



## Decision and Reasons for Decision

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Citation:	<i>H97 and Department of Agriculture and Fisheries [2021] QICmr 71 (22 December 2021)</i>
Application Number:	315997
Applicant:	H97
Respondent:	Department of Agriculture and Fisheries
Decision Date:	22 December 2021
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - information concerning unrelated complaints and investigations - whether information is irrelevant to the access application - section 73(2) 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 - information about animal welfare complaint and investigation - animal welfare complaint about dogs owned by applicant - complainant information - personal information of other individuals - prejudice to flow of information - whether disclosure of information would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)</p>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Department of Agriculture and Fisheries (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to information about an animal welfare complaint made regarding two dogs owned by the applicant and her husband.<sup>2</sup>
2. The Department identified sixteen pages and one video recording, in response to the applicant's access application. It decided to give access to this information, except for parts of six pages. It deleted parts of one page on the basis that the information was irrelevant to the applicant's application, and refused access to parts of five pages on the ground that disclosure would, on balance, be contrary to the public interest.

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<sup>1</sup> On 11 October 2020.

<sup>2</sup> The Department requested to reword the scope in a letter dated 22 October 2020, and the applicant confirmed in an email on the same date her agreement to the reworded scope. The scope of the agreed revised access application was 'All documents in relation to Case Number BQCM# ... Time period. All to current'.

3. The applicant sought internal review<sup>3</sup> and the Department affirmed its decision.<sup>4</sup>
4. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's internal review decision.<sup>5</sup>
5. In terms of information remaining in issue, for the reasons as set out below, I affirm the Department's decision.

## Background

6. Significant procedural steps relating to the external review are set out in the Appendix.

## Reviewable decision

7. The decision under review is the Department's internal review decision dated 30 March 2021.

## Evidence considered

8. Evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix).
9. The applicant provided brief submissions with her external review application. Further, the applicant and/or her husband as her agent provided OIC with detailed submissions on two occasions.<sup>6</sup> In part, these submissions raise concerns beyond the jurisdiction of the Information Commissioner.<sup>7</sup> I have taken account of the applicant's submissions to the extent they are relevant to the issues in this review.
10. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.<sup>8</sup> A decision-maker will be '*respecting, and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.<sup>9</sup> I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:<sup>10</sup> '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*'.<sup>11</sup>

## Information in issue

11. During the review, the Department agreed<sup>12</sup> to release a signature on one page.<sup>13</sup> Accordingly, parts of five pages<sup>14</sup> remain in issue.

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<sup>3</sup> On 2 March 2021.

<sup>4</sup> On 30 March 2021.

<sup>5</sup> On 8 April 2021.

<sup>6</sup> On 23 June 2021 and 19 July 2021.

<sup>7</sup> For example, about the applicant's medical condition, as well as the existence of historical and ongoing neighbourhood disputes prior to the relevant complaint being made.

<sup>8</sup> Section 21(2) of the HR Act.

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

<sup>10</sup> *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

<sup>11</sup> *XYZ* at [573].

<sup>12</sup> On 6 December 2021.

<sup>13</sup> Page 7 of the 16 pages located by the Department.

<sup>14</sup> Pages 4-5 and 10-12 of the 16 pages located by the Department.

## Issues for determination

12. The issues for determination in this review are:

- whether parts of one page may be deleted on the basis that this information is not relevant to the access application; and
- whether access to parts of four pages may be refused on the ground that disclosure of this information would, on balance, be contrary to the public interest.

## Irrelevant information

### *Relevant law*

13. Under the RTI Act, an agency may give access to a document subject to the deletion of information it reasonably considers is not relevant to the access application.<sup>15</sup> This is not a ground for refusal of access, but a mechanism to allow irrelevant information to be deleted from documents identified for release to an applicant and to facilitate that release.<sup>16</sup> In deciding whether to apply this section, it is relevant to consider whether the information in question has any bearing upon, or is pertinent to, the terms of the applicant's application.<sup>17</sup>

### *Finding*

14. Parts of one page in issue<sup>18</sup> comprise notes taken by a departmental officer regarding work performed by him before and after his visit to the applicant's residence regarding matters other than his investigation of the animal welfare complaint made regarding the applicant's two dogs.<sup>19</sup>
15. The applicant's access application requested information about the animal welfare complaint made which led to the departmental officer's attendance at the residence of the applicant and her husband to investigate, including the name of complainant(s), the date the complaint was lodged, details of allegations made, and a copy of the report completed by the departmental officer.
16. The parts of one page in issue do not contain any information in relation to the Department's investigation of the complaint concerning the applicant. Rather, they record work activities performed by the departmental officer entirely unrelated to the investigation of the complaint. On this basis, I am satisfied that this information may be deleted as it is not relevant to the access application.

## Contrary to public interest information

### *Relevant law*

17. The RTI Act provides a right of access to information in the possession or under the control of a Queensland government agency. This right is subject to other provisions of the RTI Act, including the grounds on which an agency may refuse access to

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<sup>15</sup> Section 73(2) of the RTI Act.

<sup>16</sup> The agency is entitled to make the decision to delete information based on the access application itself (i.e., without consulting the applicant) where the information clearly falls outside the scope of the access application: see *8U3AMG and Department of Communities* (Unreported, Queensland Information Commissioner, 15 September 2011) at [15].

<sup>17</sup> *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [50]-[52]. This decision considered the equivalent provision in the repealed *Freedom of Information Act 1992* (Qld).

<sup>18</sup> Page 10.

<sup>19</sup> The parts of this page which record the officer's visit to the applicant's property have been released to the applicant.

information.<sup>20</sup> Relevantly, access to information may be refused to the extent it comprises information the disclosure of which would, on balance, be contrary to the public interest.<sup>21</sup>

18. To decide whether disclosure of the information in issue would, on balance, be contrary to the public interest, I must:<sup>22</sup>
  - identify any irrelevant factors and disregard them
  - identify relevant public interest factors favouring disclosure and nondisclosure
  - balance the relevant factors favouring disclosure and nondisclosure; and
  - decide whether disclosure of the information would, on balance, be contrary to the public interest.
19. Schedule 4 of the RTI Act contains non-exhaustive list of factors that may be relevant in determining where the balance of the public interest lies in a particular case. I have carefully considered these lists, together with all other relevant information, in reaching my decision. Additionally, I have kept in mind the RTI Act's pro-disclosure bias<sup>23</sup> and Parliament's requirement that grounds for refusing access to information be interpreted narrowly,<sup>24</sup> and have not taken into account any irrelevant factors.

### Findings

20. The remaining information in issue – that is, parts of four pages – comprises:
  - **Complainant Information** – the complainant(s) name(s) and contact information<sup>25</sup>
  - **Third Party Information** – the name(s) of further individual(s) categorised as person(s) of interest;<sup>26</sup> and
  - **Complaint Details** – information regarding the animal welfare complaint made by the complainant(s).<sup>27</sup>
21. This information appears in two Animal Welfare Summary Reports – the first version of which precedes the departmental officer's attendance on the applicant's residence (**site visit**), and the second version of which follows the site visit and records the outcome of it (namely, that both dogs were in very good condition<sup>28</sup>).

### Factors favouring disclosure

22. The departmental officer conducted a site visit to investigate an animal welfare complaint made regarding two dogs owned by the applicant and her husband. In these circumstances, the public interest favours the disclosure of information that could reasonably be expected to enhance the Department's accountability in its handling of animal welfare complaints,<sup>29</sup> and inform the community of the Department's operations in its dealing with members of the community when investigating such complaints.<sup>30</sup>

<sup>20</sup> Section 47(3) of the RTI Act.

<sup>21</sup> Sections 47(3)(b) and 49 of the RTI Act. The term public interest refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, in general, a public interest consideration is one which is common to all members of, or a substantial segment of the community, as distinct from matters that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual.

<sup>22</sup> Section 49(3) of the RTI Act.

<sup>23</sup> Section 44 of the RTI Act.

<sup>24</sup> Section 47(2) of the RTI Act.

<sup>25</sup> Pages 5 and 12.

<sup>26</sup> Page 4.

<sup>27</sup> Remaining information on pages 4-5 and 11-12.

<sup>28</sup> Released information on pages 7, 10, 12 and 13.

<sup>29</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>30</sup> Schedule 4, part 2, item 3 of the RTI Act.

23. In assessing the weight of these two factors, I have noted that the information the Department has already released to the applicant includes:
  - a redacted version of the Animal Welfare Summary Report which precipitated the site visit<sup>31</sup>
  - the entirety of 17 minute and 24 seconds of video footage and four photographs<sup>32</sup> taken by the departmental officer during the site visit
  - the entirety of the departmental officer's handwritten notes regarding the site visit<sup>33</sup>
  - a redacted version of the Animal Welfare Summary Report following the site visit;<sup>34</sup> and
  - attached to the second Animal Welfare Summary Report, the departmental officer's report (including further copies of the four photographs).<sup>35</sup>
24. My view is that this released information provides the applicant with a substantial level of detail about the processes followed by the Department and the decisions made by it. I cannot see how providing the Complainant Information or the Third Party Information would advance the accountability and transparency of the Department. However, I do acknowledge that the Complaint Details<sup>36</sup> may allow the Department's processes and decisions to be considered in light of the specific concerns raised in the complaint. However, the applicant is generally aware of the nature of the complaint, and has been provided with the information noted in the previous paragraph – which comprises *all* information located by the Department regarding its response to the complaint. I therefore afford low weight to these factors, but only with respect to the Complaint Details.
25. There is an important public interest in providing individuals with access to their personal information held by government.<sup>37</sup>
26. By their nature, the Complainant Information and the Third Party Information are not the personal information of the applicant. However, the Complaint Details include brief information about the applicant. Further, they outline concerns regarding the welfare of the applicant's dogs, which necessarily relate to the applicant's care of those dogs, and therefore also comprise information about the applicant. I afford this factor significant weight with respect to the Complaint Details.
27. The Complaint Details, however, also comprise the personal information of the complainant(s). I have considered whether this personal information could be deleted, in order to provide the applicant with her own personal information but not that of others.<sup>38</sup> However, the personal information of the applicant and the personal information of the complainant(s) are so closely intertwined that they cannot practicably be separated. Accordingly, the factors favouring nondisclosure regarding the personal information of others also apply to the Complaint Details and are considered below.
28. The applicant has submitted that she and her husband have '*been maliciously victimised with false allegations*' and '*require[s] the name of the complainant/s to ... seek legal*

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<sup>31</sup> Pages 4-6.

<sup>32</sup> Pages 1-3 and 15.

<sup>33</sup> Page 10.

<sup>34</sup> Pages 11-14.

<sup>35</sup> Pages 7-9.

<sup>36</sup> First redaction on page 4 and first redaction on page 11.

<sup>37</sup> Schedule 4, part 2, item 7 of the RTI Act. 'Personal information' is defined in section 12 of the *Information Privacy Act 2009* (Qld) as '*information or an opinion ... whether true or not ... about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.*'

<sup>38</sup> Per section 75 of the RTI Act.

*advice in relation to a defamation case against this person/s*.<sup>39</sup> I have therefore considered whether the disclosure of the Complainant Information and Complaint Details could reasonably be expected to contribute to the administration of justice for the applicant.<sup>40</sup>

29. The Information Commissioner has recognised that in an appropriate case there may be a public interest in a person who has suffered, or may have suffered, an actionable wrong, being permitted to obtain access to information which would assist the person to pursue any remedy which the law affords in those circumstances.<sup>41</sup> The Information Commissioner found that this factor arises if an applicant can demonstrate that:
  - they have suffered loss or damage or some kind of wrong, in respect of which a remedy is, or may be, available under the law
  - they have a reasonable basis for seeking to pursue the remedy; and
  - disclosing the information would assist the applicant to pursue the remedy, or to evaluate whether a remedy is available or worth pursuing.<sup>42</sup>
30. In terms of the applicant's reference to defamation, I note that details of a complaint comprise, by their very nature, an individual's particular version of events which is shaped by factors including the individual's memory and subjective impressions.<sup>43</sup> This inherent subjectivity does not necessarily mean that the resulting account or statement is defamatory – rather, it means that such information comprises a personal interpretation of relevant events, which must be balanced against other (often contradicting) statements and evidence in deciding whether to take further action on the complaint.<sup>44</sup> Here, the Department – that is, the agency charged with the statutory function of investigating such complaints – was the only person in receipt of the complaint and received the complaint as a matter to be investigated, rather than as factual or truthful information injurious to the applicant's reputation.
31. I have also carefully considered the remaining information in issue in light of the applicant's submission that *'[t]his was the worst case of malicious victimisation' 'and harassment'* and she and her husband require *'the complainant/s details to allow us to seek retribution through appropriate channels'*.<sup>45</sup> While I am unable to provide any detail regarding the remaining information in issue other than that set out at paragraph 20 above,<sup>46</sup> I can observe that the remaining information in issue contains no information which could reasonably be construed as indicating harassment or victimisation. The only information before me regarding harassment or victimisation is the applicant's submissions, which contain conjecture regarding the identity of the complainant(s) and allegations regarding their conduct, without any independent or objective supporting material. In these circumstances, I must conclude that disclosure could not reasonably be expected to enable the applicant to pursue a legal remedy, or evaluate whether a legal remedy is available, in either the criminal or anti-discrimination context.
32. Accordingly, on the evidence available to OIC, I am not satisfied that the applicant has demonstrated the elements required to establish the administration of justice factor. I therefore find that this factor does not arise.

<sup>39</sup> Submissions dated 19 July 2021.

<sup>40</sup> Schedule 4, part 2, items 17 of the RTI Act.

<sup>41</sup> *Willsford and Brisbane City Council* (1996) 3 QAR 368 (**Willsford**) at [16].

<sup>42</sup> *Willsford* at [17].

<sup>43</sup> *Matthews and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 23 June 2011) (**Matthews**) at [17]-[18].

<sup>44</sup> *6XY7LE and child of 6XY7LE and Department of Education, Training and Employment* [2014] QICmr 1 (**6XY7LE**) at [22]; *WL1T8P and Queensland Police Service* [2014] QICmr 40 at [30].

<sup>45</sup> Submissions dated 19 July 2021.

<sup>46</sup> Section 108(3) of the RTI Act.

33. I have also considered whether the disclosure of the Complainant Information would advance the applicant's fair treatment in dealings with the Department.<sup>47</sup> I am satisfied, however, from reviewing the information that has been released to the applicant, that the departmental officer provided the applicant with the substance of the allegation at the time of the site visit, that the applicant was given the opportunity to refute the allegation at that time, and that the applicant was advised verbally of the outcome of the investigation, also at that time. I also note that the applicant has since received the information noted at paragraph 23 above. In these circumstances, I am satisfied that disclosure of the remaining information in issue would not advance the fair treatment of the applicant in her dealings with the Department. Therefore, it is my view that this public interest factor does not arise for consideration.
34. Finally, given the applicant's submissions that the animal welfare complaint was a false complaint, I have also turned my mind to whether disclosing the Complaint Details could reasonably be expected to reveal that information therein was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant.<sup>48</sup>
35. The fact that a complaint is found to lack substance or warrant no further action, as was found to be the case in this matter, does not mandate a conclusion that the Complaint Details were incorrect, misleading etc. As noted at paragraph 31 above, the details of a complaint comprise an individual's version of events, shaped by factors including their memory and subjective impressions, and therefore is inherently subjective. There is no evidence before me to suggest that the Complaint Details are not an accurate reflection of the views put forward by the complainant(s). In these circumstances, I do not consider that this factor is relevant.
36. I have considered whether any further factors in schedule 4, part 2 of the RTI Act or otherwise<sup>49</sup> apply to the remaining information in issue, or any parts thereof – however, I have been unable to identify any.

### **Factors favouring nondisclosure**

37. The remaining information in issue raises public interest factors favouring nondisclosure relating to disclosure of personal information causing a public interest harm<sup>50</sup> and prejudice to the protection of an individual's right to privacy.<sup>51</sup>
38. The Complainant Information clearly comprises the personal information of individuals other than the applicant. Further, as mentioned at paragraph 27 above, the Complaint Details not only comprise the personal information of the applicant; they also comprise the personal information of the complainant(s). I am unable to provide any further information in this regard<sup>52</sup> except to observe that the nature of the Complaint Details is such that the identity of the complainant(s) is apparent or reasonably ascertainable from them.<sup>53</sup> In terms of privacy, the fact of making a complaint to a government agency is an aspect of an individual's 'personal sphere', and an individual's opinions in this context remains their private information regardless of whether those complaints may be about

<sup>47</sup> Schedule 4, part 2, item 10 of the RTI Act.

<sup>48</sup> Schedule 4, part 2, item 12 of the RTI Act.

<sup>49</sup> The word 'including' in section 49(3)(a)-(c) of the RTI Act indicates that the lists of factors in schedule 4 of the RTI Act are non-exhaustive.

<sup>50</sup> Schedule 4, part 4, section 6(1) of the RTI Act.

<sup>51</sup> Schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in either the RTI or IP Acts; it can, however, be viewed as the right of an individual to preserve their personal sphere free from interference from others – see *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [27] paraphrasing the Australian Law Reform Commission's definition of the concept in "For your information: Australian Privacy Law and Practice" *Australian Law Reform Commission Report No. 108* released 12 August 2008, at paragraph 1.56.

<sup>52</sup> Section 108(3) of the RTI Act.

<sup>53</sup> See definition of 'personal information' at footnote 37 above.

other people.<sup>54</sup> Consequently, I am satisfied that disclosure of the Complainant Information and Complaint Details could reasonably be expected to prejudice the complainant(s) privacy.

39. The applicant has submitted that the complainant(s) failure to either respond or object to the Department's enquiry regarding whether their information could be released to the applicant supports disclosure.<sup>55</sup> However, the absence of the complainant(s) response or objection to the Department's enquiry cannot reasonably be taken as the complainant(s) acquiescing to the release of their personal information. Nor can it be taken as a basis for reducing the weight of the two factors.
40. The applicant's submissions may also be taken to contend that the malicious nature of the complaint negates or reduces the weight of the personal information and privacy factors. However, there is nothing before me other than the applicant's submissions (specifically, conjecture regarding the identity of the complainant(s) and allegations about them in those submissions) to suggest that the complaint was motivated by malice. Accordingly, there is no reasonable basis upon which I may proceed to consider the applicant's argument that a third party's improper motives lessen the public interest in protecting their personal information and privacy.
41. Noting that the nature and context of the Complainant Information and Complaint Details are highly sensitive, I consider that disclosure of this information would cause significant public interest harm and be a significant intrusion into the privacy of the complainant(s). I am therefore satisfied that both the personal information and privacy factors warrant significant weight.
42. The Third Party Information also clearly comprises the personal information of person(s) other than the applicant. Further, in terms of the privacy, I am satisfied that the fact that the third party(ies) were categorised as person(s) of interest by the Department falls within the personal sphere of those concerned. Again, given the sensitive nature and context of this information, I consider that both the personal information and privacy factors warrant significant weight.
43. I have also considered whether disclosure of the Complainant Information and Complaint Details could reasonably be expected to prejudice the flow of information to an agency.<sup>56</sup>
44. In responding to animal welfare complaints, the Department is performing a regulatory function in relation to animal welfare. To perform its role effectively, the Department must obtain the cooperation of members of the public. The Department relies on members of the public to provide information which enables it to administer and enforce relevant laws. If people knew that their information would be revealed under the RTI Act, there is a risk that they would be less inclined to raise animal welfare concerns.
45. I am satisfied that routinely disclosing information identifying a complainant would tend to discourage individuals from coming forward with relevant information, as they may consider that their personal information could be released to other individuals, including to the person who is the subject of the complaint. This would necessarily prejudice the Department's future ability to obtain information to enable it to identify potential animal welfare issues and conduct investigations. In other words, disclosure could reasonably be expected to negatively impact the flow of information to the Department in its capacity as the regulatory agency for animal welfare matters. Given the importance of animal

<sup>54</sup> *Matthews* at [23]; *6XY7LE* at [32].

<sup>55</sup> Submissions dated 19 July 2021.

<sup>56</sup> Schedule 4, part 3, item 13 of the RTI Act.



welfare to the community, I consider that there is a strong public interest in avoiding prejudice to the ongoing flow of animal welfare concerns to the Department. For these reasons, I give significant weight to this public interest factor.

46. The applicant has submitted<sup>57</sup> that disclosure of the Complainant Information and Complaint Details is required for:
  - specific deterrence – to discourage the unknown complainant(s) from making any further false complaints against them, as the false complaints have impacted on the applicant's health and mental well-being; and
  - general deterrence – to deter others generally from making false complaints.
47. I acknowledge the applicant's frustration regarding what she clearly considers to be a vexatious, malicious complaint, particularly in light of the outcome of the investigation (that both dogs were in very good condition). However, I also note previous Information Commissioner decisions which have considered the public policy considerations in protecting the free flow of information and relevantly explained that '*...it is generally recognised that there is very strong public interest in protecting the free flow of information to law enforcement agencies, even where this may result in an agency investigating false and/or unsubstantiated allegations*'.<sup>58</sup> I agree with these comments and I am not persuaded by the applicant's submissions on this issue.

### **Balancing the public interest factors**

48. I acknowledge the pro-disclosure bias in deciding access to documents under the RTI Act. However, the significant weight of the factors favouring nondisclosure overcomes this bias and outweighs the weight of the relevant factors (if any) favouring disclosure.
49. This is so for the Complaint Details, where I consider that the significant weight of the factors regarding the personal information of others, prejudice to privacy, and prejudice to the flow of information to the Department outweighs the significant weight of the factor favouring disclosure of the applicant's personal information and the low weight of the accountability and transparency factors. I do not consider that the factors favouring disclosure regarding the administration of justice for an individual, fair treatment or revealing that information that is incorrect, misleading etc apply.
50. For the Complainant Information, again I do not consider that the factors regarding the administration of justice for an individual, fair treatment or revealing that information that is incorrect, misleading etc apply. Further, I do not consider that the factor favouring disclosure of the applicant's personal information or the accountability and transparency factors apply. In these circumstances the significant weight of the factors regarding the personal information of others, prejudice to privacy, and prejudice to the flow of information to the Department is determinative.
51. This is also the case for the Third Party Information where again I do not consider that any factors favouring disclosure arise. Here, although the prejudice to the flow of information factor favouring nondisclosure also does not arise, the significant weight of the factors regarding the personal information of others and prejudice to privacy is again determinative.

<sup>57</sup> Submissions dated 19 July 2021.

<sup>58</sup> *P6Y4SX and Department of Police* (Unreported, Queensland Information Commissioner, 31 January 2012) at [38]-[40], discussing *McEnery and Medical Board of Queensland* (1994) 1 QAR 349 at [56]-[64].

52. In summary, I am satisfied that the factors favouring nondisclosure outweigh those favouring disclosure with respect to all the remaining information in issue. As such, I find that disclosure of this information would, on balance, be contrary to the public interest and access may be refused on that ground.<sup>59</sup>

## DECISION

53. For the reasons set out above, I affirm the Department's decision and find that:
- parts of one page may be deleted on the basis that they are not relevant to the access application;<sup>60</sup> and
  - access to parts of four pages may be refused on the ground that their disclosure would, on balance, be contrary to the public interest.<sup>61</sup>
54. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

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**A Rickard**  
**Acting Right to Information Commissioner**

**Date: 22 December 2021**

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<sup>59</sup> Section 47(3)(b) of the RTI Act.

<sup>60</sup> Under section 73(2) of the RTI Act.

<sup>61</sup> Sections 47(3)(b) and 49 of the RTI Act.

**APPENDIX****Significant procedural steps**

<b>Date</b>	<b>Event</b>
8 April 2021	Applicant applied for external review.
13 May 2021	OIC accepted external review application.
31 May 2021	The Department provide a copy of the information in issue to OIC.
15 June 2021	OIC provided written preliminary view to applicant.
23 June 2021	OIC received oral submissions from applicant's representative objecting to preliminary view.
29 June 2021	OIC received submissions from applicant responding to preliminary view.
19 July 2021	OIC received further submissions from applicant responding to preliminary view.
10 August 2021	OIC provided an update to the applicant.
3 December 2021	OIC proposed that the Department release a departmental officer's signature on one page.
6 December 2021	The Department agreed to release the signature.