



Decision and Reasons for Decision

Citation:	<i>Q45 and Council of the City of Gold Coast [2021] QICmr 2 (4 February 2021)</i>
Application Number:	315282
Applicant:	Q45
Respondent:	Council of the City of Gold Coast
Decision Date:	4 February 2021
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - request for information concerning the applicant's complaint about Council officer conduct - whether information may be excluded on the basis it is irrelevant to the scope of the application - section 88 of the <i>Information Privacy Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - personal information of other individuals - whether disclosure would, on balance, be contrary to the public interest - whether complaint information comprises routine work information - whether access may be refused under 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)

REASONS FOR DECISION

Summary

1. The applicant applied to the Council of the City of Gold Coast (**Council**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to documents relating to his complaint about a Council employee.
2. Council did not make a decision within the required statutory timeframe and was therefore taken to have made a decision refusing access to the requested information.¹
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of Council's deemed decision.
4. During external review, Council located relevant documents and disclosed them to the applicant, subject to deletion of irrelevant information and the personal information of

¹ Under section 66(1) of the IP Act. In accordance with section 66(2) of the IP Act, Council provided a notice of the deemed decision to the applicant on 25 March 2020.

other individuals from 119 pages. The applicant remains dissatisfied with the level of information released by Council and seeks access to the refused information.²

5. For the reasons set out below, I vary Council's decision and find that:
- certain information may be deleted under section 88 of the IP Act, on the basis it is irrelevant to the scope of the application; and
 - access may be refused to information on the basis that disclosure would, on balance, be contrary to the public interest.³

Background

6. In September 2019, the applicant made a complaint against a Council employee (**Complaint**).⁴ In late November 2019, Council notified the applicant that it had taken appropriate action and the matter was considered closed.
7. The applicant advised Council he was dissatisfied about the way Council had handled the Complaint and, on 23 December 2019, Council notified the applicant that, after assessing the Complaint, it had decided to not investigate the Complaint and would take no further action.
8. On external review, the applicant asked OIC to conduct '*a complete and impartial investigation into*' the Complaint.⁵ Under the IP Act, a person affected by a reviewable decision⁶ may apply to have the decision reviewed by the Information Commissioner. Council's decision regarding the Complaint is not a '*reviewable decision*' under the IP Act. As such, OIC's jurisdiction in this review does not extend to investigating the Complaint.⁷
9. Significant procedural steps taken during the external review are set out in the Appendix to this decision.

Reviewable decision and evidence considered

10. The decision under review is the decision refusing access to all requested information, which Council is deemed to have made under section 66 of the IP Act.
11. The evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and the Appendix).
12. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**),⁸ particularly the right to seek and receive information as recognised in section 21 of the HR Act. I consider that a decision-maker will, when observing and applying the law prescribed in the IP and RTI Acts, be '*respecting*' and '*acting compatibly with*' this right and others prescribed in the HR Act.⁹ I further consider that, having done so when reaching my

² Submissions dated 30 June 2020.

³ Under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld) (**RTI Act**). Section 67(1) of the IP Act sets out that an agency may refuse access to information in the same way and to the same extent that the agency could refuse access to the document under section 47 of the RTI Act were the document the subject of an access application under the RTI Act.

⁴ Although the applicant withdrew the Complaint on 4 October 2019, he subsequently re-activated the Complaint on 25 October 2019, withdrew it on 4 November 2019 and then re-activated it again on 5 November 2019.

⁵ By email dated 25 September 2020.

⁶ '*Reviewable decision*' is defined in schedule 5 of the IP Act.

⁷ This was explained to the applicant in OIC's email dated 29 September 2020.

⁸ Relevant provisions of which commenced on 1 January 2020.

⁹ See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; and *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

decision, I have acted compatibly with and given proper consideration to relevant human rights, as required under section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between the Victorian equivalents of Queensland's IP and RTI Acts and HR Act: *'it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act'*.¹⁰

Issues for determination

13. The issues for determination in this review are whether the applicant is entitled to access:
 - parts of 107 pages deleted by Council on the basis that it is irrelevant to the access application (**Irrelevant Information**); and
 - parts of 43 pages redacted by Council on the basis that disclosure would, on balance, be contrary to the public interest (**CTPI Information**).
14. The applicant does not seek access to private telephone numbers and email addresses.¹¹

Irrelevant Information

Relevant law

15. Under the IP Act, an individual has the right to be given access to documents of a Queensland government agency, to the extent they contain the individual's personal information.¹² However, section 88 of the IP Act permits an agency to delete information that is not relevant to an access application from a document before giving access to a copy of the document.
16. In deciding whether information is irrelevant, it is necessary to consider whether the information has any bearing upon, or is pertinent to, the terms of the application.¹³

Findings

17. Council deleted information from 107 pages¹⁴ on the basis it was irrelevant to the application. Most of the Irrelevant Information appears within email chains and, as a result, there is a significant level of duplication in portions of the Irrelevant Information.¹⁵
18. The access application requested information about the Complaint and *'all of the documents related to the investigation and outcome of the interview'*.¹⁶ Having

¹⁰ XYZ at [573].

¹¹ Applicant's email to OIC dated 5 July 2020, which did not exclude the mobile telephone and direct landline numbers of Council staff.

¹² Section 40 of the IP Act.

¹³ *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [52].

¹⁴ Being Bundle 2 – pages 25-28, 30, 32-34, 37, 39-43 and 45-50; Bundle 3 – pages 4-6, 10-12, 14-20, 28-30, 32, 35-38, 40 and 44-46; Bundle 4 – pages 7-8, 12, 15-16, 21-28, 30-31, 33-39, 41-43, 45-47 and 49-50; and Bundle 5 – pages 2, 4, 6-11, 14-22 and 24-38.

¹⁵ For example, the portions of Irrelevant Information deleted at page 26 in Bundle 2 (which appear in an email Council sent to the applicant, dated 31 October 2019) are duplicated at Bundle 2, pages 32, 40-41 and 47-48; Bundle 3, pages 4-5, 10, 17, 28-29, 35-36 and 44-45; Bundle 4, pages 24-25, 34-36 and 46-47; and Bundle 5, pages 7-8 and 19-20.

¹⁶ Access application dated 7 January 2020. The application also specifically requested *'a copy of [the applicant's] original written submission, the documental evidence showing the complaint was investigated, by whom, where and when, as well as the process which was followed when dealing with complaints of this nature and justification of the decision council made (their findings)'*.

considered the Irrelevant Information, I am satisfied that this information does not relate to the particular complaint, investigation or interview identified in the access application.¹⁷

19. It is not open for an access applicant to unilaterally expand the scope of an access application on external review.¹⁸ I consider the terms of the access application are clear, as they expressly seek only information relating to the Complaint. I have carefully reviewed the Irrelevant Information and I am satisfied that it is, on its face, information about matters other than Council's investigation of the Complaint. While these matters also involve the applicant, they do not relate to the specific subject matter that is identified in the access application.
20. On this basis, I find that the Irrelevant Information was validly deleted from the documents that Council has disclosed.¹⁹

Information to which access was refused

21. The remaining information in issue appears on 43 pages.²⁰ While I am limited in the extent to which I can describe the CTPI Information,²¹ it includes the personal information of Council staff, including their opinions and experiences in relation to non-routine events that occurred in the Council workplace, and the personal information²² of other individuals.

Relevant law

22. The access right under the IP Act is subject to limitations, including grounds for refusing access.²³ One ground for refusing access is where disclosure of information would, on balance be contrary to the public interest.²⁴
23. In deciding where the balance of the public interest lies, the IP Act and RTI Act requires a decision-maker to identify factors for and against disclosure and decide, on balance, whether disclosure would be contrary to the public interest.²⁵ In balancing the public interest, a decision-maker is prohibited from taking into account irrelevant factors.²⁶
24. In making this decision, I have not taken into account any irrelevant factors.

¹⁷ Some of the information that has been removed as irrelevant is likely to be known to the applicant as it appears in correspondence to or from him in relation to matters other than the subject the of this access application.

¹⁸ *Robbins and Brisbane North Regional Health Authority* (1994) 2 QAR 30 at [17]. See also *BRS6ZB and Metro North Hospital and Health Service* [2015] QICmr 3 (13 February 2015) at [14].

¹⁹ Under section 88 of the IP Act. As notified to the applicant on 21 August 2020 and 7 September 2020, if he wishes to access information outside of the scope of his access application, he may lodge a fresh application to Council.

²⁰ Which Council redacted from the following pages: Bundle 2 – pages 30, 37, 39, 45 and 46; Bundle 3 – pages 8, 14-16, 26, 32-33 and 42; Bundle 4 – pages 7-8, 15, 16, 21, 22, 23, 24, 30, 31, 33-34, 42, 43 and 45; Bundle 5 – pages 2, 4, 6, 13, 15, 16 and 17-18; and Bundle 6 – pages 2-6 and 11-12.

²¹ Section 121 of the IP Act.

²² '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'.

²³ The grounds for refusing access are set out in section 47 of the RTI Act. Section 47(2) of the RTI Act states that it is Parliament's intention that the grounds on which access may be refused are to be interpreted narrowly.

²⁴ Sections 47(3)(b) and 49 of the RTI Act. The term public interest refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, in general, a public interest consideration is one which is common to all members of, or a substantial segment of, the community, as distinct from matters that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual. See Chris Wheeler, 'The Public Interest: We Know It's Important, But Do We Know What It Means' (2006) 48 AIAL Forum 12, 14-16.

²⁵ Section 49(3) of the RTI Act.

²⁶ Including those at schedule 4, part 1 of the RTI Act.

Findings

Factors favouring disclosure

25. The RTI Act recognises the following factors favouring disclosure will arise where disclosing information could reasonably be expected to:
- enhance the government's accountability²⁷
 - inform the community of the Government's operations, including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community;²⁸ and
 - reveal the reason for a government decision and any background or contextual information that informed the decision.²⁹
26. Council must be transparent and accountable in how it deals with complaints it receives about Council staff. I consider that Council's accountability and transparency has been substantially enhanced by the information released to the applicant. I acknowledge that disclosing the CTPI Information would provide the applicant with further details of how Council handled the Complaint, and provide the applicant with a better understanding of the decisions made by Council. However, I consider the weight that can be attributed to this factor is reduced by the level of information that Council has already disclosed to the applicant. On this basis, I afford moderate weight to these factors favouring disclosure.³⁰
27. The applicant has raised general concerns about Council's conduct in dealing with the Complaint.³¹ Where disclosure of information could reasonably be expected to allow or assist inquiry into possible conduct deficiencies of agencies or officials, or reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct, public interest factors favouring disclosure will arise.³² I have carefully considered the CTPI Information (together with the applicant's submissions and the information which has been released to the applicant) and I am satisfied that there is nothing in that information which gives rise to an expectation that disclosure would allow or assist enquiry into, reveal or substantiate, agency or official conduct deficiencies. In these circumstances, I afford low weight to these factors favouring disclosure.
28. The applicant submits that the CTPI Information '*does not contain personal information about individuals other than [the applicant] as it directly addresses [the applicant] and [the Complaint]*'.³³ Some, but not all, of the CTPI Information relates to the applicant and comprises his personal information³⁴ and I attribute significant weight to this disclosure factor in respect of that information.³⁵ However, this personal information of the applicant is inextricably intertwined with the personal information of other individuals and cannot be disclosed without disclosing the personal information of these individuals, which raises a factor favouring nondisclosure discussed below. Of key factual importance in my consideration here is that the Complaint in issue was made by the applicant against a Council officer. The allegations are of an extremely personal nature and extend to considerations beyond the routine work of that officer.

²⁷ Schedule 4, part 2, item 1 of the RTI Act.

²⁸ Schedule 4, part 2, item 3 of the RTI Act.

²⁹ Schedule 4, part 2, item 11 of the RTI Act.

³⁰ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

³¹ For example, in his emails dated 5 July 2020 and 7 September 2020.

³² Schedule 4, part 2, items 5 and 6 of the RTI Act.

³³ Email dated 5 July 2020.

³⁴ Section 121 of the IP Act prevents me from describing this personal information of the applicant in any further detail in this decision.

³⁵ Schedule 4, part 2, item 7 of the RTI Act.

29. The applicant submits that '*the information about [his] complaint should be disclosed in fairness to provide for a fair hearing on the complaint*'.³⁶ Public interest factors favouring disclosure will arise where disclosing information could reasonably be expected to:
- advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies³⁷
 - contribute to the administration of justice generally, including procedural fairness;³⁸ and
 - contribute to the administration of justice for a person.³⁹
30. In this case, the applicant is the Complainant rather than the subject of Council's investigations. 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 an investigation or decision. The fair hearing aspect of procedural fairness requires that, before a decision that will deprive a person of some right, interest or legitimate expectation is made, the person is entitled to know the case against them and to be given the opportunity of replying to it.⁴⁰ Council has advised the applicant of its decision on the Complaint. Taking into consideration the information which Council has disclosed, I consider procedural fairness for the applicant would not be significantly advanced by disclosure of the CTPI Information. Accordingly, I afford this factor⁴¹ low weight.
31. 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 every piece of information that was considered as a result of the applicant's complaint. Rather, it is about providing information to ensure fair treatment in an applicant's future dealings with agencies.⁴² I am not satisfied that disclosure of the CTPI Information would further advance the applicant's fair treatment in his future dealings with Council in any significant way. On this basis, I afford low weight to this factor favouring disclosure.⁴³
32. In determining whether the disclosure of the CTPI Information could reasonably be expected to contribute to the administration of justice for the applicant, I must consider whether:⁴⁴
- 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.
33. The applicant has referenced in submissions to OIC that he is involved in legal proceedings concerning the Complaint.⁴⁵ That is, the applicant is already pursuing a remedy based on the information he has. There is no evidence before me to indicate that disclosure of the CTPI Information is required to enable the applicant to pursue a

³⁶ Email dated 21 August 2020.

³⁷ Schedule 4, part 2, item 10 of the RTI Act.

³⁸ Schedule 4, part 2, item 16 of the RTI Act.

³⁹ Schedule 4, part 2, item 17 of the RTI Act.

⁴⁰ *Kioa v West* (1985) 159 CLR 550 at 584 per Mason J.

⁴¹ Schedule 4, part 2, item 16 of the RTI Act.

⁴² *F60XCX and Department of Natural Resources and Mines* [2017] QICmr 19 (9 June 2017) at [101].

⁴³ Schedule 4, part 2, item 10 of the RTI Act.

⁴⁴ *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) at [16].

⁴⁵ For example, in his emails dated 6 August 2020 and 7 September 2020.

remedy or evaluate whether a remedy is available or worth pursuing. For these reasons, I do not consider this factor favouring disclosure⁴⁶ applies.

34. I have taken into account the pro-disclosure bias⁴⁷ and considered whether any other public interest factors favouring disclosure apply, including those listed in schedule 4, part 2 of the RTI Act.⁴⁸ I cannot identify any other public interest consideration favouring disclosure of the CTPI Information that would carry weight in these circumstances.⁴⁹

Factors favouring nondisclosure

35. The RTI Act recognises that there is a public interest harm⁵⁰ in disclosing the personal information of other individuals and that disclosing information which could reasonably be expected to prejudice the protection of an individual's right to privacy gives rise to a public interest factor favouring nondisclosure.⁵¹ The CTPI Information includes personal information about individuals other than the applicant, which appears in a sensitive context.⁵² As noted above, some of this information is intertwined with the applicant's personal information. I consider that disclosing other individuals' sensitive personal information would be a significant intrusion into their privacy.
36. While the CTPI Information discusses incidents that took place in a Council workplace, it is not wholly related to the routine day-to-day work activities of Council staff.⁵³ The nature of the Complaint is personal and sensitive and goes to the character of a Council officer, as opposed to their routine Council work. Given the nature of this information⁵⁴ I am satisfied its disclosure would be a significant intrusion into the privacy of the relevant staff and the extent of the harm that would arise from its disclosure would be significant.
37. I acknowledge that the applicant will be aware of some of the CTPI Information. However, I do not consider that reduces the weight of these nondisclosure factors to any significant degree, particularly as there can be no restriction on the use, dissemination or republication of information disclosed under the IP Act. Accordingly, I afford these factors favouring nondisclosure⁵⁵ significant weight.
38. The RTI Act also recognises that a public interest harm can result from the disclosure of information that could have a substantial adverse effect on the management or assessment by an agency of its staff.⁵⁶ Public interest factors favouring nondisclosure will also arise where disclosing information could reasonably be expected to:

⁴⁶ Schedule 4, part 2, item 17 of the RTI Act.

⁴⁷ Section 64 of the IP Act.

⁴⁸ Taking into account the nature of the CTPI Information, I am unable to identify how disclosure could, for example, contribute to positive and informed debate on important issues or matters of serious interest (schedule 4, part 2, item 2 of the RTI Act); reveal the information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant (schedule 4, part 2, item 12 of the RTI Act); or contribute to the enforcement of the criminal law (schedule 4, part 2, item 18 of the RTI Act).

⁴⁹ In the event that further relevant factors apply in favour of disclosure, I am satisfied that there is no evidence to indicate that any would carry sufficient weight to outweigh the significant weight that I have afforded to the public interest factors that favour nondisclosure, as discussed below.

⁵⁰ Schedule 4, part 4, section 6 of the RTI Act.

⁵¹ Schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in either the IP Act or RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their 'personal sphere' free from interference from others (paraphrasing the Australian Law Reform Commission's definition of the concept in 'For your information: Australian Privacy Law and Practice' Australian Law Reform Commission Report No. 108 released 12 August 2008, at paragraph 1.56).

⁵² Section 121 of the IP Act prevents me from providing further detail about the nature or content of the CTPI Information.

⁵³ Refer to *BFU12E and Metro North Hospital and Health Service* [2015] QICmr 21 (31 August 2015) at [29] to [31] and *F60XCX and Department of Natural Resources and Mines* [2017] QICmr 19 (9 June 2017) at [118] to [120].

⁵⁴ The direct contact details of Council staff constitute routine personal work information. The applicant's submissions of 5 July 2020 and 7 September 2020 indicate that he is not seeking contact details of Council officers and rather the discussions between Council staff in relation to his Complaint.

⁵⁵ Schedule 4, part 4, section 6 and schedule 4, part 3, item 3 of the RTI Act.

⁵⁶ Schedule 4, part 4, section 3(c) of the RTI Act.

- prejudice an agency's ability to obtain confidential information;⁵⁷ and
 - prejudice the management function of an agency or the conduct of industrial relations by an agency.⁵⁸
39. The allegations within the Complaint are of a highly sensitive and personal nature, as they raise concerns about the character and integrity of a Council officer. Council must be able to consider and discuss such sensitive matters discretely and ensure that disclosure of information does not unduly impact its ongoing employment relationship with its staff. In this context, I consider that disclosing the CTPI Information would have a significant and negative impact on Council's ability to manage its staff in relation to the investigation of complaints involving allegations of a sensitive and personal nature.
40. It is also generally recognised that there is very strong public interest in protecting the ability of agencies to obtain information which is relevant to the investigation of complaints, including the opinions and observations of concerned individuals.⁵⁹ Routinely disclosing this type of information would tend to discourage individuals from coming forward with relevant information or participating openly in future investigations, particularly where the information involves sensitive personal matters or where information has been provided on a confidential basis. Accordingly, I afford significant weight to these factors favouring nondisclosure.
41. Where disclosing information could reasonably be expected to prejudice security, law enforcement or public safety, a factor favouring nondisclosure will arise.⁶⁰ Some of the CTPI Information reveals investigation procedures and methods employed by Council. Disclosing information of this nature could allow individuals to use the information to modify their behaviour so as to avoid detection, thereby compromising the ongoing effectiveness of those procedures and methods and detrimentally effecting Council's ability to effectively discharge its obligations to investigate complaints. On this basis, I afford significant weight to this factor favouring nondisclosure.
42. Under the RTI Act, a further factor favouring nondisclosure arises where disclosure could reasonably be expected to prejudice the fair treatment of individuals and the information is about unsubstantiated allegations of misconduct or unlawful, negligent or improper conduct.⁶¹ On the information before me, it is my understanding the Council did not find the applicant's allegations in the Complaint were substantiated and, given the nature of the allegations, I am satisfied that it could reasonably be expected to impact of the fair treatment of the subject Council officer. In these circumstances, and given the highly sensitive nature of those allegations, this factor deserves significant weight in respect of the CTPI Information.

Balancing the public interest

43. I have taken into account the pro-disclosure bias in deciding access to documents under the IP Act.⁶² I have afforded significant weight to the factor favouring disclosure of the applicant's personal information within the CTPI Information,⁶³ however, that personal information of the applicant is inextricably intertwined with the personal information of

⁵⁷ Schedule 4, part 3, item 16 of the RTI Act.

⁵⁸ Schedule 4, part 3, item 19 of the RTI Act.

⁵⁹ See for example: *P6Y4SX and Queensland Police Service* [2015] QICmr 25 (11 September 2015) at [27] to [31], *P6Y4SX and Department of Police* (Unreported, Queensland Information Commissioner, 31 January 2012) at [35] to [40], *SW5Z7D and Queensland Police Service* [2016] QICmr 1 (15 January 2016) at [27] to [31] and *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [29].

⁶⁰ Schedule 4, part 3, item 7 of the RTI Act.

⁶¹ Schedule 4, part 3, item 6 of the RTI Act.

⁶² Section 64 of the IP Act.

⁶³ Schedule 4, part 2, item 7 of the RTI Act.

other individuals. In addition, and for the reasons outlined above, I have identified additional factors favouring disclosure of the CTPI Information (including those relating to Council's transparency and accountability, fair treatment and administration of justice).⁶⁴ However, taking into account the nature of the CTPI Information, I afford these factors moderate to low weight.

44. On the other hand, I have afforded significant weight to the nondisclosure factors which relate to protecting the personal information and right to privacy of other individuals and ensuring the fair treatment of individuals, in a highly sensitive context.⁶⁵ Additionally, I consider that nondisclosure factors relating to protecting Council's investigation procedures and methods and its ability to obtain confidential information and manage its staff deserve significant weight.⁶⁶
45. On balance, I am satisfied that the public interest factors favouring nondisclosure outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the CTPI Information would, on balance, be contrary to the public interest and access may be refused on this basis.⁶⁷

DECISION

46. For the reasons set out above, I vary Council's deemed decision and find that:
- the Irrelevant Information may be deleted under section 88 of the IP Act; and
 - access to the CTPI Information may be refused as disclosure would, on balance, be contrary to the public interest.⁶⁸
47. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

S Martin
Assistant Information Commissioner

Date: 4 February 2021

⁶⁴ Schedule 4, part 2, items 1, 3, 5, 6, 10, 11 and 16 of the RTI Act.

⁶⁵ Schedule 4, part 4, section 6 and schedule 4, part 3, items 3 and 6 of the RTI Act.

⁶⁶ Schedule 4, part 3, items 7, 16 and 19 and schedule 4, part 4, section 3(c) of the RTI Act.

⁶⁷ Section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

⁶⁸ Section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

APPENDIX**Significant procedural steps**

Date	Event
24 March 2020	OIC received the external review application.
16 April 2020	OIC notified the applicant and Council that the application for external review had been accepted and requested information from Council.
25 May 2020	OIC received the requested information from Council.
24 June 2020	OIC notified the applicant that Council had agreed to release some of the requested information.
30 June 2020	Council released information to the applicant and OIC received the applicant's notification that he was dissatisfied with the level of disclosed information.
3 July 2020	OIC asked the applicant to identify whether there was particular information that he continued to seek access to.
5 July 2020	OIC received the applicant's notification that he sought access to all information redacted from the released documents, excluding private telephone numbers and email addresses.
20 July 2020	OIC provided an update to the applicant and sought confirmation of whether the applicant sought access to mobile telephone numbers and direct landline numbers of Council staff.
6 and 7 August 2020	OIC received the applicant's submissions.
10 August 2020	OIC received a number of further submissions from the applicant.
21 August 2020	OIC conveyed a preliminary view to the applicant and invited the applicant to provide submissions if he did not accept the preliminary view. OIC received the applicant's submissions contesting the preliminary view.
6 September 2020	OIC received the applicant's further submissions and his request for unredacted copies of the documents.
7 September 2020	OIC conveyed a further preliminary view to the applicant and invited the applicant to make further submissions if he maintained his disagreement with the preliminary view. OIC received the applicant's further submissions.
14 September 2020	OIC received the applicant's further submissions.
25 September 2020	OIC received the applicant's further submissions and a request that OIC issue a formal decision.
29 September 2020	OIC notified the applicant that OIC did not have jurisdiction to undertake an investigation of the Complaint, as requested by the applicant.