Questions and Scenarios

Questions

1. In deciding whether to refuse to deal with an application on the basis that it would be a substantial and unreasonable diversion of resources, which of the following factors are you required to disregard?

    a) The irrelevant factors in schedule 4 of the RTI Act
    b) The type of information contained in the documents
    c) The applicant's reasons for applying for access
    d) The number of previous applications the applicant has made

2. Your agency receives an access application which you estimate will take approximately 1500 hours (or 25 working days full time) to process.

    a. Your agency is relatively small and has 2 officers in the RTI Unit. Your agency received 80 RTI/IP applications last year. Do you think section 41 applies?

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    b. Your agency is a large department and has 40 decision makers. You received 500 RTI/IP applications last year. Do you think section 41 applies?

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3. You have received an application and you consider that dealing with it would substantially and unreasonably divert your agency's resources so you issued the applicant a notice of intention to refuse to deal. The applicant has confirmed their scope and said that they are willing to allow you as much additional time to process the application as you need. Can you refuse to deal with the application?

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4. You receive an application for *'all permits issued in Queensland for fireworks displays between 20 December 2012 and 5 January 2013'*.

Your agency is responsible for issuing the permits. The applications for firework permits and permits issued are made directly to one of your agency's 17 regional offices around the State and are filed by the name of the applicant (as opposed to the date). Neither the application or the permits are held in electronic form and each regional office retains its own fireworks records.

a) Do you think section 41 applies?

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b) You decide to issue a notice of intention to refuse to deal. The applicant responds and says that they are actually only interested in a few specific companies but didn't want to get in trouble for asking. They narrow their application to specifically request documents about 5 companies issued permits during that time period.

Would you process the revised application or refuse to deal with it?

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5. You receive an application stating *'I request documents that the agency holds which are relevant to myself and my property including, but not limited to, memos, emails, faxes, staff notebooks, file notes, photographs'*

The applicant has had extended contact with your agency over the past 15 years about various matters including a lengthy dispute relating to the possible resumption of part of the applicant's property, complaints about their dogs, submissions they have made regarding the proposed development near their property, pet registration, library records and matters relating to rates and water bills.

You think that dealing with this application may result in a substantial and unreasonable diversion of your agency resources.

a) What initial steps would you take to deal with this situation?

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b) You send the applicant a notice of intention to refuse to deal with the application under section 42 of the RTI Act. What information or suggestions could you give the applicant to assist them in removing the ground for refusal?

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6. Your agency is responsible for monitoring and auditing food safety compliance of local businesses. At the end of each financial year your agency prepares a summary table of all businesses that have been subject to food safety audits in that year. The summary table includes the name of the business audited, the final outcome of the audit (pass/fail) and a brief note of any concerns identified and actions required to be taken by the audited businesses. This information is not available on the agency's website or through other administrative means.

The applicant has applied for *'the names of the businesses that failed food safety audits in the last 2 financial years and the details of the failure'*.

You have located 20 pages responsive to the application, setting out the names of 200 businesses which have failed the audit. You consider it is not contrary to the public interest to disclose the information[1] however you need to consult with the businesses under section 37 of the RTI Act.

Do you think section 41 of the RTI Act applies?

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[1] As per the reasoning by the Information Commissioner in previous decisions. For example: *Seven Network and Safe Food Production Queensland* (Unreported, Queensland Information Commissioner, 10 February 2012)*, Food business and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 14 September 2011)*, Seven Network and Redland City Council* (Unreported, Queensland Information Commissioner, 30 June 2011).

7. **ACTIVITY**

You work for the Ministry of Magic. You have received an application from Harry Potter for *'all documents (including interviews, photographs and investigation reports) relating to the investigation into my use of underage magic in August 1995 which resulted in my temporary expulsion from Hogwarts.'*

You have identified that there are over 7700 documents and 15 hours of filmed interviews and audio recordings that are responsive to the scope of the request. Additionally, you consider that there may be up to 12 third parties that will need to be consulted.   You estimate that it will take a minimum of 180 hours to process the application.

You have considered section 41 of the RTI Act and decide that dealing with the application would be a substantial and unreasonable diversion of resources.

a)   List the key points of what you would include in a notice of intention to refuse to deal with this application under section 42 of the RTI Act.

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b) Mr Potter responds in writing within the prescribed consultation period and states that after reviewing the schedule of relevant documents he is happy to remove the actual audio/visual footage but otherwise leaves his scope unchanged.

   i)   What do you need to do now?

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   ii)   Do you think the ground for refusal has been removed? Outline what steps you would take next based on your answer.

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