Office of the Information Commissioner
Queensland

Decision and Reasons for Decision

Application Number: **311210**

Applicant: **Nine Network Australia Pty Ltd**

Respondent: **Queensland Police Service**

Decision Date: **31 July 2013**

Catchwords: **ADMINISTRATIVE LAW – RIGHT TO INFORMATION – applicant sought access to video records of interview, video reconstruction of crime, and audiotape of triple zero emergency telephone call – whether disclosure of information would, on balance, be contrary to the public interest – sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld) – contributing to the administration of justice – contributing to informed debate on important issues – personal information and privacy**

REASONS FOR DECISION

Summary

1. The applicant applied to the Queensland Police Service (**QPS**) to access specific documents under the *Right to Information Act 2009* (Qld) (**RTI Act**). The documents constitute some of the evidence created or obtained by QPS during an investigation that led to the conviction by jury of Damian Sebo for manslaughter of Taryn Hunt on 30 June 2007.[1]

2. QPS refused access to the documents on the ground that disclosure would, on balance, be contrary to the public interest.[2]

3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision. During the course of the review, the applicant accepted that disclosure of one of the documents[3] would, on balance, be contrary to the public interest.[4]

4. The **Information in Issue** in this review is the remaining documents – that is, the video records of interview with Mr Sebo, a video of a crime scene reconstruction, and audiotape of Mr Sebo's triple zero emergency telephone call.

5. For the reasons set out below, I am satisfied that QPS cannot refuse access to the Information in Issue on the ground that disclosure would, on balance, be contrary to the public interest.

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[1] *R v Sebo* (Indictment No. 977 of 2006), appeal of the Attorney-General dismissed in *R v Sebo; ex parte A-G (Qld)* [2007] QCA 426.
[2] Section 47(3)(b) and 49 of the RTI Act.
[3] CCTV footage of a public venue.
[4] Given personal information and privacy factors.

Background

6. Significant procedural steps relating to the application and external review are set out in the appendix.

Reviewable decision

7. The decision under review is QPS's decision dated 14 September 2012.

Evidence considered

8. Submissions made to OIC by QPS and to QPS by Mr Sebo, evidence, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and appendix).

Relevant law

9. The RTI Act provides that an agency may refuse access to information where its disclosure would, on balance, be contrary to the public interest.[5]

10. 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.

11. The RTI Act identifies many factors that may be relevant to deciding the balance of the public interest[6] and explains the steps that a decision-maker must take[7] in deciding the public interest as follows:

    - 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.[8]

Findings

Would disclosure of the Information in Issue be contrary to the public interest?

12. No, for the reasons that follow.

Irrelevant factors

13. It was submitted that the documents should not be disclosed because there are limits on the collection and use of personal information under the *Information Privacy Act*

[5] Sections 47(3)(b) and 49 of the RTI Act.
[6] Schedule 4 of the RTI Act sets out the factors for deciding whether disclosing information would, on balance, be contrary to the public interest. However, this list of factors is not exhaustive. In other words, factors that are not listed may also be relevant in a particular case.
[7] Section 49(3) of the RTI Act.
[8] As to the correctness of this approach, see *Gordon Resources Pty Ltd v State of Queensland* [2012] QCATA 135.

2009 (Qld) (**IP Act**). However, the relevant privacy principles[9] do not prevent QPS's collection and retention of the Information in Issue, and disclosure under the RTI Act comprises an exception[10] to limits on QPS's use and disclosure of the documents.[11] Accordingly, I have disregarded this submission.

14. Further, it was submitted that the documents constitute only part of a complex investigation, and may comprise or result in the broadcast of a misleading picture of it. However, the RTI Act provides that the prospect of the applicant misinterpreting or misunderstanding a document[12] or engaging in mischievous conduct[13] are irrelevant to deciding the public interest. Given this position, I have disregarded these submissions.

15. Otherwise, no further irrelevant factors arise in this review.

Factors favouring disclosure

Contributing to the administration of justice

16. Disclosing information that could reasonably be expected to contribute to the administration of justice generally gives rise to a factor favouring disclosure.[14] Two related aspects of this factor are considered in this review – enhancing open justice and allowing scrutiny of the administration of justice.

Open justice

17. One aspect of contributing to the administration of justice involves the principle of open justice – often referred to as *'ensuring that justice should not only be done, but should manifestly and undoubtedly be seen to be done'*.[15] This principle requires that justice should be administered publicly and transparently, and that community members should be entitled to see what takes place in open court, and to view fair and accurate reports of it.[16]

18. In relation to the trial relevant to this review, the Brisbane Supreme and District Court Criminal Registry confirmed to OIC that the documents that comprise the Information in Issue were:

- tendered as exhibits in the relevant trial[17] but have since been returned to the party that tendered them; and
- the subject of an Order made by the trial judge on 29 June 2007 to allow specified media organisations[18] (including the access applicant[19]) access to them.[20]

[9] In Schedule 3 of the IP Act.
[10] IPP 10(1)(c) and IPP 11(1)(d) in schedule 3 of the IP Act.
[11] IPP 10 and 11 in schedule 3 of the IP Act.
[12] Schedule 4, part 1, item 2 of the RTI Act.
[13] Schedule 4, part 1, item 3 of the RTI Act.
[14] Schedule 4, part 2, item 16 of the RTI Act.
[15] *R v Sussex Justices; Ex parte Macarthy* [1924] 1 KB 256 at 259.
[16] As noted in *John Fairfax & Sons v Police Tribunal* (1986) 5 NSWLR 465 at 481, *'[t]he publication of fair and accurate reports of court proceedings is … vital to the proper working of an open and democratic society and to the maintenance of public confidence in the administration of justice'.*
[17] They were exhibits 8, 9 and 11 in *R v Sebo* (Indictment No. 977 of 2006).
[18] Television channels 7, 9 and 10.
[19] The access applicant advised that inadvertently, only a small part of the Information in Issue appears to have been retained in its archives and consequently, it has sought the same information via a RTI Act access application.
[20] At the time that the trial judge made the Order, orders regarding non-party access to exhibits were made on an ad hoc basis – see Comments of Chief Justice of the Supreme Court in 'Media statement: Courts increase media access to criminal exhibits' dated 14 March 2008 at <http://www.courts.qld.gov.au/__data/assets/pdf_file/0005/85091/PR-CJ-StatmentOnCriminal Exhibits14Mar2008.pdf>. Since, rule 56A regarding non-party copying of exhibits for publication has been inserted into the Criminal Practice Rules 1999 (Qld) (**CP Rules**).

19. I acknowledge that open justice is advanced by open trials and the availability of transcripts for purchase. However, in my view, these facets of open justice do not diminish open justice considerations regarding access to actual exhibits tendered by the prosecution and considered by the relevant judge or jury before they reached a decision.

20. Also, I note that it is generally possible to inspect exhibits tendered in open court at the Registry[21] until expiration of the relevant appeal period or (if an appeal is sought) completion of the appeal, when the exhibits are returned to the party that tendered them.[22] As mentioned above, the Registry confirmed that this occurred following the appeal involving Mr Sebo.[23]

21. Further, as mentioned above, I note that non-parties may access particular exhibits by court order, and that media organisations accessed the Information in Issue in this way during the trial involving Mr Sebo. In this regard, the Chief Justice of the Supreme Court has since commented generally that:

> *… the media plays an important role in reporting on court proceedings and ensuring justice is seen to be done*.[24]

22. However, in my view, the abovementioned avenues for accessing exhibits relate only to the period in which proceedings are on foot, or appeal periods are yet to expire. They do not address access to exhibits *after* the finalisation of relevant judicial proceedings and return of the relevant material to the prosecution. However, in my view, the ability to read or view the exhibits themselves continues to be an important aspect of ensuring that justice is not only done, but seen to be done, although the proceedings are finalised. While demands on open justice are usually most intense during or soon after the particular proceedings, they may also be warranted in the longer term. Accordingly, I am satisfied that disclosure of the Information in Issue could reasonably be expected to contribute to the administration of justice in the sense of contributing to open justice.

Scrutiny of the administration of justice

23. Another aspect of contributing to the administration of justice,[25] which flows from ensuring open justice, involves allowing scrutiny of the administration of justice.

24. In its access application, the applicant stated that:

> *… there is no criticism whatever of the police handling of this case, and indeed the investigation … was exemplary*.

25. Consistent with the applicant's comments, during this review, it was submitted that the integrity of the police investigation was open to scrutiny during judicial proceedings and was not in issue. In this regard, it was submitted that:

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[21] Rule 56 of the CP Rules. However, the trial judge may order that an exhibit not be inspected or opened unless allowed by further order of the court – rule 56(2) of the CP Rules.
[22] Rule 100(2) of the CP Rules.
[23] *R v Sebo; ex parte A-G (Qld)* [2007] QCA 426.
[24] Again, see Comments of Chief Justice of the Supreme Court in 'Media statement: Courts increase media access to criminal exhibits' dated 14 March 2008 at <http://www.courts.qld.gov.au/__data/assets/pdf_file/0005/85091/PR-CJ-StatmentOnCriminal Exhibits14Mar2008.pdf>.
[25] Schedule 4, part 2, item 16 of the RTI Act.

> *… the adequacy of the police investigation has not been in issue; it was the application of the [partial defence of provocation] (as it then applied) to the facts discovered during the course of the investigation which has been in issue.*

26. While scrutiny of the administration of justice relates to police action, it also relates to judicial proceedings, as acknowledged by the Chief Justice of the Supreme Court when he commented as follows regarding non-party access orders:

> *Queensland courts have become even more open to public scrutiny with … provisions allowing media organisations to copy and publish exhibits in criminal trials.*[26]

27. I acknowledge that there are no concerns regarding police or judicial conduct, and that the judicial proceedings are finalised. However, I consider that the possibility of scrutiny of any matter at any time – even when there are no concerns regarding police and/or judicial processes, and even when matters are finalised – enhances the prospect of proper conduct and accountability generally, and thereby contributes to the administration of justice.

28. Further, in my view, scrutiny of the administration of justice extends beyond scrutiny of those applying the law, to scrutiny of the laws themselves, and accordingly involves examination of the application and operation of legislation. In this regard, I note the submissions set out at paragraph 25 identify the application of the then partial defence of provocation to the relevant circumstances as a key issue, and effectively raise scrutiny of the administration of justice insofar as it relates to laws themselves.

29. In my view, release of the Information in Issue enhances scrutiny of the partial defence of provocation that applied in Queensland at the time of the relevant proceedings. Given that this partial defence has since been amended, the value of enabling such scrutiny is somewhat diminished. Nevertheless, some value remains, given that examination of the application and operation of the current defence is enhanced by full understanding of its predecessor.

30. On these grounds, I am satisfied that disclosure of the Information in Issue could reasonably be expected to contribute to the administration of justice through allowing greater scrutiny of it.

Weight of factor

31. In this review, it was submitted that open justice considerations should be afforded little weight, because the trial was open, transcripts of proceedings can be purchased, the trial judge made the Order mentioned at paragraph 18 above, and no concerns about police or judicial impropriety had arisen. It was also submitted that it was unclear how further disclosure could contribute to open justice of a matter which has been finalised. However, for the reasons outlined above, I am satisfied that advancing open justice, through allowing ongoing access to exhibits tendered by the prosecution in open court plays a significant role in contributing to the administration of justice. This is particularly so when the proceedings have led to conviction of the defendant for a very serious offence.

32. Also, it was submitted that limited weight should be attached to considerations regarding allowing scrutiny of the administration of justice, because the integrity of the police investigation was not in issue, Mr Sebo had been convicted and sentenced, and proceedings involving him were finalised. However, for the reasons outlined above, I

[26] Above n 24.

am satisfied that ensuring scrutiny of police and judicial conduct at any time, regardless of whether or not concerns have been raised, also plays a significant role in contributing to the administration of justice.

33. In contrast, in the circumstances of this review, the value of scrutinising the application and operation of the defence claimed by Mr Sebo is somewhat diminished, following subsequent law reform activity. Accordingly, I have reduced the overall weight that I would otherwise afford the public interest factor favouring disclosure of contributing to the administration of justice to reflect this position. In conclusion, I find that moderate weight should attach to this factor.

Contributing to informed debate on an important issue

34. The trial of Mr Sebo and subsequent appeal by the Attorney-General prompted substantial media coverage regarding the then partial defence of provocation in Queensland[27] as it applied to circumstances in issue. In the period between the trial and the appeal, the Attorney-General announced an audit of use of the partial defence in Queensland.[28] Following this process, law reform papers were published, some of which referred to the proceedings regarding Mr Sebo in some detail.[29] As a result of the ensuing discussion and debate, the legislative provision regarding the partial defence of provocation was amended in 2011.[30]

35. It was submitted that it is unclear how disclosure of the Information in Issue could reasonably be expected to contribute to informed debate, given the already changed legal landscape in Queensland. In relation to the law reform processes in New South Wales, it was submitted that the opportunity for the public to make submissions had passed and, accordingly, disclosure could not inform debate in New South Wales. It was suggested that careful consideration should be given to whether the disclosure of the documents could reasonably be expected to further contribute to a debate on an issue which has already been the subject of extensive scrutiny, coverage and comment; or could reasonably be expected to merely result in public gratification[31] which would not materially enhance debate with respect to a defence already abolished in some states, modified in Queensland and subject to law reform review in NSW.

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[27] Section 304 of the *Criminal Code 1899* (Qld), which provides that provocation is a partial defence to the crime of murder, enabling the lesser conviction of manslaughter.

[28] See Attorney-General's comments to Estimates Committee at page 49 of Hansard at <http://www.parliament.qld.gov.au/documents/hansard/2007/2007_07_18_EST_F.pdf>.

[29] See:

- Queensland Government Department of Justice and Attorney-General, *Discussions paper – Audit on Defences to Homicide: Accident and Provocation*, October 2007 at <http://www.justice.qld.gov.au/__data/assets/pdf_file/0019/21628/review-of-homicide-defences-paper.pdf>
- Queensland Law Reform Commission, *A review of the defence of provocation – Discussion Paper*, WP No. 63, August 2008 at <http://www.qlrc.qld.gov.au/accidentprovocation/docs/wp63.pdf>
- Queensland Parliamentary Library, Status of the Partial Defence of Provocation in Queensland, Research Brief No. 2008/19 at <http://www.parliament.qld.gov.au/documents/explore/ResearchPublications/ResearchBriefs/2008/RBR200819.pdf>.

[30] Section 304 of the *Criminal Code 1899* (Qld) was amended 4 April 2011 reversing the onus of proof so that it is borne by the defence, and limiting the circumstances in which verbal provocation alone will qualify.

[31] In this regard, the submissions referred to the following comments in *DPP v Smith* [1991] VR 63 at 73 and 75: The public interest *'does not mean that which gratifies curiosity or merely provides information or amusement ..... Similarly it is necessary to distinguish between `what is in the public interest and what is of interest to know' .... [There is a] distinction between the public interest and a matter of public interest. The public interest is a term embracing matters, amongst others, of standards of human conduct and of the functioning of government and government instrumentalities tacitly accepted and acknowledged to be for the good order of society and for the wellbeing of its members. The interest is therefore the interest of the public as distinct from the interest of an individual or individuals. ..... There are several and different features and facets of interest which form the public interest. On the other hand, in the daily affairs of the community events occur which attract public attention. Such events of interest to the public may or may not be ones which are for the benefit of the public; it follows that such form of interest per se is not a facet of the public interest".*

36. Queensland is now one of a number of states that has engaged in law reform regarding provocation as a partial defence to murder. Provocation as a partial defence to murder has been abolished in Tasmania, Victoria and Western Australia.[32]

37. Law reform is also currently being examined in New South Wales where a report was recently tabled in its parliament.[33] Given similarities between New South Wales law regarding provocation and that which applies in the Australian Capital Territory and Northern Territory, and given that a common law version of the partial defence continues to apply in South Australia, I am satisfied that debate regarding an important issue is ongoing in a significant number of Australia jurisdictions. While completion of the relevant inquiry and tabling of its report in New South Wales means that further submissions to the inquiry are no longer possible, law reform debate does not cease as a result. It is likely to continue as the tabled report's recommendations are considered. More broadly, I also note that law reform is a cyclical process requiring monitoring and evaluation, and therefore the Information in Issue remains of some relevance to public debate even in jurisdictions where reform of the partial defence of provocation has already occurred in various guises.

38. Further, I am satisfied that disclosure of the documents could reasonably be expected to contribute to the debate in the sense of reaching both a larger audience and a broader cross-section of the community. In this regard, I have noted that much of the information in the documents is already in the public domain in print form (via media reports and law reform documentation). Also, I have noted that it may be argued that the matters of serious interest arise from the way in which the law was applied to the evidence in the trial and appeal, rather than from the evidence itself. However, on careful consideration of the information before me, I am satisfied that presentation of the same information in audiovisual or audio format may broaden debate across more community members representing a broader cross-section of the community, and thereby contribute to more, and more informed, debate[34] by using evidence from the trial to prompt consideration of the law.

39. For these reasons, I am satisfied that moderate weight should be afforded to the public interest factor favouring disclosure of contributing to informed debate on important issues.

Relevant factors favouring nondisclosure

Ms Hunt's personal information

40. A large portion of the Information in Issue comprises Ms Hunt's personal information—specifically, Mr Sebo's versions of events and opinions involving Ms Hunt. A factor favouring nondisclosure of Ms Hunt's personal information is therefore relevant.[35] During this review, the applicant submitted that QPS should have, and OIC should, consult with a close relative of Ms Hunt. Given OIC's view that the Information in Issue should be released, and that the close relative was a relevant third party under the RTI Act,[36] OIC made numerous attempts to consult about the information over an extended period of time; however, the attempts were unsuccessful.

[32] In 2003, 2005 and 2008 respectively.
[33] New South Wales Legislative Council Select Committee on the Partial Defence of Provocation, *The Partial Defence of Provocation,* 23 April 2013, <http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/61173c421853420aca257b5500838b2e/$FILE/Partial%20defence%20of%20provocation_Final%20report.pdf>.
[34] Schedule 4, part 2, item 2 of the RTI Act.
[35] Schedule 4, part 4, item 6 of the RTI Act.
[36] Under section 37 of the RTI Act.

41. On careful consideration of all evidence before me, I consider that the accuracy of the information regarding Ms Hunt is relatively arguable, and the detriment caused by disclosure is correspondingly less. I have reached this view given that the information comprises Mr Sebo's versions of events and opinions, rather than Ms Hunt's, and given the circumstances in which it was provided.

42. Also, the recordings that comprise the Information in Issue were previously released to media organisations pursuant to the trial judge's Order made on 29 June 2007, and a large amount of the recorded information, or summaries thereof, are already in the public domain in print form. For these reasons, in the particular circumstances of this review I attribute limited weight to this factor.

Mr Sebo's personal information and privacy

43. The entirety of the information in the documents comprises Mr Sebo's personal information as recognised by the RTI Act. Further, disclosure of Mr Sebo's personal information could—to the extent that such information is private information—reasonably be expected to prejudice Mr Sebo's privacy as recognised by that Act and the IP Act. Considerations regarding personal information and privacy amount to factors favouring nondisclosure of the documents.[37]

44. It was submitted that the information is extremely sensitive insofar as it impacts on Mr Sebo's privacy interests. Specifically, it was submitted that, as Mr Sebo was convicted of manslaughter and sentenced to imprisonment, and as the partial defence that he successfully raised has now been amended, in the circumstances it is appropriate to attach substantial weight to his privacy interests.

45. However, the Information in Issue has already been released to three media organisations including the applicant as a result of the trial judge's Order, and much of the content of the recordings is available or summarised in print form, given the extensive amount and detailed nature of media and academic interest in the proceedings. In these particular circumstances, it is my view that although the information comprises Mr Sebo's personal information, little privacy remains and practical obscurity is not possible. In these particular circumstances, I afford limited weight to these factors.

Possible impact on Mr Sebo

46. It was submitted that disclosure of the Information in Issue and subsequent broadcast of it could have a prejudicial effect on Mr Sebo in prison. I note that, regardless of the outcome of this review, broadcast of the parts of the Information in Issue that remain in the applicant's archives can already occur, as can broadcast of the Information in Issue to the extent that it remains in the possession of the two other media organisations who accesed the information following the trial judge's Order on 29 June 2007.

47. However, I acknowledge that it is possible that if the Information in Issue is released, and if parts of it not already in the possession of the applicant are broadcast by it, Mr Sebo's prison environment may be detrimentally affected as a result of disclosure of the information under the RTI Act. However, the submissions before me comprise brief assertions without supporting evidence[38] and consequently, I am not able to reach a view regarding the degree of any possible detriment, or whether the detriment could reasonably be expected, or remains a more remote possibility.

[37] Schedule 4, part 4, item 6 and arguably schedule 4, part 3, item 3 of the RTI Act.
[38] Such as information regarding previous incidents of a similar nature.

48. In conclusion, while I accept the possibility that Mr Sebo's actual or perceived physical safety may be detrimentally affected by disclosure, and that this possibility comprises a factor favouring nondisclosure, I am, on the information before me, only able to afford this factor very limited weight.

Balancing the relevant public interest factors

49. In summary, for the reasons set out above, in this particular review I afford:

- moderate weight to the public interest factors favouring disclosure of contributing to the administration of justice (through enhancing open justice and allowing scrutiny of it) and contributing to informed debate on an important issue; and
- limited weight to the public interest factors favouring nondisclosure relating to the personal information and privacy of relevant parties and very limited weight to factor favouring nondisclosure regarding the possible impact on Mr Sebo.

50. Having weighed these factors I find that disclosing the Information in Issue would not, on balance, be contrary to the public interest; and access to the Information in Issue cannot be refused under sections 47(3)(b) and 49 of the RTI Act.

DECISION

51. I vary the decision under review and find that there is no ground on which QPS may refuse access to the Information in Issue.

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

Jenny Mead
Right to Information Commissioner

Date: 31 July 2013

APPENDIX

Significant procedural steps

Date	Event
27 June 2012	Applicant applies to QPS for access to four documents
23 August 2012	QPS consults with Mr Sebo pursuant to section 37 of the RTI Act
7 September 2012	Mr Sebo submits a response to the consultation via his solicitor
14 September 2012	QPS refuses access to the information in issue
10 October 2012	Applicant applies to OIC for external review
10 December 2012	OIC requests that QPS provide information regarding prior publication of the information in issue
17 December 2012	QPS advises OIC that, at the time of the trial, the Director of Public Prosecutions did not release any information and media organisations did not apply to publish any information
15 January 2013	Applicant advises OIC that the information was released previously, and it has a small amount of it on its internal data base
27 February 2013	OIC makes inquiries with Brisbane Supreme and District Court Criminal Registry regarding exhibits tendered in the trial *R v Sebo* (No. 977 of 2006)
28 February 2013	Brisbane Supreme and District Court Criminal Registry confirms that the four documents sought by the applicant were tendered as exhibits, and advises that the Supreme Court made an Order on 29 June 2007 allowing channels 7, 9 and 10 access to the exhibits that comprise the information in issue.
12 March 2013	OIC issues a preliminary view to QPS
12 March 2013	OIC consults with Mr Sebo via his solicitor pursuant to sections 37 and 89(2) of the RTI Act and asks that he provide any response by 2 April 2013
25 March 2013	Mr Sebo's solicitor advises that he no longer holds instructions and has forwarded OIC's consultation letter to Mr Sebo
27 March 2013	QPS makes submissions regarding OIC's preliminary view
24 April 2013	OIC attempts to contact third party by telephone to consult under section 37 of the RTI Act
24 April 2013	OIC issues preliminary view to applicant that QPS may refuse access to one of the documents on the ground that release would be contrary to the public interest, and that no ground of refusal applied to the remaining documents
7 May 2013	OIC again attempts to consult with third party
7 May 2013	Applicant advises OIC that it accepts OIC's preliminary view
15 May 2013	OIC again attempts to consult with third party
20 May 2013	OIC again attempts to consult with third party
21 May 2013	OIC again attempts to consult with third party
29 May 2013	OIC asks applicant to telephone third party and advise that OIC wishes to consult with the third party by telephone
24 June 2013	OIC again attempts to consult with third party
30 July 2013	OIC again attempts to consult with third party