



Decision and Reasons for Decision

Citation: *G46 and Queensland Police Service (No. 2) [2020] QICmr 73*
(7 December 2020)

Application Number: 314604

Applicant: G46

Respondent: Queensland Police Service

Decision Date: 7 December 2020

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL WITH APPLICATION - PREVIOUS APPLICATION FOR SAME DOCUMENTS - documents relating to the applicant and their interactions with the agency - previous application had been the subject of a completed external review - whether the later application, on its face, discloses any reasonable basis for again seeking access - section 62 of the *Information Privacy Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - documents relating to the applicant and their interactions with the agency - whether there are reasonable grounds to be satisfied that all reasonable steps have been taken to locate documents - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(e) and 52 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - documents relating to the applicant and their interactions with the agency - whether disclosure would, on balance, be contrary to public interest - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Police Service (**QPS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to various documents relating to herself and her interactions with QPS (**Current Application**).
2. QPS decided² to refuse to deal³ with the Current Application on the basis that it sought access to the same documents sought in a previous application.
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision refusing to deal with the Current Application.
4. During the external review, QPS accepted that it could not refuse to deal with Items 1 and 2 of the Current Application and, following searches, located 62 pages and agreed to release 22 pages and parts of 40 pages to the applicant.
5. For the reasons set out below, I vary QPS's decision and find that:
 - QPS may refuse to deal with Items 3 and 4 of the Current Application
 - access to further documents may be refused on the ground that they are nonexistent or unlocatable; and
 - access to information contained within parts of 40 pages may be refused on the ground that disclosure would, on balance, be contrary to the public interest.

Preliminary issue - alleged bias

6. The applicant has requested that I be removed from her matters⁵ and alleged that I have an undisclosed bias against her.⁶ I have issued previous decisions involving the same applicant in which she raised this issue. As I did on those occasions,⁷ I have carefully considered these submissions, alongside the High Court's test for assessing apprehended bias for a decision maker. The High Court's test requires consideration of *'if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question the judge is required to decide'*.⁸ The High Court has also noted that *'[t]he question of whether a fair-minded lay observer might reasonably apprehend a lack of impartiality with respect to the decision to be made is largely a factual one, albeit one which it is necessary to consider in the legal, statutory and factual contexts in which the decision is made'*.⁹
7. OIC is an independent statutory body that conducts merits review of government decisions about access to, and amendment of, documents. The procedure to be followed on external review is, subject to the IP Act, within the discretion of the Information Commissioner.¹⁰ In order to ensure procedural fairness (as required by both the IP Act¹¹ and common law), it is the practice of OIC to convey a preliminary view,

¹ By access application dated 29 March 2019.

² Decision dated 8 May 2019.

³ Under section 62 of the IP Act.

⁴ External review application dated 8 May 2020.

⁵ Emailed submission dated 27 February 2020.

⁶ Emailed submission dated 12 March 2020.

⁷ I have not listed these previous decisions to protect the applicant's privacy.

⁸ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at [6] per Gleeson CJ, McHugh, Gummow and Hayne JJ. See also *Michael Wilson & Partners Limited v Nicholls* (2011) 244 CLR 427 at [31] per Gummow ACJ, Hayne, Crennan and Bell JJ.

⁹ *Isbester v Knox City Council* (2015) 255 CLR 135 at [20] per Kiefel, Bell, Keane and Nettle JJ.

¹⁰ Section 108 of the IP Act.

¹¹ Section 110 of the IP Act.

based on an assessment of the material before the Information Commissioner or her delegate at that time, to an adversely affected party. This appraises that party of the issues under consideration and affords them the opportunity to put forward any further information they consider relevant to those issues.

8. During this external review, I conveyed¹² preliminary views to the applicant that QPS may refuse to deal with Items 3 and 4 of the Current Application, access to further documents may be refused on the basis that they are nonexistent or unlocatable and access to some information can be refused on the ground that disclosure would, on balance, be contrary to the public interest. I advised the applicant that the purpose of my letters was to give her the opportunity to put forward her views, and if she provided additional information supporting her case, this would be considered and could alter the outcome.¹³
9. For this decision, I am the delegate of the Information Commissioner.¹⁴ I have not to my knowledge dealt with the applicant in any capacity prior to her reviews and cannot identify any conflict of interest in my dealing with her application for review of QPS's decision. I do not consider the fact that the applicant has asked for me to be removed from her matters has altered my conduct of the review or consideration of the issues before me in any way. In these circumstances, paraphrasing the High Court's test, I am unable to identify any basis for finding that a fair-minded lay observer might reasonably apprehend that I¹⁵ might not bring an impartial and unprejudiced mind to the resolution of this matter. Accordingly, I have proceeded to make this decision.

Background

10. Significant procedural steps taken during the external review are set out in the Appendix to this decision.
11. The applicant has previously requested that all her matters be finalised by way of written decision that can be appealed to the Queensland Civil and Administrative Tribunal.

Reviewable decision

12. The decision under review is QPS's decision dated 8 May 2019.

Evidence considered

13. The applicant frequently emailed the OIC during the review, often making submissions within the emails or attachments. I have considered all this material where relevant.
14. In reaching my decision, I have had regard to the submissions, evidence, legislation, and other material referred to throughout these reasons (including footnotes and Appendix).
15. Generally, it is necessary that I have regard to the *Human Rights Act 2019* (Qld) (**HR Act**) given that section 11(1) of the HR Act provides that '[a]ll individuals **in Queensland** have human rights' (my emphasis). In this matter however, I understand that the applicant does not currently reside in Queensland. Accordingly, I am not required to have regard to the HR Act vis a vis the applicant in this review. Nonetheless I have had regard to the HR Act, particularly the right to seek and receive information,¹⁶ as if the applicant was in Queensland. I consider a decision-maker will be '*respecting and acting*

¹² Letters to the applicant dated 26 February 2020 and 6 October 2020.

¹³ Footnote 1 of the letter to applicant dated 26 February 2020 and footnote 2 of the letter to the applicant dated 6 October 2020.

¹⁴ Section 139 of the IP Act.

¹⁵ As a delegate of the Information Commissioner under section 139 of the IP Act.

¹⁶ Section 21(2) of the HR Act.

compatibly with the right to seek and receive information, and other rights prescribed in the HR Act, when applying the law prescribed in the IP Act and the *Right to Information Act 2009* (Qld) (**RTI Act**).¹⁷ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.¹⁸ I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:¹⁹ *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.*²⁰

Information in issue

16. The Information in Issue in this review is contained within parts of 40 pages.²¹

Issues for determination

17. The issues for determination in this review are:

- **Refusal to deal:** whether QPS may refuse to deal with Items 3 and 4 of the Current Application.
- **Sufficiency of search:** whether access to documents may be refused on the ground that they are nonexistent or unlocatable.
- **Refusal of access:** whether access to information may be refused on the ground that disclosure would, on balance, be contrary to the public interest.

Refusal to deal

Relevant law

18. Section 62 of the IP Act provides:

62 Previous application for same documents—access application

- (1) *This section applies if—*
 - (a) *an applicant makes an access application, whether under this Act or the Right to Information Act, to an agency or Minister (the **first application**); and*
 - (b) *the applicant makes another access application under this Act (the **later application**) to the same agency or Minister for access to 1 or more of the same documents sought under the first application and the later application does not, on its face, disclose any reasonable basis for again seeking access to the document or documents.*
- (2) *For subsection (1)(a)—*
 - (a) *the first application, if made under this Act—*
 - (i) *does not include an access application taken to have been withdrawn under section 61(4); and*
 - (ii) *if an access application has been narrowed under section 61—means only the access application as changed; and*
 - (b) *the first application, if made under the Right to Information Act—*
 - (i) *does not include an access application taken to have been withdrawn under section 42(4) of that Act; and*

¹⁷ *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].

¹⁸ Section 58(1) of the HR Act provides that it *'is unlawful for a public entity—*

- (a) *to act or make a decision in a way that is not compatible with human rights; or*
- (b) *in making a decision, to fail to give proper consideration to a human right relevant to the decision.*

¹⁹ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

²⁰ *XYZ* at [573].

²¹ Being pages 1, 4-7, 9-18, 21, 23-28, 30, 33-37, 40, 44-47, 50, 53-54 and 57-60.

- (ii) if an access application has been narrowed under section 42 of that Act— means only the access application as changed.
- (3) The agency or Minister may refuse to deal with the later application to the extent it is for access to a document or documents sought under the first application if—
 - (a) when the later application was made, the agency or Minister had not decided the first application; or
 - (b) in relation to the first application if made under this Act—
 - (i) the applicant had been given notice under section 68 that access was to be given to the document sought or to some or all of the documents sought; or
 - (ii) the agency or Minister had decided that the application was for a document to which this chapter does not apply; or
 - (iii) the agency or Minister had decided the document or documents sought were documents access to which was refused under section 67; or
 - (iv) the agency or Minister had refused to deal with it under this part; or
 - (c) in relation to the first application, if made under the Right to Information Act—
 - (i) the applicant had been given notice under section 54 of that Act that access was to be given to the document sought or to some or all the documents sought; or
 - (ii) the agency or Minister had decided that the application was for a document to which that Act does not apply; or
 - (iii) the agency or Minister had decided the document or documents sought were documents access to which was refused under section 47 of that Act; or
 - (iv) the agency or Minister had refused to deal with it under chapter 3, part 4 of that Act; or
 - (d) the agency's or Minister's decision on the first application—
 - (i) is the subject of a review and the review is not complete; or
 - (ii) has been the subject of a completed review (other than an internal review).
- (4) For subsection (3), if a document sought under the later application is merely a record of the first application having been made (a **record document**), access to a record document is taken to have been sought under the first application.
- (5) For subsection (3)(d)—**review** means—
 - (a) an internal review under this Act or the Right to Information Act; or
 - (b) an external review under this Act or the Right to Information Act; or
 - (c) a proceeding under part 11 or under the Right to Information Act, chapter 3, part 11.
- (6) For subsection (3)(d), a review is complete if the review has ended because of an informal resolution or because of a decision of the entity conducting the review.

Findings

Does the Current Application seek access to one or more of the same documents sought under a previous application?

- 19. Yes, in part, for the following reasons.
- 20. The Current Application seeks access to, for the period 1 January 2011²² to 29 March 2019:

... All ministerial emails and documents about me All documents, texts and emails about me to or from Gold Coast Bulletin, or any of their staff or other media. All documents and emails about me generated or received or sent by police media officers. [Item 1]

All emails and documents organised for, searched for and related to my Blue Card application [Item 2]

²² While the Current Application did not specify a timeframe for responsive documents, I consider it reasonable to proceed on the basis that the start date for this timeframe is 1 January 2011, noting that this was the start date specified for the Previous Application as set out at paragraph 21 below.

All security related warnings sent by QPS to staff of courts, judicial officers, Premier, hospitals, Gold Coast City Council such as workplace health and safety warnings, risk notices, or to alert that I am a danger to others. [Item 3]

My ESC file - All documents and communications about me and my complaints made to Ethical Standards, including all emails and other documents relating to my ESC complaints, investigations of those complaints and related evidence collected. If complaints were referred to ESC on my behalf such as from CCC or CMC or anyone else, for example, ministers' offices or any public servants or medical staff etc, I would like to have all related documents. [Item 4]

21. By application dated 20 February 2019 (**Previous Application**), the applicant sought access to, for the period 1 January 2011 to 20 February 2019:
1. *All ministerial emails and documents about me. All documents, texts and emails about me to or from Gold Coast Bulletin, or any of their staff or other media. All documents and emails about me generated or received or sent by police media officers*
 2. *All emails and documents organised for, searched for and related to my Blue Card application*
 3. *All security related warnings sent by QPS to staff of courts, judicial officers, Premier, hospitals, Gold Coast City Council such as workplace health and safety warnings, risk notices, or to alert that I am a danger to others.*
 4. *My ESC file. All documents and communications about me and my complaints made to Ethical Standards, including all emails and other documents relating to my ESC complaints, and related evidence collected. If complaints were referred to ESC on my behalf such as from CCC or CMC or anyone else, for example, ministers' offices or any public servants or medical staff etc, I would like to have all related documents.*
22. The Previous Application was the subject of an external review by OIC (external review 314572) which was finalised by decision on 24 February 2020. Relevantly, I made a finding of fact that the scope of the Previous Application was narrowed to request numbers 3 and 4 only following QPS's consultation with the applicant during the processing period.²³
23. Having carefully considered the above scopes, I am satisfied that Items 3 and 4 of the Current Application seek access to the same documents sought in the narrowed scope of the Previous Application.

Does section 62(3)(d)(ii) of the IP Act apply to QPS's decision in respect of the Previous Application?

24. Yes. The Previous Application was the subject of a completed external review, in respect of the narrowed scope.
25. Following receipt of QPS's decision on the Previous Application, the applicant lodged an application for external review of QPS's decision (external review 314572).
26. As noted at paragraph 22 above, external review 314572 was finalised by decision on 24 February 2020 on the basis that processing the narrowed scope of the Previous Application would not substantially and unreasonably divert QPS resources from their use by QPS in performance of its functions and the matter reverted to QPS for action.

²³ See G46 and Queensland Police Service [2020] QICmr 11 (24 February 2020).

27. Based on the above, I am satisfied that section 62(3)(d)(ii) of the IP Act applies to QPS's decision in respect of the Previous Application, in relation to the narrowed scope, as it was the subject of a completed external review.

Does the Current Application, on its face, disclose any reasonable basis for again seeking access to the information?

28. No, the Current Application does not, on its face, give any reason for seeking access to the information sought at Items 3 and 4. It does not refer to the Previous Application and there is nothing in the Current Application which discloses a reasonable basis for the applicant to again seek access to the information sought at Items 3 and 4.

Conclusion

29. Based on the above, I am satisfied that:
- the information sought at Items 3 and 4 in the Current Application:
 - was the subject of the Previous Application; and
 - was the subject of finalised external review 314572; and
 - the Current Application, on its face, does not disclose any reasonable basis for again seeking access to the information sought at Items 3 and 4.
30. Accordingly, I find that QPS may refuse to deal with Items 3 and 4 of the Current Application, as those Items were the subject of the Previous Application which was the subject of a finalised external review.

Sufficiency of search

Relevant law

31. Under the IP Act, an individual has the right to access documents of an agency to the extent they contain the individual's personal information.²⁴ However this right is subject to certain limitations, including grounds for refusing access.²⁵
32. Access to a document may be refused if the document is nonexistent or unlocatable.²⁶ A document is nonexistent²⁷ if there are reasonable grounds to be satisfied that the document does not exist. A document is unlocatable²⁸ if it has been or should be in the agency's possession and all reasonable steps have been taken to find it, but it cannot be found. Where circumstances that account for nonexistent and unlocatable documents are adequately explained by an agency, it will not be necessary for the agency to conduct additional searches.
33. On external review, if an applicant contends that all relevant documents have not been located, then the applicant must show there are reasonable grounds to believe that the agency or Minister has not searched properly to locate all documents. A mere assertion that more documents should have been created and/or located without any specific evidence or cogent argument pointing to the likely existence of further documents is not sufficient to found a reasonable belief as to the existence of further relevant documents.

²⁴ Section 43 of the IP Act.

²⁵ Section 67(1) of the IP Act and section 47 of the RTI Act.

²⁶ Sections 47(3)(e) and 52(1) of the RTI Act.

²⁷ Section 52(1)(a) of the RTI Act.

²⁸ Section 52(1)(b) of the RTI Act.

Findings

34. Following QPS accepting OIC's preliminary view that QPS could not refuse to deal with Items 1 and 2 of the Current Application, OIC requested that QPS conduct searches for responsive documents. QPS has provided OIC with records of the searches conducted and a submission about those searches. In summary, QPS submits:²⁹
- searches were conducted of the Ministerial Liaison Officer email account (including archived emails) and with the Media and Public Affairs Group and Police Information Centre
 - searches of the Ministerial Liaison Officer email account did not locate any emails for the period 2011 to 2013; and
 - enquiries were also made with the Blue Card Operations Leader who advised that the only role QPS plays in relation to Blue Card applications is that upon a request from Blue Card Services, the Police Information Centre supplies a copy of a person's national criminal charge history and, if requested, further information such as copies of QP9 and statements.
35. As a result of these searches, QPS located 62 pages and agreed to release 22 pages³⁰ and parts of 40 pages³¹ to the applicant.
36. Based on the information before OIC, I am satisfied that the searches undertaken by QPS, and the locations searched, for documents which respond to Items 1 and 2 of the Current Application were appropriately targeted and reasonable given the type of information sought.
37. Other than asserting that further documents should be located, the applicant did not provide further submissions, cogent argument or specific evidence as to the existence of the documents sought.
38. In the absence of specific evidence or cogent argument from the applicant pointing to the existence of further documents, and in light of the targeted nature of the searches conducted, I am satisfied that all reasonable searches for documents in response to Items 1 and 2 of the Current Application have been conducted, and that it is not necessary for any further searches to be conducted. On this basis, I find that access to further documents responsive to Items 1 and 2 of the Current Application may be refused on the basis that the documents sought are nonexistent or unlocatable.

Refusal of access

Relevant law

39. The Information in Issue comprises contact details of Ministerial staff and staff who worked on Blue Card tasks³² and names of other individuals.³³

²⁹ Submission to OIC dated 24 July 2020 and enclosed search material.

³⁰ Being pages 2-3, 8, 19-20, 22, 29, 31-32, 38-39, 41-43, 48-49, 51-52, 55-56 and 61-62.

³¹ Being pages 1, 4-7, 9-18, 21, 23-28, 30, 33-37, 40, 44-47, 50, 53-54 and 57-60.

³² Contained within parts of 31 pages (pages 1, 6-7, 11-18, 23-28, 33-37, 44-47, 53-54 and 58-60).

³³ Contained within parts of 9 pages (pages 4-5, 9-10, 21, 30, 40, 50 and 57).

40. An agency may refuse access to information where its disclosure would, on balance, be contrary to the public interest.³⁴ The RTI Act identifies many factors that may be relevant to deciding the balance of the public interest³⁵ and explains the steps that the decision-maker must take³⁶ in deciding the public interest as follows:
- identify any irrelevant factors and disregard them³⁷
 - 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.

Findings

Irrelevant factors

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

Factors favouring disclosure

42. QPS must be transparent and accountable in how it deals with members of the public.³⁸ The Information In Issue comprises the names, direct contact details such as telephone and mobile numbers and identification numbers of Ministerial support staff, staff who worked on Blue Card tasks and third parties appearing in the context of responding to and dealing with complaints received from the applicant and processing requests from Blue Card Services for the applicant's national criminal charge history. I accept that disclosing this information would advance these factors to some degree. However, I do not consider that disclosure of the Information in Issue would advance QPS's accountability and transparency in any significant way, particularly given the applicant has been provided with all of the information which relates to herself. I am satisfied that the information which has been disclosed to the applicant furthers her understanding of how her complaints were handled and the results of the national criminal charge history requests, thereby reducing the weight to be afforded to these factors. Accordingly, I afford these two factors favouring disclosure low weight.

Factors favouring nondisclosure

43. The RTI Act recognises that disclosing an individual's personal information to someone else can reasonably be expected to cause a public interest harm (**Harm Factor**)³⁹ and that a further factor favouring nondisclosure arises if disclosing information could reasonably be expected to prejudice the protection of an individual's right to privacy (**Privacy Factor**).⁴⁰

³⁴ Section 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.

³⁵ 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.

³⁶ Section 49(3) of the RTI Act.

³⁷ In my view, no irrelevant factors arise in the circumstances of this case.

³⁸ Schedule 4, part 2, items 1 and 3 of the RTI Act.

³⁹ Schedule 4, part 4, section 6(1) of the RTI Act.

⁴⁰ Schedule 4, part 3, item 3 of the RTI Act.

Direct contact details and names of Ministerial support staff and staff who worked on Blue Card tasks

44. I will first look at the application of the Harm Factor to the direct contact details and the names of Ministerial support staff and staff who worked on Blue Card tasks. In relation to the application of the Harm Factor the question arises whether such information is routine personal work information. If it *is* routine personal work information the potential harm that could be caused by disclosure will, in most circumstances, be minimal. If it is *not* routine personal work information, it is likely that the Harm Factor in favour of non-disclosure applies to preclude disclosure. Routine personal work information is information that is solely and wholly related to the routine day to day work duties and responsibilities of a public sector employee, such as a work email address or phone number, a professional opinion given wholly in a professional capacity or a work responsibility. Information that is not related wholly to the routine day to day work activities of a public sector employee is not routine personal work information, such as complaints made by or about a public sector employee, leave details and opinions about another public sector employee.⁴¹ In this matter, as the relevant information comprises direct contact details and names of Ministerial support staff and staff who worked on Blue Card tasks, I am satisfied that it comprises routine personal work information. Given the routine nature of the information, while I consider that the harm factor applies, I attribute it negligible weight only.
45. The concept of privacy is not defined in the IP Act or RTI Act, but it can be viewed as the right of an individual to preserve their ‘personal sphere’ free from interference from others.⁴² In terms of the application of the Privacy Factor to the direct contact details and the names of Ministerial support staff and staff who worked on Blue Card tasks, I have taken note of the specific context of the information within a series of complaints to the Minister arising from the applicant’s concerns across multiple agencies and individuals. I have also noted that both the released information and the applicant’s submissions indicate that the applicant frequently attempts to engage particular public service officers with her concerns in a manner that becomes increasingly agitated, accusatory and derogatory when they fail to agree with her. I also note that disclosure of the direct contact details would allow officers to be contacted directly and/or outside of work hours. In these particular circumstances, I am satisfied that disclosure could reasonably be expected to cause a moderate level of prejudice to the right of the individuals in question to preserve their personal spheres free from interference. Therefore, I afford the Privacy Factor moderate weight with respect to the direct contact details and the names of Ministerial support staff and staff who worked on Blue Card tasks.

Identification numbers

46. In terms of the identification numbers, I am satisfied that this information is not wholly related to routine day to day work duties and responsibilities, but rather, falls within the relevant public servants’ personal spheres, attaching to them information about leave, work history and various other human resources information. Given this, the identification numbers do not, in my opinion, constitute routine personal work information. Considering the private yet relatively prosaic nature of this information, I attribute moderate weight to both the Harm Factor and the Privacy Factor.

⁴¹ For further information, see OIC’s guideline at <<https://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/processing-applications/routine-personal-work-information-of-public-sector-employees>>

⁴² *Matthews and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 23 June 2011) at [22] 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 11 August 2008, at paragraph 1.56. The report is available at <https://www.alrc.gov.au/wp-content/uploads/2019/08/108_vol1.pdf>

Names of third parties

47. In relation to the names of third parties, this information is cited in some of the applicant's complaints as a victim of crime or a whistle-blower. Although the applicant provided these names to the Office of the Minister for Police, and is consequently aware of them, I am satisfied that their disclosure, particularly in the context of the surrounding information which has been released by QPS, would substantially impinge on the relevant individuals' private sphere. I consider that both the Harm Factor and the Privacy Factor are applicable and give each factor significant weight.

Balancing the public interest

48. I have considered the pro-disclosure bias in deciding access to information.⁴³ On balance, I consider the nondisclosure factors outweigh the disclosure factors in relation to the Information in Issue. Accordingly, I am satisfied that access to the Information in Issue may be refused on the basis that its disclosure would, on balance, be contrary to the public interest.

DECISION

49. For the reasons set out above, I vary QPS's decision and find that:
- QPS may refuse to deal with Items 3 and 4 of the Current Application under section 62 of the IP Act
 - access to documents may be refused on the ground that they are nonexistent or unlocatable under sections 47(3)(e) and 52 of the RTI Act; and
 - the Information in Issue may be refused on the ground that its disclosure would, on balance, be contrary to the public interest under section 47(3)(b) of the RTI Act.
50. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Assistant Information Commissioner Corby

Date: 7 December 2020

⁴³ Section 44 of the RTI Act.

APPENDIX

Significant procedural steps

Date	Event
8 May 2019	OIC received the applicant's application for external review.
10 May 2019	OIC notified the QPS and the applicant that the application for external review had been received and requested procedural documents from QPS.
4 June 2019	OIC received the requested documents from QPS.
10 June 2019	OIC notified QPS and the applicant that the application for external review had been accepted.
8 August 2019	OIC received an emailed submission from the applicant.
19 August 2019	OIC received an emailed submission from the applicant.
27 August 2019	OIC received an emailed submission from the applicant.
28 August 2019	OIC received two emailed submissions from the applicant.
11 September 2019	OIC received an emailed submission from the applicant.
12 September 2019	OIC received an emailed submission from the applicant.
17 September 2019	OIC received an emailed submission from the applicant.
19 September 2019	OIC received an emailed submission from the applicant.
20 September 2019	OIC received an emailed submission from the applicant.
25 September 2019	OIC wrote to the applicant about their external reviews.
26 February 2020	OIC conveyed preliminary views to the applicant and QPS.
27 February 2020	OIC received an emailed submission from the applicant.
5 March 2020	OIC received an emailed submission from the applicant.
11 March 2020	OIC received an emailed submission from the applicant.
12 March 2020	OIC received an emailed submission from the applicant.
16 March 2020	OIC received a submission from QPS.
16 April 2020	OIC conveyed a further preliminary view to QPS.
25 May 2020	OIC received QPS's response accepting the preliminary view.
4 June 2020	OIC wrote to QPS requesting that QPS conduct searches for documents and provide OIC with: <ul style="list-style-type: none"> • records of the searches conducted • a copy of any documents located; and • a submission in support of QPS's view if QPS maintains that access to any information within the located documents can be refused.
6 June 2020	OIC received an emailed submission from the applicant.
9 July 2020	OIC received an emailed submission from the applicant.
22 July 2020	OIC received a submission from QPS.

Date	Event
24 July 2020	OIC received a submission, a copy of the documents located and records of the searches conducted from QPS.
11 August 2020	OIC received an emailed submission from the applicant.
4 September 2020	OIC received an emailed submission from the applicant.
18 September 2020	OIC conveyed a preliminary view to QPS. OIC received QPS's response accepting the preliminary view.
6 October 2020	OIC conveyed a preliminary view to the applicant. OIC requested QPS arrange to information to be released to the applicant as agreed. OIC received an emailed submission from the applicant.
27 October 2020	OIC received confirmation that QPS had arranged for information to be released to the applicant as agreed.