



Decision and Reasons for Decision

Citation:	<i>Ciric and Queensland Police Service</i> [2018] QICmr 30 (29 June 2018)
Application Number:	312955
Applicant:	Ciric
Respondent:	Queensland Police Service
Decision Date:	29 June 2018
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - request for documents about recruitment and review process - whether some of the located documents fall outside the scope of the application - whether information may be deleted on the basis that it is irrelevant to the terms of the application - section 73 of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - access to personal employment arrangements of another individual - personal information and privacy - whether disclosure would, on balance, be contrary to public interest - whether access may be refused under sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - applicant contends additional documents exist - whether the agency has taken all reasonable steps to locate the documents - whether the documents are nonexistent or unlocatable - whether access may be refused under sections 47(3)(e) and 52 of the <i>Right to Information Act 2009</i> (Qld)</p>

REASONS FOR DECISION

Summary

1. The applicant applied to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to all emails sent during a specified period¹ between certain individuals² involved in a QPS recruitment process pertaining to

¹ From 27 July 2015 to 13 July 2016.

² The individuals identified in the scope of the application are:

a particular vacancy (**Vacancy**), and a subsequent police service review (**Review**) of the outcome of that process.

2. QPS was deemed to have made a decision refusing access to the requested documents³ on 1 September 2016 (**Deemed Decision**).⁴
3. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of the Deemed Decision. During the review, the applicant agreed not to pursue access to a range of information and QPS released a considerable amount of information to the applicant.
4. For the reasons set out below, I vary the Deemed Decision and find that:
 - certain documents fall outside the scope of the access application
 - certain information may be deleted on the basis that it is irrelevant to the scope of the access application
 - access to the remaining information may be refused on the ground that its disclosure would, on balance, be contrary to the public interest; and
 - access to the documents the applicant contends QPS failed to locate may be refused on the ground that they are nonexistent.

Background

5. The access application was received by QPS on 27 July 2016. A significant period of time has elapsed since the original application was made to QPS. This can be attributed to a series of complex issues which arose during both the processing of the application and the external review process, in addition to a five week suspension of the external review.
6. The significant procedural steps relating to the external review are set out in the Appendix. The factual background to this external review may be summarised as:
 - On 27 July 2015, the applicant applied for the Vacancy. The applicant was unsuccessful in this recruitment process.
 - On 4 December 2015, the applicant applied to Police Service Reviews to review the decision⁶ to appoint the nine successful appointees.⁷
 - During the Review, the applicant was provided with copies of:⁸

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- nine QPS officers who were the successful appointees—Appointee 1, Appointee 2, Appointee 3, Appointee 4, Appointee 5, Appointee 6, Appointee 7, Appointee 8 and Appointee 9
 - four QPS officers who were panel members for the recruitment—Panel Convenor, Panel Member 1, Panel Member 2 (partial involvement in recruitment) and Panel Member 3; and
 - individuals involved in the Review—the former Senior Sergeant for Police Service Reviews (within QPS's Legal Division), the Review Commissioner and the Secretary of Police Service Reviews.

Note—The Review Commissioner and Secretary work for the Crime and Corruption Commission (**CCC**), rather than within QPS.

³ Under section 46(1) of the RTI Act.

⁴ This was confirmed in a letter from QPS to the applicant dated 8 September 2016.

⁵ Application dated 8 September 2016.

⁶ Police officers with grievances about promotions, transfers and disciplinary matters other than misconduct can apply to have these decisions reviewed by a Commissioner for Police Service Reviews under section 9.3 of the *Police Administration Act 1990* (Qld). Commissioners for Police Service Reviews are nominated by the Chairman of the CCC. An employee of the CCC provides secretariat support to these Review Commissioners.

⁷ The applicant withdrew her request to review the appointment of Appointee 4 shortly after lodging her application.

⁸ The Selection Process Documentation for each review was sent as an attachment to the email to the applicant and the **same** documentation was sent as an attachment to the email to the respective Appointee. The emails to the applicant attaching the Selection Process Documentation were dated 17 February 2015, 25 February 2015, 16 March 2016 and 7 April 2016. The applicant confirmed that she received the Panel Convenor's written response to her submission on 23 May 2016 in an email to

- the **Selection Process Documentation**—that is, the Panel Convenor's report, individual and moderated shortlisting matrices/notes, summary of shortlisting of all ratings, performance indicators, position description (including key accountabilities), advertised position selection report, appointees' application for advertised position including two page response, applicant's application for advertised position including two page response, referee reports, interview notes, interview questions and desired responses, and final overall ratings matrix
 - the Panel Convenor's written response to the applicant's submission; and
 - the responses of successful appointees who elected to respond to the applicant's submission.
- On 17 June 2016, the Review Commissioner's decision⁹ was released to the applicant. It confirmed that the recruitment panel did not err in its assessment of merit and recommended the appointments of Appointees 1, 2, 3, 5, 6, 7, 8 and 9 be affirmed.
 - On 27 July 2016, as well as making the access application to QPS that is the subject of this review, the applicant made a separate access application under the RTI Act to the CCC for documents about the recruitment and review processes.¹⁰ The CCC located 153 pages and decided to grant access to 144 pages and parts of eight pages.
 - On 18 October 2016, the applicant applied for an external review of the CCC's decision. A small amount of information was released during the external review, which was finalised informally¹¹ on 30 May 2017.

Reviewable decision

7. The decision under review is QPS's Deemed Decision.

Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes and Appendix).
9. The applicant provided a number of submissions to OIC¹² during the course of the external review. I have summarised and addressed the applicant's submissions below, to the extent they are relevant to the issues for determination.

Information which is no longer in issue

Excluded information

10. During the external review, the applicant advised OIC she did not wish to pursue access to the following **Excluded Information**:

the CCC dated 26 May 2016. The emails to the applicant attaching the successful appointees' responses to the applicant's submission were dated 10 March 2016, 30 March 2016, 14 April 2016, 1 May 2016 and 7 June 2016.

⁹ Dated 15 June 2016, emailed to the applicant on 17 June 2016 with a cover letter dated 16 June 2016.

¹⁰ In this application, the applicant requested 'all emails to and from [the Panel Convenor, Panel Member 1, Panel Member 2, Panel Member 3, the former Senior Sergeant for Police Service Reviews, the Secretary and the Review Commissioner] *in relation to myself* – [Vacancy] and Review Hearing held on 31 May 2016 and 01 June 2016' and 'any notes made by [the Panel Convenor, Panel Member 1, the Secretary and the former Senior Sergeant for Police Service Reviews] *in relation to myself* – [Vacancy] and Review Hearing held on 31 May 2016 and 01 June 2016. Any video and audio recording of the Review hearing'.

¹¹ Under section 90(4) of the RTI Act.

¹² Submissions dated 25 August 2017, 11 October 2017, 31 January 2018, 20 April 2018 and 8 June 2018.

- duplicate information¹³
 - information about individuals other than those identified in the scope of the access application¹⁴
 - applications for the advertised position¹⁵
 - QPLF responses¹⁶
 - Powerpoint presentations¹⁷
 - referee reports¹⁸
 - interview scenario and questions¹⁹
 - interview checklists²⁰
 - QPS advertised position selection report²¹
 - CCC review report²²
 - documents sent to or from Appointee 4²³
 - signatures²⁴
 - personal email addresses²⁵
 - leave arrangements including reasons for personal leave²⁶
 - referee details²⁷
 - mobile phone numbers²⁸
 - interview questions used in other recruitments;²⁹ and
 - emails and documents sent to or from the applicant.³⁰
11. The applicant confirmed³¹ that she still required the appointees' responses to the review application and the Panel Convenor's reply to her submission. The applicant also confirmed³² that, although she had been provided with the Panel Convenor's reports and all shortlisting matrices, referee reports and interview checklists³³ during the Review, some of these documents were not complete, had pages missing and were unreadable.
12. The applicant's last submission to OIC submitted³⁴ that she requires '*... copies of those documents that were not provided in full in her initial review and which to date she has not received through this application ...*'. It is my understanding that this submission relates to the documents provided to the applicant in the Review that the applicant considers to be incomplete or unreadable. I have addressed this submission below.³⁵
13. However, to the extent this submission refers to documents that have been released to the applicant in this review with partial redactions, I have addressed the applicant's

¹³ Telephone conversation between the applicant and an OIC staff member on 8 December 2016.

¹⁴ Telephone conversation between the applicant and an OIC staff member on 1 June 2017, confirmed in letter to applicant dated 2 June 2017.

¹⁵ Email from applicant dated 18 June 2017.

¹⁶ Email from applicant dated 18 June 2017.

¹⁷ Email from applicant dated 18 June 2017.

¹⁸ Email from applicant dated 3 July 2017.

¹⁹ Email from applicant dated 3 July 2017.

²⁰ Email from applicant dated 3 July 2017.

²¹ Email from applicant dated 3 July 2017.

²² Email from applicant dated 3 July 2017.

²³ Email from applicant dated 3 July 2017.

²⁴ Letter from applicant dated 25 August 2017.

²⁵ Letter from applicant dated 25 August 2017.

²⁶ Letter from applicant dated 25 August 2017.

²⁷ Letter from applicant dated 25 August 2017.

²⁸ Letter from applicant dated 25 August 2017.

²⁹ Letter from applicant dated 25 August 2017.

³⁰ Letter from applicant dated 25 August 2017.

³¹ In her email dated 18 June 2017.

³² In her email dated 18 June 2017.

³³ Except for the interview checklist of Panel Member 2.

³⁴ Page 3 of submission dated 8 June 2018.

³⁵ See 'Review documentation' under the heading 'Outside scope and irrelevant information'.

specific submissions regarding the redaction of irrelevant and contrary to public interest information from the emails released to the applicant on 1 June 2018 below.³⁶

14. In terms of the redaction of irrelevant and contrary to the public interest information from the documents released to the applicant on 8 August 2017 and the redaction of irrelevant information from the documents released to the applicant on 9 January 2018, I note that the applicant made no submissions in response to OIC's preliminary views regarding these redactions³⁷ by specified due dates, despite OIC advising the applicant that, if she did not respond by those due dates, she would be taken to accept the preliminary views. (The applicant did respond to other issues within the relevant periods.) In a submission made some time after the due dates, on 20 April 2018, the applicant solicitor's made a general statement that the applicant *'repeats and relies on her submissions in our previous correspondence ... and restates her position that she does not accept the preliminary view of the OIC and requires that the OIC issue a formal decision on all matters'*.³⁸ Arguably, this submission, as well as the submission noted at paragraph 12 above, could be construed as advice that OIC should no longer proceed on the basis that the applicant accepted OIC's preliminary views regarding the redaction of irrelevant and contrary to the public interest information from the documents released on 8 August 2017 and 9 January 2018.
15. In these circumstances, it is relevant to note that, given the absence of any earlier response to these preliminary views by the applicant, OIC progressed the review on the basis that the applicant accepted these views. Under the RTI Act, the Information Commissioner is required to adopt procedures that are fair, may give directions as to the procedure to be followed, and is required to conduct the review with as much expedition as possible.³⁹ Further, the Information Commissioner is required to identify opportunities and processes for early resolution of external reviews and to promote settlement.⁴⁰ If OIC is to be effective in promoting informal resolution of issues in reviews, OIC must be able to rely on agreements reached with review participants throughout the course of the review for certainty and efficiency in the review process.⁴¹ I consider that certainty and efficiency in the review process would be hindered were it possible for the applicant to revoke her acceptance of the preliminary views in question. For these reasons, I consider it appropriate to rely on the applicant's acceptance of the preliminary views (as evidenced by the absence of any response from her within the specified due dates). Accordingly, I will not deal with the information redacted from the documents released on 8 August 2017 and 9 January 2018, on the basis that it is irrelevant, or its disclosure would, on balance, be contrary to the public interest, any further in this decision.
16. Similarly, to the extent the applicant's submission noted at paragraph 12 above refers to documents that have been partially released to the applicant in this review, due to the redaction of Excluded Information, I note that OIC has progressed the review in accordance with the applicant's advice that she no longer required the Excluded Information. For the reasons outlined in paragraph 15, I will not deal with the Excluded Information further in this decision.
17. These reasons also arise in relation to handwritten notes taken by the Secretary during the Review hearings in particular. The applicant submitted⁴² that she received the

³⁶ Under the headings 'Outside scope and irrelevant information' see paragraphs 36 to 41 in particular and 'Contrary to public interest information' respectively.

³⁷ For the documents released on 8 August 2017—preliminary view dated 4 August 2017, clarified in preliminary view dated 1 September 2017. For the documents released on 9 January 2018—preliminary view dated 22 December 2017.

³⁸ Page 2 of submission dated 20 April 2018.

³⁹ Sections 95 and 97(2) of the RTI Act.

⁴⁰ Section 90(1) of the RTI Act.

⁴¹ *Osgood and the Public Trustee of Queensland* [2017] QICmr 24 (3 July 2017) at [10].

⁴² Paragraph C.2. of submission dated 8 June 2018.

handwritten notes as part of the Review process, but they were incomplete or illegible, and she had not received *'the emails and attached documents as part of her RTI application'*. However, I note that the handwritten notes taken by the Secretary were sent as an attachment to an email to the applicant on 12 July 2016. I further note that one type of Excluded Information that the applicant advised OIC she did not require was emails and documents sent to or from her.⁴³ Given this advice, OIC excluded emails and documents sent to and from the applicant from consideration. For the reasons outlined above, I will not deal with the handwritten notes, as attached to the email sent to the applicant on 12 July 2016, further in this decision.⁴⁴

Released information

18. During the review:

- QPS initially located 1409 pages. Given the applicant's concerns that documents provided to her in the Review were incomplete or unreadable, and in order to promote informal resolution of the external review, the 1409 pages included Review documents that OIC identified to be incomplete or unreadable (even though such documents were not attached to emails between the officers specified in the access application, and were therefore outside the scope of the application) and QPS agreed to release these documents to the applicant. Otherwise, it was OIC's preliminary view⁴⁵ that certain information in the 1409 pages was Excluded Information, outside the scope of the application or could be refused or deleted.⁴⁶ This information was redacted. In total, 229 pages and 237 part pages were released to the applicant on 8 August 2017.⁴⁷
- Following further searches, QPS located a further 199 pages. Once the Excluded Information and information outside the scope of or irrelevant to the application were removed from these pages,⁴⁸ the remaining 30 pages and 19 part pages were released to the applicant on 9 January 2018.
- Also, OIC considered all emails between QPS and the Review Commissioner, and between QPS and the Secretary,⁴⁹ during the relevant period. The only relevant email chain between QPS and the Review Commissioner was, unfortunately, corrupted, but nevertheless released to the applicant at her request. Once the Excluded Information, information outside the scope of or irrelevant to the application, and contrary to public interest information were removed from the emails between QPS and the Secretary,⁵⁰ the remaining 266 pages and 120 part pages were released to the applicant on 1 June 2018.⁵¹

⁴³ Letter from applicant dated 25 August 2017.

⁴⁴ I have, however, addressed the handwritten notes, as attached to other emails falling within the scope of the application, under the heading 'Nonexistent or unlocatable documents' below.

⁴⁵ Conveyed on 4 August 2017 and clarified on 1 September 2017.

⁴⁶ Specifically, OIC considered that 235 pages were outside the scope of the application, parts of 14 pages could be deleted under section 73 of the RTI Act on the basis that they were irrelevant, and 25 pages and parts of 178 pages (including 6 that also contained irrelevant information) could be refused under section 47(3)(b) of the RTI Act on the ground that their disclosure would, on balance, be contrary to the public interest.

⁴⁷ In addition to the 229 pages and 237 part pages released, there were 50 pages within the 516 pages released (redax pages) which show the page range of the pages redacted and the reasons for the redaction.

⁴⁸ As set out in OIC's letter dated 22 December 2017.

⁴⁹ As noted at footnote 2, the Review Commissioner and Secretary work for the CCC, rather than within QPS.

⁵⁰ As set out in OIC's letter dated 25 May 2018 and email dated 31 May 2018.

⁵¹ In addition to the 266 pages and 120 part pages released, there were 91 pages within the 477 pages released (redax pages) which show the page range of the pages redacted and the reasons for the redaction.

Issues for determination

19. As set out above, during the external review, the applicant agreed not to pursue access to some information and some information was released to her. Further, the applicant was taken to accept OIC's preliminary view on a number of issues as she did not provide any submissions regarding those issues. The issues remaining for determination are whether:
 - information may be excluded from consideration on the basis that it is outside the scope of or irrelevant to the access application; and
 - access to information may be refused on the basis that:
 - its disclosure would, on balance, be contrary to the public interest; or
 - it is nonexistent or unlocatable.

Outside scope and irrelevant information

Relevant law

20. The general rule is that the scope of an RTI Act access application should not be interpreted narrowly or with the same degree of precision as a piece of legislation.⁵² However, an access application must give sufficient information concerning the document(s) sought to enable a responsible officer of the agency to locate the relevant documents.⁵³ There are sound practical reasons for the documents sought being clearly and unambiguously identified, including that the terms of an application set the parameters for an agency's response and the direction of an agency's search efforts.⁵⁴
21. In assessing whether documents fall within the scope of an application, it will generally be fairly apparent if a document is outside the relevant date range or relates to a subject matter or individual(s) with no connection to the application. In practice, the term 'out of scope' is used to exclude *whole* documents. Where *parts* of a document do not relate to the terms of an access application, section 73 of the RTI Act operates to allow the deletion of this information. This is not a ground for refusal of access, but a mechanism to allow irrelevant information to be deleted from documents which are otherwise identified for disclosure.⁵⁵ In deciding whether information is irrelevant, a decision-maker should consider whether the information has any bearing upon, or is pertinent to, the terms of the application.⁵⁶

Findings

22. The applicant's access application sought:

...all Emails between the above mentioned officers/persons involved in the selection process and pertaining to the [Vacancy]... and the Review for the period btw [sic] 27 July 2015 and 13 July 2015.

[my underlining]

⁵² *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) at [21] and *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) (**O80PCE**).

⁵³ Section 24(2)(b) of the RTI Act.

⁵⁴ *Cannon and Australian Quality Egg Farms Ltd* (1994) 1 QAR 491 at [8] (**Cannon**).

⁵⁵ *Wyeth and Queensland Police Service* [2015] QICmr 26 (18 September 2015) at paragraph [12].

⁵⁶ *O80PCE* at [52].

Review documentation

23. As noted above, when discussing Excluded Information, the applicant submitted⁵⁷ that, although she had been provided with the Panel Convenor's reports and all shortlisting matrices, referee reports and interview checklists⁵⁸ during the Review, some of these documents were not complete, had pages missing and were unreadable. More recently, the applicant's solicitor reiterated this point in general terms⁵⁹ stating that '*... [the applicant] does not have particular documents in her possession or control, ... she has not been previously provided with the particular documents or she has been provided with incomplete or illegible documents [and] ... these documents are within the scope of her application...*'.
24. During the external review, OIC obtained search certifications from the Panel Convenor and Panel Members 1, 2 and 3 and made further enquiries with the Panel Convenor and current Senior Sergeant for Police Service Reviews⁶⁰ regarding the process used to provide information to Police Service Reviews. The search declarations and OIC's enquiries confirm that:
 - the original interview checklists and shortlisting matrices were provided by the Panel Members to the Panel Convenor
 - copies of these documents and the further Selection Process Documentation⁶¹ required to be provided to the CCC for the Review were then provided in hard copy by the Panel Convenor to Police Service Reviews
 - Police Service Reviews arranged for a courier to deliver the Selection Process Documentation to the Secretary to the Review Commissioner at the CCC; and
 - therefore, no emails attaching the Selection Process Documentation were sent between the Panel Members, Panel Convenor, Police Service Reviews and the Secretary.⁶²
25. Given that no emails attaching the Selection Process Documentation were sent between relevant parties, and given that the scope of the access application was confined to emails, this documentation is not within the scope of the application. Despite this documentation not being within the scope, in light of the applicant's concerns, and in an attempt to informally resolve aspects of the review, OIC cross checked the documentation released to the applicant by the CCC during the Review⁶³ with the documentation the applicant identified as incomplete or unreadable.⁶⁴ OIC identified that

⁵⁷ In her email dated 18 June 2017.

⁵⁸ Except for the interview checklist of Panel Member 2.

⁵⁹ Paragraph C.1. of submission dated 8 June 2018.

⁶⁰ The officer who was the Senior Sergeant for Police Service Reviews at the relevant time was acting in the current Senior Sergeant for Police Service Review's role. OIC requested that both the current and former Senior Sergeants perform searches.

⁶¹ As defined in paragraph 6 above.

⁶² The only occasion when the Selection Process Documentation was attached to an email was when it was sent to the applicant and Appointees by the Secretary (or another CCC staff member on the Secretary's behalf). The Selection Process Documentation for each review was sent as an attachment to the email sent to the applicant and the **same** documentation was sent as an attachment to the email sent to the respective Appointee.

⁶³ And also released to the applicant during the CCC external review.

⁶⁴ In her submission dated 18 June 2016, the applicant identified the following documents as incomplete, pages missing or unreadable:

- Panel Convenor's report (Appointee 1, 2, 3, 5, 6, 7, 8 and 9)
- referee reports (Appointee 1, 2, 3, 5, 6, 7, 8 and 9)
- shortlisting matrix – Panel Member 2 (Appointee 1, 2, 3, 6, 7, 8 and 9)
- shortlisting matrix – Panel Member 1 (Appointee 1, 2, 3, 5, 6, 7, 8 and 9)
- shortlisting matrix – Panel Convenor (Appointee 1, 2, 3, 5, 6, 7, 8 and 9)
- interview checklist – Panel Member 3 (Appointee 1, 5, 7 and 8)
- interview checklist – Panel Member 1 (Appointee 1, 8 and 9)
- interview checklist – Panel Convenor (Appointee 1, 3, 5, 6, 7, 8 and 9)
- Appointees response to applicant (Appointee 1, 2, 3, 5, 6, 7, 8 and 9); and

only a small number of documents were incomplete or unreadable⁶⁵ and requested this information from the Panel Convenor. The Panel Convenor located some of these documents⁶⁶ and they were among the information released to the applicant on 8 August 2017.

26. In terms of the Panel Convenor's written response to the applicant's submission in particular, I note⁶⁷ that this response was emailed by the Panel Convenor to a staff member of CCC other than the Secretary or Review Commissioner. Given that the scope of the application was confined to *'emails between'* certain named individuals, this email, and therefore the response attached to it, are not within the scope of the applicant's application.
27. In terms of any remaining documents that the applicant wishes to obtain complete, readable versions of,⁶⁸ I am satisfied that such documents are, of themselves, outside the scope of the access application which, as noted above, seeks *'emails between'* certain named individuals. To the extent that such documents are attachments to emails, and therefore fall within the terms of the access application, I have addressed emails of this nature below, under the heading 'Nonexistent or unlocatable information'.

Emails to or from individuals not identified in scope

28. The applicant submitted that *'any emails between named persons and others that relate to the review process fall within the scope'* of her application.⁶⁹ In support of this position, the applicant referred to emails from individuals not identified in the terms of her application that have been released to her.⁷⁰ While the applicant accepted that these individuals were not *'specifically named as being subject to her application'*, she submitted that they were communicating with named persons who are the subject of her application and *'any emails between named persons and others that relate to the review process'* therefore fall within the scope of her application.
29. I note that generally, as part of OIC's identification of opportunities for early resolution of external reviews,⁷¹ OIC may negotiate with an agency regarding the release of information outside the scope of an access application in the interests of promoting an informal settlement. Given this position, I am not persuaded by the applicant's reference

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- Panel Convenor's reply (Appointee 1, 2, 3, 5, 6, 7, 8 and 9).

⁶⁵ OIC identified the following documents as incomplete or unreadable:

- Panel Convenor's report (Appointees 1, 2 and 3 – signature was cut off / partially removed)
- shortlisting matrix – Panel Member 2 (Appointees 3 and 6)
- shortlisting matrix – Panel Convenor (Appointees 1, 2, 5, 6, 7, 8 and 9)
- interview checklist – Panel Member 3 (Appointees 5 and 7); and
- interview checklist – Panel Member 1 (Appointee 9).

In relation to the Panel Convenor's reports where the signature at the end of the report was cut off or partially removed, OIC did not request another copy of these reports from Panel Convenor, given that the signatures may have been redacted on the ground that their disclosure would, on balance, be contrary to the public interest. In relation to the interview checklists, the applicant agreed to exclude this information from the scope of her application, however, all checklists for the successful appointees identified in the scope of her application were released.

⁶⁶ The Panel Convenor located the following documents:

- interview checklist – Panel Member 3 (Appointees 5 and 7)
- interview checklist – Panel Member 1 (Appointee 9)
- shortlisting matrix – Panel Convenor (Appointees 1, 3, 7 and 8); and
- shortlisting matrix – Panel Member 2 (Appointees 3 and 6).

⁶⁷ As set out at footnote 8 above.

⁶⁸ That is, the documents identified in footnote 64, other than those listed in footnote 66; the Panel Convenor's response to the applicant's submission and the responses of successful appointees who elected to respond to the applicant's submission (raised in the applicant's submission dated 18 June 2017); and the handwritten notes taken by the Secretary during the Review hearings (raised at paragraph C.2. of the applicant's submission dated 8 June 2018). Note—to the extent the handwritten notes comprise an attachment to an email to the applicant, I have dealt with this document at paragraph 17 above.

⁶⁹ Paragraph B.1. of submission dated 8 June 2018.

⁷⁰ Pages 206-209, 210-214, 3273-3274, 3564-3566, 3580-3583, 3625-3626 and 3656-3677.

⁷¹ Section 90(1) of the RTI Act.

to emails between individuals named in the scope of her access application and other individuals that have been released to her.

30. In any event, having carefully reviewed the emails raised by the applicant, it is apparent that they were released to her because they were part of email chains that included emails *between* (including carbon copying) individuals **named** in the scope.⁷² They can be distinguished from the emails that the applicant contends should be considered within the scope of her application, which are sent from:
- an individual **not named** in the scope and an individual **named** in the scope; or
 - an individual **named** in the scope and an individual **not named** in the scope

and further, for the most part, are not relevant to the Vacancy or the Review.

31. In her submission dated 25 August 2017,⁷³ the applicant confirmed the meaning of '*persons involved in the selection process and pertaining to the [Vacancy] ... and the Review for the period btw [sic] 27 July 2015 and 13 July 2016*' as the named individuals in the scope of the access application⁷⁴ and referred only to these specific individuals. However, the applicant has since submitted⁷⁵ that the scope should encompass '*all emails ... from or to the named persons*' in her application. While the applicant has, in effect, attempted to broaden the scope of her access application, previous decisions of OIC which have considered the construction and interpretation of access applications⁷⁶ have found that the terms of an access application set the parameters for an agency's search efforts, and that an applicant cannot unilaterally expand the terms of an access application.
32. Although the scope of an access application should not be interpreted legalistically or narrowly, it is important that agencies are able to restrict their searches for documents with reference to an access application's scope. I am of the view that the inclusion and placement of the word '*between*' in the scope unambiguously limits the scope to emails *between* the named individuals. Accordingly, I am satisfied that the access application's scope does not extend to emails that are not *between* the named individuals. It would be open to the applicant to make a fresh access application should she wish to obtain such documents.

Emails about an unrelated administrative matter

33. In relation to information refused on the basis that it concerned an 'unrelated administrative matter',⁷⁷ the applicant submitted that '*emails deemed unrelated*

⁷² For example:

- an email *between* individuals named in the scope, carbon copied to individual(s) not named in the scope and/or individual(s) named in the scope.
- an email *between* individuals named in the scope, carbon copied to individual(s) not named in the scope, following on from an initial email from an individual named in the scope to an individual(s) not named in the scope.
- an email *between* individuals named in the scope, in response to an initial email from an individual named in the scope to individual(s) not named in the scope; and
- an email from an individual not named in the scope to an individual named in the scope, carbon copied to individual(s) named in the scope, in response to an initial email *between* individuals named in the scope, carbon copied individual(s) not named in the scope.

⁷³ See paragraph 22 under the heading '*Outside scope and irrelevant information*'.

⁷⁴ As set out in footnote 2 above.

⁷⁵ Paragraph A.4 of submission dated 8 June 2018. See also submission dated 11 October 2017.

⁷⁶ *Robbins and Brisbane North Regional Health Authority (1994) 2 QAR 30* and *Cannon* paragraph 8. While these decisions have considered the issue in the context of the *Freedom of Information Act 1992* (Qld), the principles have equal application to a consideration of the issue in the context of the RTI Act, and were applied in that context in *Bade and Gympie Regional Council* (Unreported, Queensland Information Commissioner, 14 February 2012).

⁷⁷ The Secretary emails on pages: 40-50, 219-227, 241-262, 264, 265 (part page), 266, 267 (part page), 268, 569-572, 1394-1398, 2169-2177, 2191, 2273-2275, 2439-2440, 3277, 3611, 3881, 3925, 3936-3945, 4031-4038, 4043-4045.

*administrative matters were included in the potentially relevant category because they were potentially relevant to [the applicant's] application. Those emails were considered to be potentially relevant as they contained data that related to [the applicant's] name, names of other persons mentioned in the scope of her RTI application, the position description [for the Vacancy], or her [Review] ...*⁷⁸

34. To provide some context to this submission, in conducting searches for emails that were sent between the Secretary and the individuals named in the access application relating to the Vacancy and the Review during the relevant period:

- OIC made enquiries with the Systems Audit and Investigation Unit (**SAIU**) within QPS, and a senior officer from the SAIU advised that all external emails (that is, all emails sent to or received by QPS from external email accounts) are archived on a back-up system⁷⁹ dating back to 2003.⁸⁰
- QPS provided OIC with a 647 page activity report describing all interactions between the Secretary and QPS during the relevant period (**Secretary Activity Report**).⁸¹ QPS provided this report as it had concerns about the length of time it would take to retrieve the emails from its back-up system.
- Given that the Secretary Activity Report detailed all communications during the relevant period between the Secretary and QPS and that the Secretary was the contact at the CCC for Police Service Reviews, it was clear that there would be many entries in the report that would not be relevant to the terms of the access application. OIC reviewed each entry in the Secretary Activity Report and highlighted all entries that were not, on their face, clearly unrelated to the application, and therefore, *potentially relevant* to it. The process used to determine whether an entry in the activity report was potentially relevant mainly included whether it was:
 - sent by the Secretary to the officers/persons named in the scope; or
 - received by the Secretary from the officers/persons named in the scope during the relevant period. In some cases, it was clear from the nature of the subject heading that the email was not related to the Vacancy or Review processes regarding each of the nine Appointees and these emails were not identified as potentially relevant.
- OIC undertook this exercise to estimate how many potentially relevant emails would need to be retrieved by QPS, to determine whether it would be a substantial and unreasonable diversion of QPS's resources to continue dealing with this application, based on QPS's initial estimate regarding the time required to open, view and save the emails.⁸² However, after QPS spent over 31 hours retrieving the *potentially relevant emails* from its back-up system, SAIU identified a quicker process to open, view and save the emails.
- In light of SAIU's advice and the time that had passed since the access application was lodged, and in fairness to the applicant, OIC agreed to process the external

⁷⁸ Paragraph A.1. of submission dated 8 June 2018.

⁷⁹ Generally, it is not considered necessary to check a back-up system for documents, unless it considers the search appropriate—section 29 of the RTI Act. However, in the circumstances of this review, OIC considered it appropriate to ask QPS to check the back-system because the applicant raised concerns about collusion between the Panel Convenor, Panel Members and successful appointees and QPS agreed to do so.

⁸⁰ Information received in an email from QPS dated 29 August 2017, meeting with QPS on 2 November 2017 and telephone conversation with a senior staff member from the SAIU and OIC on 28 March 2018.

⁸¹ QPS also provided OIC with a brief activity report describing the interactions between the Review Commissioner and QPS in the relevant period (**Review Commissioner Activity Report**).

⁸² Section 41 of the RTI Act.

emails. Accordingly, OIC requested that QPS retrieve the balance of the emails in the Secretary Activity Report—that is, those which OIC had *not* identified as potentially relevant. This request for the remaining emails was made to ensure that all emails sent or received by QPS to or from the Secretary were reviewed to determine whether they fell within the scope of the application.

- OIC then reviewed the 4287 pages of *potentially relevant emails* and, as a result, identified that some emails were, in fact, outside the scope of the access application. OIC also reviewed the remaining emails—however, no emails falling with the scope of the application were identified.
35. The applicant has submitted⁸³ that the pages and portions of pages refused on the basis that they concerned an ‘unrelated administrative matter’ are relevant because they were considered to be *potentially relevant* by OIC. However, the process used to determine whether an entry in an activity report was potentially relevant, as set out in the preceding paragraph, was not expected to accurately identify all responsive emails and only responsive emails. Rather, due to the fact that the entries in the report included limited information such as the sender, recipient and subject heading, and did not show, for example, the content of the email or instances where the email may have been forwarded to another individual, it was expected that some ‘false positives’ would be captured.⁸⁴
36. In relation to the applicant’s submission that ‘...*the emails that were deemed unrelated administrative matters fall directly before or after emails that were deemed to be within scope...*’,⁸⁵ I have reviewed this information and, as explained in my letter to the applicant’s solicitor dated 25 May 2018, it falls outside the scope of this application. To assist the applicant to better understand the nature of this information, I advise that such information includes general updates on matters including leave, recent case law, policies and notification of new reviews received.
37. In relation to the submission that ‘*in many instances, the in-scope emails appear to either respond to an unknown email and/or require more information*’,⁸⁶ it is my understanding that the applicant appears to refer to the portions of information refused on pages 265 and 267. As set out at paragraph 34 above, I have reviewed this information and, as explained in my letter to the applicant’s solicitor dated 25 May 2018, it is irrelevant to the scope of this application. To assist the applicant to better understand the nature of this information, I advise that such information includes notification of new reviews received.

Discrepancies between versions of email

38. The applicant submitted⁸⁷ that it appears that information has been removed from page 2263 of the 4287 pages of potentially relevant emails as ‘*the same email was sent on the same date/time (24 March 2016, at 1:08) as document 2265 which does contain the same information*’ and that this ‘*raises questions as to whether other documents have had relevant information removed*’. While this submission was made in the context of submissions regarding contrary to the public interest information, it is my understanding that the submission itself expresses the applicant’s concern that relevant information may have been deleted.

⁸³ Paragraph A.1. of submission dated 8 June 2018.

⁸⁴ And would need to be taken into account when considering whether it would be a substantial and unreasonable diversion of resources to continue dealing with this application. For the reasons identified in the penultimate dot point of paragraph 34, it became unnecessary for OIC to consider this issue.

⁸⁵ Paragraph A.2. of submission dated 8 June 2018.

⁸⁶ Paragraph A.2. of submission dated 8 June 2018.

⁸⁷ Page 6 of submission dated 8 June 2018.

39. I have reviewed pages 2263, 2264 and 2265. The email on pages 2264 and 2265 forms part of an email chain, whereas the email on page 2263 is not part of an email chain, but is identical to the email on page 2265. The only difference between these emails is that the email on page 2265 has a confidentiality clause at the end of the email.
40. Commonly, an email server will automatically apply a confidentiality clause to the end of an email once the email is sent. This clause is added by the server administrator and automatically applied to all outgoing emails. The clause is added in this way to ensure that the same clause is attached to all *outgoing* emails. If an email is accessed directly from an individual's account, it will not have a server generated clause because it has not been transmitted through the server and therefore, will not have had the clause automatically applied to it. That is, the clause would only appear to the recipient of the email, or in circumstances such as on page 2264 and 2265, when there was a reply to the email.
41. There is no information before me to suggest that this process differs in any way to what commonly occurs. On the material before me, there is no information to suggest that any documents provided by QPS have had relevant information removed or have otherwise been manipulated.

Other submissions

42. Aspects of the applicant's submissions dated 20 April 2018 and 8 June 2018 could, as noted at paragraphs 12 and 14 above, be construed as advising that OIC should no longer proceed on the basis that the applicant accepted OIC's preliminary views regarding the redaction of irrelevant information from the documents released on 8 August 2017 and 9 January 2018. For the reasons set out in paragraph 15, I have decided not to deal with this irrelevant information further in this decision. However, in the event that I am wrong in this regard, and it remains necessary for me to deal with this information, I confirm that the information is about other police service reviews and matters unrelated to the applicant's Review and/or about individuals other than those outlined in the scope of the application. Accordingly, I am satisfied that this information should be deleted under section 73 of the RTI Act as it is irrelevant to the scope of the access application.

Contrary to the public interest information

Relevant law

43. Access may be refused to documents where disclosure would, on balance, be contrary to the public interest.⁸⁸ The RTI Act identifies numerous factors that may be relevant to deciding the balance of the public interest and also explains the steps that a decision-maker must take in deciding the public interest as follows:⁸⁹
- identify any irrelevant factors and disregard them⁹⁰
 - identify relevant public interest factors favouring disclosure and nondisclosure
 - balance the relevant factors favouring disclosure and nondisclosure; and

⁸⁸ Section 47(3)(b) 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 wellbeing 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.

⁸⁹ Section 49(3) of the RTI Act.

⁹⁰ I have not taken any irrelevant factors into account in this review.

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

Findings

Employment information

44. The applicant submitted⁹¹ that, in relation to the information refused on pages 2445, 2515, 2518, 2521, 3632, 3643, 3900, 3905 and 3913 of the 4287 pages of potentially relevant emails (**Employment Information**), this information is within the scope of her access application and should be released. The applicant further submitted that emails released by QPS contain information about the personal employment arrangements of other named individuals, including information at the bottom of the above pages relating to Appointee 1, and that the same reasoning applied to that information should be applied to the Employment Information.
45. The small portion of information refused on pages 2445, 2515, 2518, 2521, 3632, 3643, 3900, 3905 and 3913 is not relevant to the Vacancy or the Review. The Employment Information comprises the personal employment arrangements of Appointee 1 and the nature of it is distinct from the information released, in that the released information is routine work information, not an individual's personal employment arrangements.
46. I am satisfied that the Employment Information is the personal information of Appointee 1 and I am unable to identify any factors favouring its disclosure. Taking into account the factors favouring nondisclosure⁹² and the significant weight to be applied to these factors regarding personal information and privacy of an individual, I consider that disclosure of the Employment Information would, on balance, be contrary to the public interest.⁹³

Other submissions

47. Aspects of the applicant's submissions dated 20 April 2018 and 8 June 2018 could, as noted at paragraphs 12 and 14 above, be construed as advising that OIC should no longer proceed on the basis that the applicant accepted OIC's preliminary views regarding the redaction of contrary to the public interest information from the documents released on 8 August 2017. I note that in earlier submissions dated 25 August 2017, the applicant confirmed that she did not require access to the categories of contrary to public interest information addressed in the preliminary view dated 4 August 2017. Consequently, these categories were added to the Excluded Information.⁹⁴ For the reasons set out in paragraphs 15 and 16, I have decided not to deal with this information further in this decision. However, in the event that I am wrong in this regard, and it remains necessary for me to deal with it, I confirm the following:
 - In terms of signatures, personal email addresses, leave arrangements including reasons for personal leave, referee details and mobile telephone numbers—on the material before me, and in absence of any specific submissions from the applicant, I am satisfied that these types of information are the personal information of other individuals and their disclosure would, on balance, be contrary to the public interest.⁹⁵

⁹¹ Paragraph D.2. of submission dated 8 June 2018.

⁹² Schedule 4, part 3, item 3 and part 4, item 6 of the RTI Act.

⁹³ The applicant has not raised any objection to the information refused on page 2267 as comprising the personal employment arrangements of Appointee 3 and accordingly, I have not addressed this in this decision.

⁹⁴ They are therefore included in the list of Excluded Information at paragraph 10 above.

⁹⁵ Section 47(3)(b) of the RTI Act.

- In terms of interview questions used in other recruitments within QPS—on the material before me, and in absence of any specific submissions from the applicant, I consider that disclosing this information could prejudice the effectiveness of QPS’s method or procedure for the conduct of its recruitment and selection processes⁹⁶ as QPS would not be able to reuse those questions in subsequent recruitment processes, and instead would have to develop alternative questions. I also consider that disclosing the interview questions could prejudice the attainment of the objects of the recruitment process⁹⁷ if the questions were reused, as future candidates would be in a better position to identify and have more time to prepare responses to these questions, which would reduce the effectiveness of an interview as a method of assessing candidate competency. I also note that, as a shortlisted candidate for this position, the applicant already has a copy of the interview scenario and questions, feedback and other information used by the interview panel to support the recruitment decision. Therefore, I am of the view that disclosing suggested interview questions that were used in other recruitments would **not** assist the applicant to better understand the reasons for the recruitment decision and would not advance public interest factors related to the accountability of QPS. In these circumstances, I am satisfied that access to the interview questions may be refused on the ground that their disclosure would, on balance, be contrary to the public interest.⁹⁸

Nonexistent or unlocatable documents

Relevant law

48. The RTI Act provides that access to a document may be refused if the document is nonexistent or unlocatable.⁹⁹ A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.¹⁰⁰
49. The RTI Act is silent on how an agency or Minister can be satisfied that a document does not exist. However, in *PDE and the University of Queensland (PDE)*,¹⁰¹ the Information Commissioner explained that, to be satisfied that a document does not exist, an agency must rely on its particular knowledge and experience, having regard to various key factors including:
 - the administrative arrangements of government
 - the agency’s 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 limited to, its information management approaches); and
 - other factors reasonably inferred from information supplied by the applicant including:
 - the nature and age of the requested document(s); and
 - the nature of the government activity to which the request relates.

⁹⁶ Schedule 4, part 4, section 3(a) of the RTI Act.

⁹⁷ Schedule 4, part 4, section 3(b) of the RTI Act.

⁹⁸ Section 47(3)(b) of the RTI Act.

⁹⁹ Sections 47(3)(e) and 52 of the RTI Act.

¹⁰⁰ Section 52(1)(a) of the RTI Act.

¹⁰¹ Unreported, Queensland Information Commissioner, 9 February 2009. Note — Although *PDE* concerned the application of section 28A of the now repealed *Freedom of Information Act 1992* (Qld), the requirements of that section are replicated in section 52 of the RTI Act.

50. When these factors are properly considered and a conclusion reached that the document does not exist, it may be unnecessary for searches to be conducted.
51. Alternatively, an agency may rely on searches to justify a decision that the document sought does not exist. If an agency relies on searches, all reasonable steps must be taken to locate the requested document. In determining whether all reasonable steps have been taken, regard should be had to the factors listed in *PDE*.

Applicant's submissions

52. On careful consideration of the applicant's submissions,¹⁰² it is OIC's understanding that the applicant contends that further documents should have been located.
53. Generally, in her last submission to OIC, the applicant submitted¹⁰³ that she requires '*... any emails ... that responded to her originating emails or were a consequence of her originating email or her enquiries*'. Further, she submitted¹⁰⁴ that she requires '*... copies of those documents that were not provided in full in her initial review and which to date she has not received through this application ...*'. As noted at paragraph 27 above, in terms of any further Review documentation that the applicant wishes to obtain,¹⁰⁵ I am satisfied that such documents are, of themselves, outside the scope of the access application which, as noted above, seeks '*emails between*' certain named individuals. However, I recognise the applicant's concern that the further Review documentation sought by her may be attached to emails that she contends QPS has failed to locate.
54. In terms of **internal emails** (that is, emails sent internally between the QPS officers identified in the scope), the applicant contends that:
 - the documents requested are '*prescribed documents*' under the *Public Records Act 2002* (Qld) as they relate to a selection process and are therefore required to be kept for a minimum of three years after the finalisation of the selection process
 - searches of the back-up system for responsive documents should be performed by an independent and external IT professional, not by individuals the subject of this application
 - the Data Centre is able to retrieve emails from 2008 and OIC should request the Data Centre to retrieve the responsive emails
 - any email '*routed through the QPS server*' is recoverable; and
 - as the SAIU has '*demonstrated a capacity to search, find, retrieve and sort documents that were initially determined to be unavailable*' that it should '*apply this process to emails of the other named persons*' of this application.
55. In terms of **external** emails (that is, emails sent between QPS officers and the Review Commissioner, and between QPS officers and the Review Secretary¹⁰⁶), the applicant submitted that '*...there would be more than one document from [the Review Commissioner] that would be within the scope...*'.¹⁰⁷ The applicant has not raised any objection regarding the sufficiency of the searches for emails located in respect of the Secretary and accordingly, I have not addressed this issue in this decision.

¹⁰² Submission dated 11 October 2017, 31 January 2018, 20 April 2018 and 8 June 2018.

¹⁰³ Page 3 of submission dated 8 June 2018.

¹⁰⁴ Page 3 of submission dated 8 June 2018.

¹⁰⁵ That is, the documents identified in footnote 64, other than those listed in footnote 66; the Panel Convenor's response to the applicant's submission and the responses of successful appointees who elected to respond to the applicant's submission (raised in the applicant's submission dated 18 June 2017); and the handwritten notes taken by the Secretary during the Review hearings (raised at paragraph C.2. of the applicant's submission dated 8 June 2018). Note—to the extent the handwritten notes comprise an attachment to an email to the applicant, I have dealt with this document at paragraph 17 above.

¹⁰⁶ As noted at footnote 2, the Review Commissioner and Secretary work for the CCC, rather than within QPS.

¹⁰⁷ Final page of submission dated 8 June 2018.

Findings

56. QPS provided OIC with copies of the documents it located in response to the application.¹⁰⁸ The documents were located as a result of searches undertaken by the Panel Convenor and three Panel Members. QPS did not, at this stage, provide OIC with any details about the extent of these searches.
57. After reviewing the documents located by QPS, OIC requested¹⁰⁹ submissions from QPS and asked that it undertake further searches for responsive documents.
58. QPS provided OIC with its search records and enquiries.¹¹⁰ These included signed search certifications from:
- seven of the nine Appointees¹¹¹
 - the Panel Members including Panel Convenor; and
 - the current and former Senior Sergeant for Police Service Reviews.
59. The search certifications showed:
- in relation to the successful candidates and panel members, searches of:
 - Outlook
 - personal folders on QPS system (including file servers)
 - recycle bins for deleted emails/folders; and
 - usb drives and external hard drivesand
 - in relation to Police Service Reviews, searches of:
 - Outlook; and
 - personal folders on the QPS system and 'review' folder for VRN 282/15 - Ciric¹¹² on QPS file server.
60. During the external review, OIC requested that searches for relevant documents in the email accounts of the individuals named in the application¹¹³ be re-done by a person within QPS IT or another relevant unit, and also requested¹¹⁴ that QPS conduct additional searches for relevant documents on its back-up system.¹¹⁵ Further, OIC requested searches for all emails *sent to or received from* the Review Commissioner and Secretary and the individuals named in the access application.
61. In relation to **internal emails**, the SAIU performed searches of the email accounts as noted at paragraph 59.¹¹⁶ The SAIU is the only unit within QPS responsible for doing this type of audit. In response to OIC's request for further searches, a senior officer within the SAIU advised OIC that:

¹⁰⁸ On 27 October 2016 and 10 November 2016.

¹⁰⁹ Letters to QPS dated 20 February 2017, 4 April 2017, 30 June 2017, 13 July 2017, 1 August 2017, 25 August 2017, 29 August 2017, 19 October 2017, 3 November 2017, 1 February 2018 and 4 May 2018.

¹¹⁰ Letters dated 31 July 2017, 28 November 2017 and 7 December 2017.

¹¹¹ One of the Appointees resigned from QPS and another Appointee is on extended leave.

¹¹² Police Service Reviews file reference number.

¹¹³ That is, the email accounts of Appointees 1 to 9, Panel Members 1 to 3, Panel Convenor and the former Senior Sergeant for Police Service Reviews.

¹¹⁴ Email dated 29 August 2017.

¹¹⁵ These searches were requested for the reasons outlined in footnote 79.

¹¹⁶ The searches of the email accounts extended to the Appointees who had resigned or taken extended leave.

- the 'default administrator setting' in Outlook will only retain emails online for up to 12 months and the end of the period requested¹¹⁷ was over 12 months ago
 - searches for information over 12 months old are reliant on the user retaining emails outside that 12 month period within one of their online folders so that the account can be searched; and
 - no emails were located in any of the internal mail accounts.
62. The senior officer confirmed that, other than online archive, there is no other system in place to audit internal QPS emails of the age requested. Following further inquiries made by this officer, it was established that none of the users¹¹⁸ had online archiving enabled, and therefore, there were no emails in their mailboxes over 12 months old.
63. In response to the applicant's submission about the Data Centre, OIC made enquiries with the Infrastructure Manager of the Data Centre IT Support¹¹⁹ and a senior officer in the SAIU¹²⁰ who confirmed, as explained above, that the SAIU is the appropriate body to respond to queries about the retrieval of internal and external QPS emails and that the Data Centre does not manage these types of queries—rather, it would refer these queries to the SAIU.
64. OIC advised the applicant of the steps taken to confirm the abovementioned information from the SAIU,¹²¹ therefore, it is unclear what the applicant is referring to in her submission when she states that the SAIU has '*demonstrated a capacity to search, find, retrieve and sort documents that were initially determined to be unavailable*', in circumstances where no further internal emails were able to be retrieved. However, if this submission is made with reference to the Secretary emails, as explained above at paragraph 34, the advice from the SAIU was that external emails would be archived and could be retrieved from the back-up system. The only issue in relation to the external emails was the length of time that it would take to retrieve and process this information.
65. In relation to the applicant's submission that the documents requested are '*prescribed documents*' required to be kept for three years under the *Public Records Act 2002* (Qld) (**PR Act**), as explained to the applicant during the review,¹²² she has received the majority of information relating to the recruitment and selection for the Vacancy as is required to be retained under the PR Act. Further, the PR Act does **not** require *all emails pertaining to a Vacancy* be retained for three years, rather it requires that *records relating to the recruitment and selection* be retained.
66. In relation to the **external emails** relating to the Review Commissioner and the applicant's submission¹²³ that '*...there would be more than one document from [the Review Commissioner] that would be within the scope*', I accept the advice of a senior officer from the SAIU that all external emails are archived on a back-up system dating back to 2003.¹²⁴ I further accept that QPS provided OIC with the Review Commissioner Activity Report, which describes *all* interactions between the Review Commissioner and QPS during the relevant period.

¹¹⁷ The end of the period requested was 13 July 2016 (as outlined in the scope of the application).

¹¹⁸ That is Appointees 1 to 9, Panel Members 1 to 3, Panel Convenor and the former Senior Sergeant for Police Service Reviews.

¹¹⁹ On 22 February 2018, 23 February 2018, 27 February 2018, 7 March 2018 and 13 March 2018.

¹²⁰ On 28 March 2018.

¹²¹ In a telephone conversation with the applicant's solicitor on 4 April 2018 and confirmed in a letter dated 10 April 2018.

¹²² Letter to the applicant dated 1 September 2017 and 22 December 2017.

¹²³ Submission dated 8 June 2018.

¹²⁴ Information received in an email from QPS dated 29 August 2017, meeting with QPS on 2 November 2017 and telephone conversation with a senior staff member from the SAIU and OIC on 28 March 2018.

67. As explained to the applicant,¹²⁵ there are 14 entries in the Review Commissioner Activity Report between 27 July 2015 to 13 July 2016. The applicant submitted her applications to review the appointments of nine officers on 4 December 2015. From this date to 13 July 2016, there are ten entries in the Review Commissioner Activity Report of which six were sent between individuals named in the scope—namely, the Review Commissioner and former Senior Sergeant for Police Service Reviews. The remaining eight entries are not relevant as they either relate to matters before 4 December 2015, when the review was submitted, and/or were not sent between the Review Commissioner and any individuals named in the scope.
68. During the review, the applicant requested the email(s) comprising the six entries be released and OIC made further enquiries with QPS about obtaining and releasing this information. QPS advised that the six entries on the report comprised one email chain and, that after extracting this email chain, QPS discovered that it was corrupted.¹²⁶ The applicant requested the corrupted email chain and this was among the information released to the applicant on 1 June 2018.
69. Generally, on the material before me, I am satisfied that QPS conducted multiple wide ranging searches to locate documents responsive to the applicant's access application. In relation to QPS's searches in general, I am satisfied that QPS has taken all reasonable steps to locate internal and external emails responsive to the applicant's application. In particular, I am satisfied that relevant staff within QPS have undertaken appropriately targeted searches of all relevant locations where it is reasonable to expect that the emails would be found (including, for external emails, the back-up system). There is no information before me which lends itself to any reasonable expectation that any further emails exist or any further location should be searched. It follows that there is no reasonable expectation that any further Review documentation that may be attached to any such emails exists.
70. For these reasons, I consider that there are reasonable grounds to be satisfied that any further internal and external emails do not exist, and access to them may be refused under sections 47(3)(e) and 52(1) of the RTI Act.

DECISION

71. I vary the Deemed Decision and find that:

- certain documents fall outside the scope of the access application and are excluded from further consideration on that basis
- certain information is irrelevant to the scope of the access application and may be deleted under section 73 of the RTI Act
- access to the remaining information may be refused under section 47(3)(b) of the RTI Act on the ground that its disclosure would, on balance, be contrary to the public interest; and
- access to the documents the applicant contends QPS failed to locate may be refused under section 47(3)(e) of the RTI Act on the ground that they are nonexistent.

¹²⁵ Letter to the applicant dated 1 September 2017 and 22 December 2017.

¹²⁶ The SAIU advised that all instructions were carried out properly to extract the email chain so it appeared that it may have been corrupted in some way when it was archived.

72. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

A Rickard
Assistant Information Commissioner

Date: 29 June 2018

APPENDIX

Significant procedural steps

Date	Event
8 September 2016	OIC received the external review application.
21 September 2016	OIC notified the applicant and QPS that it had accepted the external review application and asked QPS to provide information.
27 October 2016	OIC received portions of the requested information from QPS.
10 November 2016	QPS provided further information in response to OIC's letter dated 21 September 2016.
20 February 2017	OIC requested further submissions and searches from QPS.
3 April 2017	QPS provided submissions regarding its position on disclosure in relation to the initial information located by QPS in partial response to OIC's letter dated 20 February 2017.
12 April 2017	QPS provided some additional information it located following further searches requested in OIC's letter dated 20 February 2017.
14 June 2017	OIC requested the applicant confirm whether she continued to seek access to certain types of information.
18 June 2017	OIC received the applicant's submissions.
30 June 2017	OIC sought clarification from the applicant regarding her submissions dated 18 June 2017.
30 June 2017	OIC requested further searches from QPS.
3 July 2017	OIC received the applicant's submissions.
13 July 2017	OIC requested further searches from QPS.
14 July 2017	QPS provided a response in relation to some matters raised in OIC's letters dated 30 June 2017 and 13 July 2017.
31 July 2017	QPS provided a further response in relation to some matters raised in OIC's letters dated 30 June 2017 and 13 July 2017.
4 August 2017	OIC conveyed a preliminary view to the applicant.
8 August 2017	QPS released information to the applicant.
25 August 2017	OIC received the applicant's submissions.
25 August 2017	OIC requested further submissions from QPS.
28 August 2017	OIC requested further submissions and searches from QPS.
1 September 2017	OIC conveyed a preliminary view to the applicant.
1 September 2017	The Right to Information Commissioner decided to suspend the review until 9 October 2017, given the applicant's circumstances.
9 October 2017	The suspension of the review ended.
11 October 2017	OIC received the applicant's submissions.
20 October 2017	QPS provided some additional information it located following further searches requested in OIC's letter dated 28 August 2017.

Date	Event
2 November 2017	OIC met with QPS, including SAIU, to discuss remaining issues in the review.
3 November 2017	OIC requested further submissions from QPS following the meeting.
27 November 2017	QPS provided further information in respect of some matters raised in OIC's letter dated 3 November 2017.
4 December 2017	QPS provided further information in respect of some matters raised in OIC's letter dated 3 November 2017.
8 December 2017	QPS provided the remaining information in relation to matters raised in OIC's letter dated 3 November 2017.
22 December 2017	OIC conveyed a preliminary view to the applicant.
9 January 2018	QPS released information to the applicant.
31 January 2018	OIC received the applicant's submissions.
1 February 2018	OIC requested further submissions from QPS.
16 February 2018 - 28 March 2018	OIC liaised with the QPS Data Centre and SAIU in relation to matters raised in the applicant's submissions.
4 April 2018	OIC conveyed an oral preliminary view to the applicant's solicitor. The applicant's solicitor proposed inspection of all of the Secretary emails as a means of informal resolution.
10 April 2018	OIC conveyed a written preliminary view to the applicant's solicitor and confirmed that the informal resolution proposal was not viable, as it would be necessary to first redact information outside the scope of the access application that was sensitive, confidential and/or personal in nature, and this would amount to a substantial and unreasonable diversion of QPS's resources. ¹²⁷
20 April 2018	OIC received the applicant's submissions.
4 May 2018	OIC received further information from SAIU about the Secretary emails.
4 May 2018	OIC advised the applicant's solicitor of further information received from SAIU about the Secretary emails and advised that it would be processing these emails.
16 May 2018	OIC received further information from SAIU.
25 May 2018	OIC conveyed preliminary view to QPS.
25 May 2018	OIC conveyed preliminary view to the applicant's solicitor.
30 May 2018	OIC received QPS's submissions.
31 May 2018	OIC advised the applicant's solicitor that an additional small portion of information in the Secretary emails would be redacted on the ground that its disclosure would be contrary to the public interest.
1 June 2018	QPS released information to the applicant.
8 June 2018	OIC received the applicant's submissions.

¹²⁷ Under section 41 of the RTI Act.