly enough to allow the decision-maker to:
 - identify the documents being applied for; and
 - conduct searches for the documents.⁸
13. If a person purports to make an access application and the application does not comply with all relevant application requirements, an agency must:⁹
 - within 15 business days of receiving the application, make reasonable efforts to inform the applicant how the application does not comply; and

⁶ QPS agreed to process the following scope:

1. All current and historical flags and warnings recorded against [the applicant]; and
2. Information about when the flags and warnings were created, the officer who created them and reasons for generating the flags and warnings (if they are provided) that are recorded in QPRIME.

⁷ Section 40 of the IP Act.

⁸ *Lonsdale and James Cook University* [2015] QICmr 34 (15 December 2015) at [9].

⁹ Section 53(2) and (3) of the IP Act.

- give the applicant a reasonable opportunity to consult with a view to making their application in a form which does comply with all relevant requirements.
14. If, after giving the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements, the agency decides the application does not comply with all relevant application requirements, the agency must give the applicant prescribed written notice of the decision within 10 business days after making the decision.¹⁰

Findings

Give sufficient information concerning the documents sought

15. By paper application dated 12 December 2018, the applicant sought access to:

Subject matter:

1. All emails and processing documents and searches relating to past IP applications and enquiries, and QPS officer communication with 1. QCAT and 2. Judicial Officers.
2. All records of warnings or flags or notes about me on the police flagging and warning system including past records, information supporting those flags and warnings, names and positions of authors of those and authorising officers.
3. Records of communications about me to and from i. Bond University ii. [named individual]
4. Records and communications relating to my complaints to ESC, CMC, CCC.
5. Emails about me sent to and from Gold Coast Prosecutions, including [named person].
6. My QPRIME records
7. Records of searches of my information held by police systems.
8. Emails, reports and notes (notebook entries) relating to my arrest at Bond University.

Type of documents:

All types per above including notebook entries, reports, electronic data, emails, paper documents

Time period:

2008 - 12/12/18 (Focus on 2011 around assault by Bond University group of security guards and January 2012 arrest at Bond University).

16. On that same day, the applicant also emailed QPS three times. The email sent at 11:48 am sought access as follows:

I request under AA administrative access to records about me. Let me know what types of records and from which sources I can request AA.

I request by IP all current and previous records about me on flagging and warning systems from 2008 to the present date.

I request a list of all persons who used police systems to access my data, including their names, positions and dates if possible.

¹⁰ Section 53(6) of the IP Act.

I request all records pertaining to the inputting of information about me in the flagging and warning system including the full names of officers who checked and confirmed those warnings.

I request all records and reports and notebook entries relating to myself and BOND UNIVERSITY from 2011 to the present date. Please include all records of investigations and documents for use in court proceedings.

I request all records and communications about me to and from [a named person] or any name [they are] known by such as [alternate name].

I request all information about me held at or by systems and/or officers of Southport police and watch house, ethical standard command, gold coast prosecutions including all communications to judicial officers and registry staff, all records and communications held by officers or systems of runaway bay police station, Palm Beach police station, surfers paradise and broadbeach and varsity lakes police and police station

I request all records and communications about me to ambulance officers and QAS and doctors and hospital staff and services and all information pertaining to emergency assessment orders. GCUH AND TWEED HOSPITAL records and communications to and from qps are requested.

Communications between OIC, CCC, GCCC, and OHO and OIC and NSW POLICE AND AFP and TAFE NSW and Southern Cross University are requested.

I request records of my complaints about and handling of them and CCTV footage related to complaints, including the 2012 group sexual assault perpetrated on me by south port watchhouse police and any records from police for the incident I reported in 2014. being knocked unconscious by police in front of southport courthouse.

I request records and communications related to my blue card application.

I request all data about myself on QPRIME.

I request all emergency 000 calls from me or my phone numbers ... or ...

*I request all communications about me to and from the following-
[named person]
[named person] or any variation of the spelling of [their] name*

All police prosecutors at gold coast prosecutions between 2012 and 2018.

I request all arrest records and investigation records, notebook entries, and reports.

Please call me to overcome any problem in order that you proactively facilitate this request.

Please send data to this email address.

Dates if not specified should be from 2010 to the current date.

17. The email sent at 1:04 pm sought access as follows:

...documents and communications relating to my previous IP requests including searches and emails to and from ... RTI STAFF.

all current and previous records about me on flagging and warning systems from 2008 to the present date and supporting information or evidence that substantiated them and supervisor records relating to all current and previous notices or warnings or flags. persons who used police systems to access my data, including their names, positions and dates. records

pertaining to the inputting of information about me in the flagging and warning system including the full names of officers who checked and confirmed those warnings.

all records and reports and notebook entries and investigation records relating to Bond university - include all records of investigations and documents for intent or use in court proceedings.

records and communications about me to and from [a named person].

all information about me held at or by systems and/or officers of Southport police and watch house, ethical standard command, gold coast prosecutions including all communications to judicial officers and registry staff, all records and communications held by officers or systems of runaway bay police station, Palm Beach police station, surfers paradise and broadbeach and varsity lakes police and police station

all records and communications about me to and from southport watchhouse medical staff, ambulance officers and QAS and doctors and hospital staff and services and all information pertaining to emergency assessment orders.

GCUH AND TWEED HOSPITAL records and communications to and from qps.

Communications between qps involving any of the following -OIC, CCC, GCCC, and OHO and OIC and NSW POLICE AND AFP and TAFE NSW and Southern Cross University

my complaints about and handling of them and CCTV footage related to complaints, including the 2012 group sexual assault perpetrated on me by south port watchhouse police and any records from police for the incident I reported in 2014 of being knocked unconscious by police in front of southport courthouse and being strangled by [a named person] and repeated complaints about [them] and partner [a named person] breaking in and robbing and assaulting me, and communications with rentashed staff particularly between [a named person] and [a named person] and records about my stored possessions there and the murder threat from [a named person], [a named person]

records and communications related to my blue card application.

current and previous data about myself on QPRIME.

emergency 000 calls from me or my phone numbers ... or ...

*communications about me to and from the following-
[a named person]
[a named person]*

All police prosecutors at gold coast prosecutions between 2012 and 2018.

arrest records and related investigation records, notebook entries, and reports.

18. And the email sent at 3:06 pm sought access as follows:

I would like to see 2012 reports and witness statements or notes about all witnesses who were to attend my trial for arrest in January 2012 particularly for a person who did not show up at trial and was purported to have worked at coolangatta police station.

I would like to see every direct and indirect access to my information by Bond university staff including [a named person] and all entries and warnings about me resulting from [them] directly or indirectly. I would like to see how my reports of [pedophiles] at Bond university were handled if at all and while in the watchhouse in January 2012 all communications about handling my sexual assault complaint.

Department of justice told me there were communications from qps about me directly to magistrates and qcat and I'd like to see them. I'd also like communications from QPS to gold coast bulletin

Please arrange and interpret my request here in the manner which in common sense catches what is critical information and to facilitate quickest release...

19. QPS' decision maker submitted¹¹ that:

Originally our admin team made up three separate files. However after reviewing them, the emails and application all seemed intertwined with each other. It was not clear that they were separate. They were also very difficult to interpret and could be described as rambling and disjointed. Despite the fact that admin had made up three files, it was not clear that they were about separate matters.

In [an] attempt to try and identify what the applicant was seeking, I combined all ... correspondence and sent ... a consult with a view to trying to identify what documents [the applicant] was seeking access to.

20. The onus is on the *applicant* to identify the documents they want to access, not the decision-maker. A clear understanding of the scope of the access application is critical for the agency to progress searches in a timely and targeted way and discharge its obligation to locate all relevant documents.
21. Where the scope of an application is too broad, meaning specific documents cannot be identified, it may not comply with section 43(2)(b) of the IP Act. The specific recordkeeping and document management systems of the agency will be relevant when determining whether or not an application sufficiently describes the documents sought.¹²
22. Where an agency is large and decentralised, as is the case with QPS, applicants may need to include additional information (e.g. geographical locations, relevant reference numbers, names of business units or agency officers) in their application to make it compliant, and allow the agency to identify the documents and undertake searches.
23. I have carefully considered the applicant's paper application and each of the applicant's emails as set out above. I consider that each of the emails predominately requested the types of information which had been requested within the paper application or within one of the other emails. On this basis, I am satisfied that it was prudent of QPS to combine the requests and treat them as one application.
24. Turning to the terms of the applicant's request, it appears that the applicant is effectively seeking access to ALL information in any form held by QPS that is about her within the specified time period. QPS stated¹³ that it is unable to process broad requests such as this because:

*...the QPS is a large and decentralised organisation with the individual stations and regions maintaining police records. There is no central [records management] system, either state wide or at station level, that allows QPS personnel to readily identify "all information" etc. relating to a person **without further information to identify the specific incident/s, investigation or court matter** to which the requested documents relate and the **specific type of documents** [the applicant is] requesting (e.g. statement, notebook entries etc.).*

¹¹ By email dated 29 January 2019.

¹² *Mewburn and Queensland Police Service* [2014] QICmr 49 (2 December 2014) at [41]-[42]

¹³ In a letter to the applicant dated 7 January 2019.

25. It appears on the face of the applicant's paper and email applications that the applicant attempted to provide some clarity. For example, the applicant provided names of some police officers and referenced events in a general sense. However, I consider that the applicant has not clearly specified the parameters of the application in a way that would enable QPS to identify the information that is the subject of the application and conduct searches accordingly. Rather, the applicant asks QPS to 'call me to overcome any problem'¹⁴ and to 'interpret [the] request'.¹⁵
26. Further, the applicant's request requires the QPS decision-maker to analyse the terms of the application to identify documents the applicant is seeking before being able to conduct searches. As an example, the applicant is seeking 'to see 2012 reports and witness statements or notes about all witnesses who were to attend my trial for arrest in January 2012 particularly for a person who did not show up at trial and was purported to have worked at coolangatta police station.' This request requires the QPS decision-maker to independently verify who the applicant is referring to when they state 'a person who did not show up at trial'.
27. Accordingly, I am satisfied that the application did not comply with the relevant application requirement at section 43(2)(b) of the IP Act.

QPS's compliance with section 53 of the IP Act

28. I am satisfied that QPS contacted the applicant within 15 business days after the purported application was received and informed her how the application did not comply with a relevant application requirement.¹⁶ In reaching this conclusion, I note that:
- the purported application was received by QPS on 12 December 2018;¹⁷ and
 - within 15 business days of receiving the purported application, QPS wrote to the applicant on 7 January 2019¹⁸ (**the Notice**) advising:

*Your application as submitted is not valid because it **does not** give sufficient information about the documents you are seeking to enable me to identify them. In its current form, your application is not valid as it does not satisfy section 43(2)(b) of the IPA.*

and

...your request is seeking such a large number of documents from different sources and locations that it is very difficult to interpret and I am not able to specifically identify the documents you are seeking. You also ask for the decision maker to make assumptions and adjust your application if necessary, and this renders your application as invalid as this means your application is not specific enough.

29. I am also satisfied that QPS gave the applicant 'a reasonable opportunity to consult with a view to making an application in a form complying with all relevant application requirements'.¹⁹ In reaching this conclusion, I note that the Notice states:

*Should you wish to amend the current scope and make a valid application, you must respond by 28 January 2019 and **clearly identify what specific documents** you are seeking access to, and provide sufficient information (such as **time, date, place, officer's name, type of incident -court case, crime report / traffic accident / arrest / traffic ticket etc.**) concerning*

¹⁴ Email to QPS dated 12 December 2018 at 11:48 am.

¹⁵ Email to QPS dated 12 December 2018 at 3:06 pm.

¹⁶ In accordance with section 53(2) of the IP Act.

¹⁷ Comprising a paper application and three emails as set out at paragraphs 15 to 18 above.

¹⁸ The 15th business day after receiving the purported application.

¹⁹ In accordance with section 53(3) of the IP Act.

each of the requested documents to enable this Unit to identify the incident/s to which the documents relate so that searches can be made to locate the documents.

For example, if you are requesting documents in relation to a police investigation, the type of information that would assist us in identifying and locating the requested documents would be:

- Were you a complainant: (the person who made a complaint to police);
- Were you a suspect / offender: (the person who was the subject of the investigation / complaint);
- Were you a third party / witness: (someone one who was interviewed in relation to an investigation but was neither a complainant or suspect / offender);
- The substance of the complaint / investigation: (what was it about e.g. assault, break and enter etc.);
- The date / place where the alleged offence occurred;
- The rank, name, establishment of the investigating officer;
- Did the matter result in someone being charged and subsequently facing the courts; and
- Was someone subsequently convicted.

Specifically, in relation to your application, when identifying the documents you are requesting, "any documents" is not sufficient: please be more specific (e.g. job logs, notebook entries, court materials, internal investigation summary report etc.) as to what documents you require. For the purpose of clarity and ease of processing it would also greatly assist if you could number the requests for documents that you are making (e.g. 1. crime report number ... , 2. statement of , 3. Audio / Video interview of ... concerning... which occurred on ... , 4. speeding ticket issued on... at... , 5. Arrest for... on 1/2/05 at Broadbeach, Gold Coast etc.). Please be as specific as possible so that your application can be made valid and processed. To assist you in making your application valid, I have attached several copies of a "Request for more Information" sheet. Please ensure that you provide a completed sheet for **each** individual incident/complaint that you require documentation in relation to (including the type of information outlined above).

It may also help if you focus on obtaining documents in regard to a specific incident as this may assist you in identifying exactly what you are seeking.

30. The QPS decision-maker has submitted to OIC²⁰ that although the applicant attempted to speak to the decision-maker after receiving the Notice and sent a large number of emails to various agencies, including the QPS, none of these communications clarified the terms of the application or responded to the Notice.
31. On the basis of the above, I am satisfied that the applicant did not sufficiently clarify the application to remove the grounds for refusal.

Applicant's submissions on external review

32. During the external review, the applicant stated:
 - 'I am experienced at making IP applications and if you decide it is even plausible that I did not make a valid application I will challenge you and hold you liable for PID reprisals, victimisation, and conspiracy with police to attempt to kill me or cause serious harm...';²¹ and
 - 'QPS IP officers refuse to explain their information storage systems and obfuscate how the scope can be simply set out so they can disclose my information ... [OIC] fails to consider and see that ... this is not the real reason for refusal of information access, as ... evidenced in the history of continuous refusal of my multiple IP applications...'.²²

²⁰ By email dated 29 January 2019.

²¹ Application for external review dated 22 February 2019.

²² Submission dated 15 May 2019.

33. As set out at paragraph 29, QPS provided the applicant with an opportunity to consult with a view to making her application compliant. I also note that QPS provided the applicant with detailed information about information they could provide which would enable QPS to identify the information that is the subject of her application and conduct searches accordingly.
34. On the basis of the information before OIC, I do not consider that the applicant has made a valid application, nor that the applicant has provided the clarification requested by QPS that would enable QPS to identify the documents the applicant seeks.

Conclusion

35. In conclusion, I find that:
- the terms of the access application are insufficiently clear for QPS to identify the documents the applicant seeks; and
 - therefore, QPS could refuse to deal with the application under section 53 of the IP Act on the basis that it does not comply with the requirements of section 43(2)(b) of the IP Act.

DECISION

36. For the reasons set out above, I affirm the decision under review and find that QPS was entitled to decide to refuse to deal with the access application under section 53 of the IP Act on the basis that it did not comply with the relevant application requirements under section 43(2)(b) of the IP Act.
37. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Assistant Information Commissioner Corby

Date: 12 August 2019

APPENDIX**Significant procedural steps**

Date	Event
22 February 2019	OIC received the application for external review.
25 February 2019	OIC notified the applicant and QPS that the external review application had been received.
15 March 2019	OIC received the applicant's written submissions.
19 March 2019	OIC discussed a proposal for informal resolution with QPS.
21 March 2019	OIC received the applicant's written submissions.
18 April 2019	OIC conveyed an informal resolution proposal to the applicant. OIC received the applicant's written submissions in response, rejecting the informal resolution proposal.
26 April 2019	OIC requested and received procedural documents from QPS.
28 April 2019	OIC received the applicant's written submissions.
29 April 2019	OIC notified the applicant and QPS that the application for external review had been accepted.
2 May 2019	OIC received the applicant's written submissions.
15 May 2019	OIC conveyed a preliminary view to the applicant. OIC received the applicant's written submissions.