



Decision and Reasons for Decision

Citation: *V78 and Queensland Police Service [2020] QICmr 42 (28 July 2020)*

Application Number: 314750

Applicant: V78

Respondent: Queensland Police Service

Decision Date: 28 July 2020

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENT NONEXISTENT OR UNLOCATABLE - applicant contends additional documents exist - the information sought is nonexistent or unlocatable - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(e) and 52(1) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - whether deleted information is irrelevant to the terms of the access application - section 88 of the *Information Privacy Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - documents relating to the applicant and their interactions with the agency - personal information and privacy of other individuals - whether disclosure would, on balance, be contrary to the public interest – section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (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, for the period from 1 July 2011 to the date QPS accepted the application,² to information as follows:

Part One: *All records, emails, texts and documents created by or sent to and from [a named former QPS Officer] in relation to [her] ...*

Part Two: *...dates [the former QPS Officer] looked up [her] information on QPS databases and what [he] searched if possible. If [he] used a proxy, provide the dates the proxy searched. If [he] asked another officer to take action relating to [her], show documents relating to those actions. Include flagging and warnings.*

Part Three: *...all documents and emails sent to QPS OFFICERS ([Officer A] and [Officer B]) that arrested [her] in 2012 for trespass from [a named] University employees or [a named] University email addresses.*

2. QPS located 32 pages and decided³ to:
 - refuse access to documents responding to Part One on the ground that documents are unlocatable
 - refuse to deal with Part Two on the ground that all documents sought appear to comprise exempt information the disclosure of which could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law
 - delete information from parts of 5 pages on the ground it is irrelevant to the access application; and
 - refuse access to parts of 19 pages on the ground that disclosure would, on balance, be contrary to the public interest.
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision refusing access and raised concerns about the sufficiency of QPS's searches for documents responsive to the access application.
4. For the reasons set out below, I find that access to the information remaining in issue in this review may be refused or deleted on the following grounds:
 - further documents responsive to the access application are nonexistent or unlocatable
 - parts of 5 pages are not relevant to the access application; and
 - disclosure of parts of 19 pages would, on balance, be contrary to the public interest.

¹ Access application dated 29 March 2019.

² The access application became compliant on 13 June 2019.

³ Decision dated 1 August 2019.

⁴ External review application dated 1 August 2019.

Background

5. Significant procedural steps taken during the external review are set out in the Appendix to this decision.

Reviewable decision

6. The decision under review is QPS's decision dated 1 August 2019.

Evidence considered

7. The applicant provided extensive submissions during the review. I have considered all this material and have extracted those parts which I consider have relevance to the issues to be determined in this external review.
8. In reaching my decision, I have had regard to the submissions, evidence, legislation, and other material referred to throughout these reasons (including footnotes and Appendix).

Information in issue

9. The information in issue is contained within parts of 22 pages.⁵

Preliminary issue – alleged bias

10. The applicant has requested that I be removed from her matters⁶ and alleged that I have an undisclosed bias against her.⁷ I have issued previous decisions involving the same applicant in which she raised this issue. As I did on those occasions,⁸ I have carefully considered these submissions, alongside the High Court's test for assessing apprehended bias for a decision maker. The High Court's test requires consideration of *'if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question the judge is required to decide'*.⁹ The High Court has also noted that *'[t]he question of whether a fair-minded lay observer might reasonably apprehend a lack of impartiality with respect to the decision to be made is largely a factual one, albeit one which it is necessary to consider in the legal, statutory and factual contexts in which the decision is made'*.¹⁰
11. OIC is an independent statutory body that conducts merits review of government decisions about access to, and amendment of, documents. The procedure to be followed on external review is, subject to the IP Act, within the discretion of the Information Commissioner.¹¹ In order to ensure procedural fairness (as required by both the IP Act¹² and common law), it is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner or her delegate at that time, to an adversely affected party. This appraises that party of the issues under consideration and affords them the opportunity to put forward any further information they consider relevant to those issues.

⁵ Parts of pages 1-2, 5-6, 8-14, 17, 19-21, 23-25, 27-28 and 31-32 of the documents located.

⁶ Emailed submission dated 27 February 2020.

⁷ Emailed submission dated 12 March 2020.

⁸ I have not listed these previous decisions to protect the applicant's privacy.

⁹ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at [6] per Gleeson CJ, McHugh, Gummow and Hayne JJ. See also *Michael Wilson & Partners Limited v Nicholls* (2011) 244 CLR 427 at [31] per Gummow ACJ, Hayne, Crennan and Bell JJ.

¹⁰ *Isbester v Knox City Council* (2015) 255 CLR 135 at [20] per Kiefel, Bell, Keane and Nettle JJ.

¹¹ Section 108 of the IP Act.

¹² Section 110 of the IP Act.

12. During this external review, I conveyed¹³ a preliminary view to the applicant that access to further documents can be refused on the basis they are nonexistent or unlocatable, some information could be deleted from the copies of the documents released to her on the ground that it is irrelevant and access to other information can be refused on the grounds that its disclosure would, on balance, be contrary to the public interest. My letter advised the applicant that the purpose of my view was to give her the opportunity to put forward her views, and if she provided additional information supporting her case, this would be considered and could alter the outcome.¹⁴
13. For this decision, I am the delegate of the Information Commissioner.¹⁵ I have not to my knowledge dealt with the applicant in any capacity prior to her reviews and cannot identify any conflict of interest in my dealing with her application for review of QPS's decision. I do not consider the fact that the applicant has asked for me to be removed from her matters has altered my conduct of the review or consideration of the issues before me in any way. In these circumstances, paraphrasing the High Court's test, I am unable to identify any basis for finding that a fair-minded lay observer might reasonably apprehend that I¹⁶ might not bring an impartial and unprejudiced mind to the resolution of this matter. Accordingly, I have proceeded to make this decision.

Issues for determination

14. I will now turn to consideration of the issues for determination in this review. The issues for determination are:
- **Sufficiency of search** – whether access to further documents responsive to the access application may be refused on the ground that they are nonexistent or unlocatable.
 - **Irrelevant information** – whether information may be deleted on the ground it is irrelevant to the scope of the access application.
 - **Contrary to public interest** – whether access to information may be refused on the ground that its disclosure would, on balance, be contrary to the public interest.

Sufficiency of search

Relevant law

15. Under the IP Act, a person has a right to be given access to documents of an agency to the extent they contain the individual's personal information.¹⁷ However, this right is subject to other provisions of the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**) including the grounds on which an agency or Minister may refuse access to documents.¹⁸
16. Access to a document may be refused if the document is nonexistent or unlocatable.¹⁹ A document is nonexistent²⁰ if there are reasonable grounds to be satisfied that the

¹³ Letter to applicant dated 28 April 2020.

¹⁴ Footnote 1 of letter to applicant dated 28 April 2020.

¹⁵ Section 139 of the IP Act.

¹⁶ As a delegate of the Information Commissioner under section 139 of the IP Act.

¹⁷ Section 40 of the IP Act.

¹⁸ Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent it could refuse access to the document under section 47 of the RTI Act were the document to be the subject of an access application under the RTI Act.

¹⁹ Sections 47(3)(e) and 52(1) of the RTI Act.

²⁰ Section 52(1)(a) of the RTI Act.

document does not exist. A document is unlocatable²¹ if it has been or should be in the agency's possession and all reasonable steps have been taken to find it, but it cannot be found.

17. 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:²²
- 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 the request relates to.²³
18. When proper consideration is given to relevant factors, it may be unnecessary for searches to be conducted. However, if an agency or Minister relies on searches to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the requested documents. The key factors identified above are also relevant to a consideration of whether an agency or Minister has taken all reasonable steps before concluding that documents are unlocatable.²⁴

Findings

19. In response to the access application, QPS located 32 pages relevant to Part Three. However, QPS was unable to locate any documents responsive to Part One and decided to refuse to deal with documents responsive to Part Two on the basis that all documents sought at Part Two would comprise exempt information.
20. In seeking an external review, the applicant submitted:²⁵

Emails sent to and from the officers involved should be obtained. QPS do not destroy data when changing operating systems.

...

The number of searches of [her] data is important and shows the impact of corrupt flags and warnings...

... [the Former QPS Officer's] searches of [her] police data when he was not an investigating officer, and material he emailed to convict [her], were not done within his role of carrying out police duties allocated to him.

...

... The arrest audio footage is available so please retrieve it. The audio footage contains a conversation where [she queried] police for taking the word of a 19 year old student They would then have emailed seeking help to conceal that.

...

²¹ Section 52(1)(b) of the RTI Act.

²² *PDE and The University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*). *PDE* concerned the application of section 28A of the now repealed *Freedom of Information Act 1992* (Qld), the requirements of which are replicated in section 52 of the RTI Act.

²³ *PDE* at [37] - [38].

²⁴ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [20] - [21].

²⁵ Submission to OIC dated 1 August 2019.

[She seeks] *the flags and warnings ... as a PID protection action, so [she] can file them in open court...*

[She seeks] *the entire number of times officer hacked [her] data. This will show that normal duties were not occurring and that [she is] in danger.*

...

If in this decision it is claimed there are no emails from [the Former QPS Officer], it is expected that he also did not access [her] data and that would be a simple answer to [her] access request which has not occurred. Accessing [her] data in 2012 is one thing, while an investigation into his employer [a named] University was occurring and trial going on. But continuing to access [her] address and contacts obsessively?!

21. The applicant further submitted:²⁶

[She is] *seeking from [this] review the emails sent from [the former QPS Officer] from his [named] University address about [her] including to police.*

The police release indicates he was the liaison officer from [the named University] and created criminal allegations about [herself], as well as [her] fellow whistleblower ...

Also from a [named] University email address from [a named individual].

22. And:²⁷

[She needs] *dates [the former QPS Officer] whatever his police name or number is accessed my QPRIME file.*

He was an inspector detective until 2013.

He put [her] and [a named individual] into police systems right around 2011 half way and probably until he left.

[She does] *not have any proof of him putting [her] into the police system. The only proof [she has] is QPS refusing to tell [her] the dates he looked up [her] profile, as opposed to saying he did not.*

QPS said they don't keep emails prior to 2014.

[She] *would like to see emails from his [named University] address to QPS recently so [she] can sue him and [named] University with QPS.*

...

To show [the former QPS Officer] accessed [her] police file would go toward showing all police conduct and [her] criminalisation was the result of [named] University having a staff with full police powers used to destroy two intellectually gifted female students completely.

...

[She believes] *a new police flag would now be placed for [the former QPS Officer] to have [her] arrested and tortured again.*

The flags and warnings if released and documents showing why they were placed there if released to [her] would save [her] life. There has never been a QPS release that did not show severe corruption against [her].

...

[The former QPS Officer] *had no grounds whatsoever to access [her] QPRIME file, rather to create one for [her].*

[A named individual], *also used QPRIME for [named] University to falsify that he was an eye*

²⁶ Submission to OIC dated 11 September 2019 at 5:35pm.

²⁷ Submission to OIC dated 12 September 2019 at 6:02pm.

witness who saw [her] commit a crime. He claimed to have been a student in [her] class and also a friend and colleague of the police who arrested [her] on 16/1/12.

23. During the review, OIC obtained from QPS copies of the records of the searches conducted and a submission about those searches. In summary, QPS submitted:²⁸
- following further searches being conducted, rather than refusing to deal with Part Two, it is QPS's position that access to documents can be refused on the basis that they are nonexistent or unlocatable
 - searches have been undertaken within:
 - Ethical Standards Command (**ESC**), including the Systems Audit Investigation Team (**SAIT**) and the correspondence and recording system ("objective") for the Legal and Policy Unit
 - QPrime; and
 - Police Prosecution Corps
 - the Former QPS Officer ceased employ with QPS in 2013 and his last position held relevant to the period specified in the access application was ESC Legal and Policy Unit
 - QPS transitioned to Office 365 in 2017
 - while searches undertaken with the ESC SAIT identified 135 emails related to external emails received/sent by the Former QPS Officer, a review of the emails revealed that none of them related to the applicant
 - the searches of the objective recording system did not locate any record of correspondence related to the Former QPS Officer and the applicant
 - no emails were located for the other officers nominated by the applicant
 - any searches allegedly conducted by proxy or by another officer for the Former QPS Officer are unable to be searched for without the name/s of the officer/s who allegedly undertook those searches; and
 - in relation to a C90 tape tendered in court:
 - inquiries confirmed a copy was tendered in court and that the applicant's representative received a copy
 - searches of QPrime did not reveal a record of the tape as an exhibit or property
 - inquiries with the prosecutor for the matter revealed that prosecutors do not retain property or exhibits, as they are handed back to the arresting officer
 - the arresting officer has confirmed that he does not hold the C90 tape and suspects that it was destroyed; and
 - QPS's Retention and Disposal Schedule (Version 6, 2013), provides that evidence in relation to the Trespass offence (dismissed) and obstruct offence/s should be retained for 10 years.
24. Based on the information before OIC, I am satisfied that the searches undertaken by QPS for documents which respond to the access application are reasonable and I cannot identify any additional searches that could reasonably be conducted for responsive documents. Specifically, in relation to the C90 tape, while I acknowledge that QPS's Retention and Disposal Schedule indicates that it should not yet have been destroyed as it is still within the retention period, I consider that QPS has conducted all reasonable searches for the C90 tape and it is unlocatable.
25. In the absence of independent evidence pointing to the existence of further documents, I am satisfied that all reasonable searches for documents in response to the access application, including the C90 tape, have been conducted, and that further searches are not necessary. Consequently, I find that access to further documents responsive to the access application may be refused under section 67(1) of the IP Act and sections

²⁸ Submission to OIC dated 6 April 2020.

47(3)(e) and 52(1) of the RTI Act, on the ground that the documents sought are nonexistent or unlocatable.

Irrelevant information

Relevant law

26. Section 88 of the IP Act provides that an agency may give access to a document subject to the deletion of information it considers is not relevant to an application. This provision does not set out a ground for refusal of access. Rather, it provides a mechanism to allow irrelevant information to be deleted from documents which are identified for release to an applicant. 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.²⁹

Findings

27. QPS deleted small portions of information on 5 pages³⁰ on the basis that they were irrelevant to the access application.
28. I have reviewed the small portions of information that were deleted and I am satisfied that they constitute information about other individuals and/or matters being dealt with by QPS which do not relate to the applicant or the terms of her access application.
29. As noted above,³¹ the access applicant sought information relating to herself. Given the small portions of information on five pages in no way relate to the applicant and clearly fall outside the terms of the application, I find that they can be deleted from the copies of the documents released to the applicant.³²

Contrary to the public interest

30. The last information that remains in issue to be addressed in this decision is small portions of information on 19 pages (**Remaining Information**).³³ I have carefully reviewed the Remaining Information and, while the IP Act limits the extent to which I can describe this information,³⁴ I can confirm that the portions of information comprise the personal information of other individuals, including names and other identifying information, such as signatures, address information, drivers' license details, dates of birth, and age.

Relevant law

31. Access may be refused to information where its disclosure would, on balance, be contrary to the public interest.³⁵ 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.³⁶

²⁹ *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [52].

³⁰ Parts of pages 23, 25, 27 and 31-32.

³¹ At paragraph 1 of this decision.

³² Under section 88 of the IP Act.

³³ Parts of pages 1-2, 5-6, 8-14, 17, 19-21, 23-25 and 28 of the documents located.

³⁴ Sections 121(1) and 123(7) of the IP Act.

³⁵ Section 67(1) of the IP Act and section 47(3)(b) and 49 of the RTI Act.

³⁶ However, there are some recognised public interest considerations that may apply for the benefit of an individual.

32. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:³⁷
- 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.
33. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of public interest lies in a particular case. While the onus of establishing that I (as delegate of the Information Commissioner) should give a decision adverse to the applicant in this review is on QPS,³⁸ I have nonetheless carefully considered these lists, together with all other relevant information, in reaching my decision. Additionally, I have kept in mind the pro-disclosure bias³⁹ of the IP and RTI Acts and Parliament's requirement that grounds for refusing access to information be interpreted narrowly.⁴⁰

Findings

Irrelevant factors

34. I have not taken any irrelevant factors into account in reaching my decision.

Factors favouring disclosure

35. QPS must be transparent and accountable about how it deals with members of the public.⁴¹ The Remaining Information comprises the personal information of other individuals appearing in the context of QPS officers responding to and dealing with a complaint about the applicant. I accept that disclosing this information would advance the transparency and accountability public interest factors to some degree. However, I do not consider that the disclosure of the Remaining Information would advance QPS's accountability and transparency in any significant way, particularly given the applicant has been provided with all of the information that is solely her personal information and which details her interactions with the QPS officers. I am satisfied that the information which *has* been disclosed to the applicant provides sufficient information to further her understanding of how QPS handled the complaint against her, thereby substantially reducing the weight to be afforded to these factors. Accordingly, I afford these two factors favouring disclosure low weight.
36. The applicant submitted:⁴²

The witness name of ... is important for [OIC] to determine [whether] the rest of the decision being in bad faith

[The named witness] was not a public servant, but his name in the notebook is quite important.

The police officer who claimed to be present when [she was] arrested, stating he was a law

³⁷ Section 49(3) of the RTI Act.

³⁸ Section 100 of the IP Act. See *Moon and Department of Health* (Unreported, Queensland Information Commissioner, 12 August 2010).

³⁹ Section 64 of the IP Act and 44 of the RTI Act.

⁴⁰ Section 47(2) of the RTI Act.

⁴¹ Schedule 4, part 2, items 1 and 3 of the RTI Act.

⁴² Email to OIC dated 1 August 2019.

student who coincidentally knew both officers, was never present. He failed to show up at trial. The person who spoke to police was [the named witness]. Police then erased his presence and actions from the records.

[Named] University FOI showed [the named witness] was the person present convincing officers to arrest [her], not a fellow police officer. This links [named] University expulsion and arrests to reprisals. The expulsion allegations were made by [the named witness] pretending to be the voices of many students while claiming [she was] an assault perpetrator in a context where a group of [named] University security officers said they were waiting for [her] when [she] attended an event, falsely imprisoned [her] and assaulted [her], on CCTV, then tried to suspend [her] the next day claiming [she was] medically unfit with a psychiatric disorder.

The student, [named witness], met with [named] University president, ... who [she was] whistleblowing on for his part in the ... scandal where his co-offender, ..., was then allowed by corruption into a medicine degree for assisting reprisals against the nurse whistle-blower on behalf of ...

[The named university president] suspended [her] on the same day he suddenly quit his job as CEO ... at [named] University.

Before [the named witness] left the class to persuade police to arrest [her], he said to [her], "I expelled you once, I'll expel you again."

[The named witness] was given a role to make criminal allegations against [her]. By expelling [her,] he became 'dux'. He was used at [her] expulsion hearing prior to [her] arrival to give false testimony which [she] did not know about until after [she was] expelled and received the minutes. All witnesses against [her] were secret.

37. The applicant's submission raises factors favouring disclosure relating to allowing or assisting inquiry into possible deficiencies in the conduct or administration of an agency or official⁴³ and revealing or substantiating that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.⁴⁴ I have carefully considered the applicant's submission and the Remaining Information. While I am prevented from disclosing the Remaining Information (as noted above),⁴⁵ I can confirm that the name sought by the applicant does not appear in the Remaining Information. I also consider that the applicant has been given sufficient information to enable her to ascertain whether there have been any deficiencies in the conduct or administration of an agency or official, or whether an agency or official has engaged in misconduct or negligent, improper or unlawful conduct.
38. Having reviewed all the information before me, there is nothing, other than the applicant's assertions, that indicates that the public interest issues set out at paragraph 37 above have arisen. There is, therefore, nothing before me to suggest that these factors arise in the circumstances of this matter and accordingly, I afford them no weight.

Factors favouring nondisclosure

39. The RTI Act recognises that disclosing an individual's personal information to someone else can reasonably be expected to cause a public interest harm⁴⁶ and that a further factor favouring nondisclosure arises if disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy.⁴⁷

⁴³ Schedule 4, part 2, item 5 of the RTI Act.

⁴⁴ Schedule 4, part 2, item 6 of the RTI Act.

⁴⁵ Section 121 of the IP Act and section 108 of the RTI Act.

⁴⁶ Schedule 4, part 4, section 6(1) of the RTI Act.

⁴⁷ Schedule 4, part 3, item 3 of the RTI Act.

40. While the Remaining Information appears in documents about the applicant, it is itself comprised solely of the personal information of other individuals, including names and other identifying information, such as signatures, address information, drivers' license details, dates of birth, and age.
41. I note that small portions of the Remaining Information on 6 pages⁴⁸ relate to a QPS officer. Generally, where personal information comprises the routine personal work information of a public sector employee, such as the fact of authorship of a work document or a work responsibility, it is not considered to be contrary to the public interest to disclose. However, it is contrary to the public interest to disclose personal information of public sector employees that is not routine personal work information. In this matter, the personal information of the QPS officer comprises identifying information, such as the QPS officer's signature, address information, drivers' license details, date of birth, and age. I do not consider that this type of information comprises the QPS Officer's routine personal work information as it is not wholly related to their routine day to day work duties and responsibilities.
42. Given the nature of the personal information noted in paragraphs 40 and 41 above, I am satisfied that the extent of the public interest harm that could be anticipated from disclosure is significant.
43. Additionally, I consider that disclosure of the entirety of the Remaining Information would disclose private details about the individuals, resulting in an intrusion into their private life or 'personal sphere', thus giving rise to a reasonable expectation of prejudice to the protection of the individuals' right to privacy. Accordingly, I am satisfied that the privacy public interest factor favouring nondisclosure applies and carries significant weight.
44. Accordingly, I afford the personal information harm factor and the privacy factor, significant weight.

Balancing the public interest

45. I have considered the pro-disclosure bias in deciding access to information.⁴⁹
46. For the reasons set out above, I afford:
 - no weight to the public interest factors in favour of disclosure of the Remaining Information which relate to allowing or assisting inquiry into possible deficiencies in the conduct or administration of an agency or official and revealing or substantiating that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct; and
 - low weight to the public interest factors in enhancing the government's accountability and informing the community of government operations in favour of disclosure of the Remaining Information.
47. On the other hand, I afford significant weight to the public interest factors in favour of nondisclosure of the Remaining Information, namely the personal information harm factor and the privacy factor.
48. Having balanced the relevant factors in this case, I consider the nondisclosure factors outweigh the disclosure factors. Accordingly, I find that access to the Remaining information may be refused under section 67(1) of the IP Act and section 47(3)(b) of the

⁴⁸ Being pages 1 and 8-12.

⁴⁹ Section 44 of the RTI Act.

RTI Act on the ground that its disclosure would, on balance, be contrary to the public interest.

DECISION

49. I vary QPS's decision by finding that:

- further documents responsive to the access application are nonexistent or unlocatable
- parts of 5 pages are not relevant to the access application; and
- disclosure of parts of 19 pages would, on balance, be contrary to the public interest.

50. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Assistant Information Commissioner Corby

Date: 28 July 2020

APPENDIX

Significant procedural steps

Date	Event
1 August 2019	OIC received the applicant's application for external review.
7 August 2019	OIC notified QPS and the applicant that the application for external review had been received and requested procedural documents from QPS.
8 August 2019	OIC received the requested documents from QPS.
19 August 2019	OIC received emailed submissions from the applicant.
27 August 2019	OIC received emailed submissions from the applicant.
28 August 2019	OIC received two emailed submissions from the applicant.
3 September 2019	OIC notified QPS and the applicant that the application for external review had been accepted.
6 September 2019	OIC received three emailed submissions from the applicant.
7 September 2019	OIC received emailed submissions from the applicant.
11 September 2019	OIC received two emailed submissions from the applicant.
12 September 2019	OIC received two emailed submissions from the applicant.
13 September 2019	OIC received emailed submissions from the applicant.
17 September 2019	OIC received emailed submissions from the applicant.
18 September 2019	OIC received two emailed submissions from the applicant.
19 September 2019	OIC received two emailed submissions from the applicant.
20 September 2019	OIC received emailed submissions from the applicant.
25 September 2019	OIC wrote to the applicant about this external review and other external reviews sought by her.
26 September 2019	OIC received emailed submissions from the applicant.
30 January 2020	OIC requested a copy of the documents located, records of the searches conducted and a submission from QPS. OIC wrote to the applicant about this external review and other external reviews sought by her.
27 February 2020	OIC received emailed submissions from the applicant.
5 March 2020	OIC received emailed submissions from the applicant.
11 March 2020	OIC received emailed submissions from the applicant. OIC wrote to the applicant about this external review and other external reviews sought by her.
12 March 2020	OIC received emailed submissions from the applicant.
6 April 2020	OIC received the requested records of searches and a submission from QPS.
22 April 2020	OIC received a copy of the documents located from QPS.

Date	Event
28 April 2020	OIC conveyed a preliminary view to the applicant.
28 April 2020	OIC received emailed submissions from the applicant.
1 June 2020	OIC wrote to the applicant about this external review and other external reviews sought by her.
2 June 2020	OIC received emailed submissions from the applicant.
6 July 2020	OIC received emailed submissions from the applicant. OIC wrote to the applicant about this external review and other external reviews sought by her.
7 July 2020	OIC received emailed submissions from the applicant.