



Decision and Reasons for Decision

Citation:	<i>Lucas and The University of Queensland</i> [2017] QICmr 14 (7 April 2017)
Application Number:	312838
Applicant:	Lucas
Respondent:	The University of Queensland
Decision Date:	7 April 2017
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - university exam marking guide information - enhancing transparency and procedural fairness - potential prejudice to testing procedures - whether disclosure of the marking guide 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)

REASONS FOR DECISION

Summary

1. At the relevant time, the applicant was an undergraduate student at The University of Queensland (**UQ**), enrolled in Bachelor of Engineering/Bachelor of Arts degrees. He applied to UQ under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to various categories of documents relating to an examination he sat in November 2015 in CIVL3510 (Introduction to Project Management) and the refusal by UQ of his request for a re-mark of his examination paper.¹
2. By decision dated 4 May 2016, UQ advised the applicant that it had located 160 pages that responded to the terms of the application. UQ decided to give the applicant full access to 54 pages, part access to 30 pages, and to refuse access to 76 pages.
3. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of UQ's refusal of access decision.² During the review, UQ agreed to release some information to which it had initially refused access. UQ also invited the applicant to inspect the marking guide for CIVL3510 in an effort to informally resolve the review. However, the applicant declined this offer of inspection, electing to continue with his request to be provided with a copy of the marking guide information.
4. For the reasons set out below, I affirm UQ's decision to refuse access to the marking guide information. I find that disclosure would, on balance, be contrary to the public

¹ Access application dated 24 March 2016.

² External review application received 24 May 2016.

interest and therefore, access to the information may be refused under section 47(3)(b) of the RTI Act.

Background

5. The final exam in CIVL3510 accounted for 70% of the course's overall assessment and was designed to address all eight learning objectives set for the course. The applicant sought and received feedback from relevant staff following receipt of his examination results, including two meetings with lecturers. During these meetings, the applicant was shown relevant material, including the unpublished marking guide for CIVL3510.
6. The applicant then applied for an assessment re-mark under UQ's Policy and Procedures Library (**PPL**).³ His application was refused on the grounds that no sound academic case had been presented to justify a re-mark.
7. The applicant then sought administrative access⁴ to relevant documents to enable him to pursue an appeal against UQ's refusal of a re-mark. Following a meeting with UQ's RTI decision-maker, the applicant proceeded to lodge his access application under the RTI Act, as referred to at paragraph 1 above.
8. During the external review, UQ agreed to release some further information in issue to the applicant. However, UQ continued to object to the release of the examination marking guide, and to those parts of a letter from a course lecturer to the Head of the School of Civil Engineering that contained extracts from the marking guide or that reflected its contents.
9. Submissions were exchanged between the parties on a number of occasions, with each being given the opportunity to respond to the arguments made by the other. In the late stages of the review, UQ proposed that the review could be resolved by giving the applicant a further opportunity for a supervised inspection of the marking guide. However, the applicant refused this proposal on the grounds that he required 'unfettered access' to the marking guide in order to complete his appeal to the Senate Student Appeals Committee.
10. The Appendix to these reasons for decision sets out the significant procedural steps taken during the external review.

Reviewable decision

11. The decision under review is UQ's decision dated 4 May 2016.

Material considered

12. Evidence, submissions, legislation and other material considered in reaching this decision are disclosed in these reasons (including footnotes and the appendix).

Information in issue

13. For the purpose of this decision, the information remaining in issue (**Information in Issue**) comprises:

³ 3.10.10 *Assessment Re-mark*.

⁴ Under section 5.1 of PPL 1.60.01 *Right to Information*.

- UQ's marking guide for the semester 2, 2015 exam for CIVL3510 – Introduction to Project Management⁵; and
- parts of a letter dated 24 February 2016 from Dr David Finch (Visiting Lecturer) to Professor Jose Torero (Head, School of Civil Engineering) that comprise extracts of the marking guide, or otherwise reflect the contents of the marking guide.⁶

Relevant law - public interest balancing test

14. Under the RTI Act, a person has a right to be given access to documents of an agency.⁷ However, this right is subject to limitations, including grounds on which access may be refused.⁸ One ground for refusing access is where disclosure would, on balance, be contrary to the public interest.⁹
15. 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.
16. The RTI Act identifies many factors that may be relevant to deciding the balance of the public interest¹⁰ and explains the steps that a decision-maker must take, as follows:¹¹
 - 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 in issue would, on balance, be contrary to the public interest.

Submissions - summary

17. Both parties provided a number of submissions to OIC during the course of the review. In the interest of brevity, I have distilled the central issues raised by each party and summarised the relevant arguments. However, in making my decision, I have given careful consideration to all relevant issues raised by the parties in their submissions.
18. The applicant argues that the weight of the public interest favours disclosure of the Information in Issue. The central factors favouring disclosure upon which the applicant relies are:¹²
 - disclosure could reasonably be expected to advance the fair treatment of individuals in accordance with the law in their dealings with agencies¹³
 - disclosure could reasonably be expected to enhance UQ's accountability in respect of academic process as well as the assessment and grading of CIVL3510¹⁴

⁵ School File pages 000058 to 000081.

⁶ Appearing on the Faculty File (pp. 000014 to 000018), with duplicate copies appearing on the School File (pp. 000083 to 000087) and Student File (pp. 000016 to 000020).

⁷ Section 23 of the RTI Act.

⁸ As set out in section 47 of the RTI Act.

⁹ Sections 47(3)(b) and 49 of the RTI Act.

¹⁰ Schedule 4 of the RTI Act – a non-exhaustive itemisation of potentially relevant public interest considerations.

¹¹ Section 49(3) of the RTI Act.

¹² Applicant's external review application dated 21 May 2016 and his submissions to OIC dated 6 June 2016, 12 September 2016 and 1 December 2016.

¹³ Schedule 4, part 2, item 10 of the RTI Act.

¹⁴ Schedule 4, part 2, item 1 of the RTI Act.

- disclosure could reasonably be expected to reveal the reason for decisions made in awarding specific grades for examination questions as well as providing contextual/background information that informed the decision to award the applicant the marks he received¹⁵
 - disclosure could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;¹⁶ and
 - disclosure could reasonably be expected to contribute to the administration of justice and procedural fairness by providing information necessary for a party to substantiate their case.¹⁷
19. The applicant submits that he cannot demonstrate a ‘*sound written academic case*’ for a re-mark of his examination paper (that is, in terms of lodging an appeal to the Senate Student Appeals Committee) without access to the Information in Issue.¹⁸
20. UQ contends that disclosure of the Information in Issue would, on balance, be contrary to the public interest within the meaning of section 49 of the RTI Act and, in summary, relies upon the following factors favouring nondisclosure:¹⁹
- disclosure could reasonably be expected to prejudice the effectiveness of testing or auditing procedures;²⁰ and
 - disclosure could reasonably be expected to cause a public interest harm by prejudicing the effectiveness of a method or procedure for the conduct of tests, examinations or audits by an agency.²¹

Analysis

Irrelevant factors

21. I have taken no irrelevant factors into account in making my decision in this review.

Factors favouring disclosure

22. The applicant’s arguments in support of public interest disclosure factors to the Information in Issue can be summarised as follows:
- disclosure would enhance the accountability of UQ by allowing the applicant to satisfy himself that his examination paper was marked fairly and that UQ had followed its marking guide and other relevant policies and procedures
 - disclosure would allow the applicant to identify any deficiencies in the conduct of UQ or its staff as regards the marking of the applicant’s examination
 - access to the Information in Issue is required to enable the applicant to finalise his appeal to the Senate Student Appeals Committee
 - an examination marking guide is part of the assessment criteria for a course and students are required to reference it when applying for an assessment re-mark
 - UQ’s policies and procedures provide for criterion-referenced and transparent assessment: the marking guide in issue is the ‘explicit and pre-determined criteria for the CIVL3510 examination’ and is therefore required to be disclosed in accordance with UQ’s obligation to be transparent; and

¹⁵ Schedule 4, part 2, item 11 of the RTI Act.

¹⁶ Schedule 4, part 2, item 6 of the RTI Act.

¹⁷ Schedule 4, part 2, item 16 of the RTI Act.

¹⁸ Applicant’s submission dated 12 September 2016.

¹⁹ UQ’s submissions to OIC dated 10 October 2016 and 3 November 2016.

²⁰ Schedule 4, part 3, item 21 of the RTI Act.

²¹ Schedule 4, part 4, section 3(a) of the RTI Act.

- decisions in other jurisdictions²² as well as academic papers have recognised that marking guides should be disclosed to students and that to do so is part of good pedagogical practice.
23. In response, UQ argued that, contrary to submissions made by the applicant, UQ's various policies and procedures do not provide a right of access to marking guides. UQ distinguished between marking guides, marking schemes, model answers and assessment criteria. Relevantly, UQ stated as follows:²³
- Model Answers:** *These represent typical responses that are deemed as acceptable for a question. For questions that are not purely quantitative, these could have different variants that are all acceptable.*
- Marking scheme:** *For problems that have multiple components and where marks are allocated for each specific component it is possible to establish a marking scheme that allows for a breakdown of the marks.*
- Marking Guideline:** *An examiner, or in particular multiple examiners, can agree to explicitly communicate among themselves through a written document the manner in which exam answers will be interpreted. This might be done in a spirit of fairness and homogeneity and can be done among multiple individuals marking the same exam or by an individual who wants to have an aide when marking multiple exams.*
- Assessment criteria:** *the criteria and standards by which the task will be assessed. Assessment criteria is different to a marking guide.*
24. UQ submitted clause 2.3 of the *Student Charter*²⁴ provides that students can expect access to examination marks and scripts, together with appropriate feedback, following release of results. Clause 4.5.1 of *Assessment - Procedures*²⁵ provides that students are, on request, given the marking scheme or model answers used to allocate marks or grades, or other forms of feedback from the examiner. UQ noted that the access to information provisions contained in *Assessment - Procedures* do not apply to marking guides, thereby recognising the importance of protecting marking guides when necessary and maintaining the integrity of UQ's examinations. UQ contended that it had complied with the requirements of *Assessment - Procedures* which requires that students be provided with feedback about examination results, but permits flexibility in the way in which feedback is provided. UQ stated that it had facilitated two feedback sessions between the applicant and the course coordinator and course lecturer, and the applicant had been given detailed feedback on the examination, including permitting him to view the examination marking guide.
25. UQ argued that the applicant has sufficient information to lodge an appeal with the Senate Student Appeals Committee against the decision to refuse a re-mark of his examination paper and that his appeal is not dependent upon gaining access to the Information in Issue. It reiterated that it had offered the applicant another opportunity to view the marking guide, which he had declined.
26. UQ also submitted that the Victorian decision in *McKean* was not binding and that the relevant provision of the *Freedom of Information Act 1982* (Vic) (**Victorian FOI Act**) considered in that case is significantly different to the provisions of the RTI Act that are under consideration in this review.

²² Particularly, *University of Melbourne v McKean* [2008] VSC 325 (**McKean**) which upheld a decision of Deputy President Dwyer of the Victorian Civil and Administrative Tribunal (**VCAT**).

²³ UQ's submission dated 10 October 2016.

²⁴ PPL 3.60.01.

²⁵ PPL 3.10.02.

27. Based on the information available to me in this review, I have been unable to identify any other public interest factor favouring disclosure of the Information in Issue. For example, there is no evidence to indicate that disclosure could reasonably be expected to reveal information that is incorrect, unfairly subjective, out of date or irrelevant.²⁶

Factors favouring nondisclosure

28. UQ's arguments in support of the application of public interest nondisclosure factors to the Information in Issue can be summarised as follows:

- disclosure would seriously compromise the educational value of future examinations and prejudice UQ's examinations process
- the Information in Issue evidences the philosophy behind the intent of the examination questions and its disclosure would enable students to anticipate the emphasis of questions in future exams in CIVL3510
- the Information in Issue serves to bridge the learning objective that an examination needs to assess, and the way the examination questions attempt to establish how those learning objectives have been met; and
- a marking guide is part of the professional judgement of an academic: it enables an academic to establish the means by which a student has met the required objectives and only a professional in the subject can adjudicate on such a matter.

29. More specifically, UQ's Deputy Vice-Chancellor (Academic) submitted²⁷:

Marking guides provide detailed, but almost always incomplete, information on how marks should be assigned to student answers. In many cases, these marking guides detail likely mistakes that students may make and the consequent marks or mark deductions that may be appropriate in those cases. For some question types, releasing such information to students will impact future testing, by providing students with likely guidance on the marks they might earn or lose for the presence or absence of particular characteristics of the answer (e.g. presence of certain words, diagrams etc.). This will change the way some students answer such questions, e.g. by trying to ensure the presence/absence of certain aspects of the answer rather than attempting to answer the whole question itself. This may encourage "surface learning" amongst some students...

Many exam question types are similar from course offering to course offering, e.g. requiring students to apply a similar process to data or a context that changes from exam to exam. Having a marking guide from a previous exam question of the same type will likely compromise the effectiveness of this type of question. In many courses, there are very limited types of questions that can be asked.

30. In response, the applicant argued against UQ's position that disclosure of the Information in Issue would seriously compromise the educational value of future examinations and raised the following points in support of his position:

- the 2015 final examination for CIVL3510 was fundamentally different from the 2014 final examination: the highly varied content shows that disclosure of the marking guide would not seriously compromise the educational value of future exams
- further changes to CIVL3510 occurred in 2016, including making the final exam 'open book', which counters UQ's argument that marking guide information could be used by future students to prejudice the effectiveness of the exam
- UQ's decision-maker is not an academic and is not qualified to make definitive statements on matters of educational value or effective testing procedures

²⁶ Schedule 4, part 2, item 12 of the RTI Act.

²⁷ UQ's submission dated 3 November 2016.

- the marking guide was made available in open view during feedback sessions; this contradicts UQ's position that its disclosure would prejudice the effectiveness of future examinations
- there is little difficulty or time involved in staff creating a new examination each year and they are encouraged to do so; and
- marking guide information has been made available by UQ for other types of assessment and has been made available to the applicant in other civil engineering courses, demonstrating the inconsistency of UQ's approach.²⁸

Discussion

31. Universities discharge an important public function by providing accredited courses in academic and practical education for students seeking formal qualification for professions, such as engineering, in which the community places significant trust. There is therefore, a strong public expectation that universities have in place rigorous assessment processes to ensure that only those students who have attained an appropriate level of competence will be awarded the relevant qualification. There is a strong public interest in universities taking the steps necessary to protect the effectiveness and integrity of their assessment methods and procedures.
32. Balanced against that is the accountability of universities for the way in which they conduct assessment. I accept that there is a public interest in universities conducting assessment methods and procedures as transparently as possible, so that students who are subject to those procedures can be satisfied that they have been assessed fairly and in accordance with agreed guidelines and standards.
33. UQ's position is that, while it strives to make its assessment methods and procedures as transparent as possible, it must protect from disclosure, information which would prejudice the integrity and future effectiveness of its examinations. It argues that marking guides comprise information of that nature. Accordingly, nothing in its policies and procedures requires it to give access to examination marking guides as part of the feedback to which students are entitled following the publication of examination results. UQ's *Assessment – Procedures* provides for flexibility in the way in which feedback is provided to students. While students are given access to marking schemes and model answers, and are entitled to a supervised viewing of the examination paper and their own answers, there is no right of access to the marking guide.
34. I do not accept the applicant's contention that a marking guide is part of the assessment criteria for a particular course and that it therefore, must be disclosed for UQ to be transparent and to comply with its own policies. I accept UQ's evidence to the effect that assessment criteria are different from marking guides, and that assessment criteria are those which are set out in a course profile, which is required to be published for every course that UQ offers. I have reviewed the published course profile for CIVL3510 for Semester 2, 2015 and Semester 2, 2016. Each contains detailed information about assessment tasks and formats, weighting, grading criteria and learning objectives. I consider that this comprises the published assessment criteria for CIVL3510.
35. I do not consider that other documents to which the applicant referred in his submissions support the applicant's interpretation of marking guides. He provided a copy of UQ's *Practical Guidelines for Writing Assessment Criteria and Standards*, relying particularly on section v which provides that '*Assessment criteria are intended to increase the transparency of assessment judgments by alerting students to all the factors that **will be** considered in the making of judgments*' (my emphasis). I do not consider that this can

²⁸ The applicant provided material relating to assessment in CIVL2410.

be interpreted as applying to marking guides. It is not realistic to suggest that a university would alert students to the contents of a marking guide that will be considered in the marking of an exam. I agree with UQ that this document has no application or relevance to marking guides.

36. While it may be the case that, following the publication of exam results, access to a marking guide may be given to a student in some circumstances (where, for example, teaching staff are satisfied that, due to the particular characteristics of the assessment piece, to do so would not prejudice the efficacy and integrity of future testing), it is clear that UQ does not adopt access as a blanket approach. It appears that UQ, appropriately in my view, takes a case by case approach regarding the type of feedback that is appropriately given to students, depending on the circumstances of the assessment. Its policies and procedures support that approach. In any event, UQ disputes the relevance of the material that the applicant provided in support of his argument that UQ gave students access to marking guides in another civil engineering subject - CIVL2410. UQ states that the material provided by the applicant relates to marking rubric and solutions for an assignment, and is distinctly different from a marking guide such as is in issue in this review.
37. In terms of the other public interest factors favouring disclosure raised by the applicant, I do not consider that disclosure of the Information in Issue would advance the public interest to any significant extent. I have taken account of the information to which the applicant has already been given access (which includes the examination paper, his answers, and the bulk of a detailed response by the course lecturer about his examination answers and the basis upon which marks were awarded or not awarded), as well as the fact that the applicant has viewed the marking guide and has had two feedback sessions with the course lecturers. As such, I consider that the applicant has been provided with feedback from UQ, as required by section 4.5 of *Assessment - Procedures*²⁹, and has been given access to sufficient information and opportunity to identify whether any grading errors were made; or whether there were any deficiencies in the conduct of UQ staff in marking the applicant's examination paper. I accept UQ's position that the applicant does not require access to the Information in Issue in order to finalise his appeal to the Senate Student Appeals Committee.
38. For the reasons explained at paragraph 35 above, I reject the applicant's argument that section 4.3 of *Assessment Re-mark*³⁰ is referring to marking guides when it states that students should reference '*published assessment criteria*' and '*advertised criteria*' in making their re-mark application. I do not consider that marking guides are part of either the advertised criteria or published assessment criteria for a course.
39. I have reviewed the case of *McKean* relied upon by the applicant, in which the Victorian Supreme Court upheld the decision of VCAT to disclose an examination paper and two marking guides for finance examinations undertaken by the applicant at the University of Melbourne. However, I do not consider that it assists the applicant for the reasons set out below.
40. The relevant provision of the Victorian FOI Act considered in *McKean* is significantly different from the RTI Act provisions being considered in this matter.³¹ Deputy President Dwyer of VCAT noted that Victoria has '*what appears to be a much narrower provision*

²⁹ PPL 3.10.02.

³⁰ PPL 3.10.10.

³¹ The issue on appeal to the Supreme Court of Victoria was whether VCAT erred in law in deciding that the marking guides were not exempt under section 34(4)(c) of the Victorian FOI Act. That section provides that examination documents are exempt where the use for which the document was prepared has not been completed. The RTI Act does not have an equivalent provision.

*in relation to examination material than the Commonwealth and other States.*³² He expressly remarked that if he were making his decision under legislation such as the RTI Act³³ – and it was therefore open to him to find that disclosure may have prejudiced the effectiveness of testing methods or procedures – ‘*it may have been possible ... for me to make a finding, along such lines.*’³⁴

41. In his external review application, the applicant cited remarks by Professor Jim Jackson of Southern Cross University that ‘*good pedagogy means that you do give students access to exam papers and to marking guides, it’s all part of the learning process.*’³⁵ I acknowledge this general contention. However, I also note that previous decisions in Queensland and other Australian jurisdictions regarding access to examination material turn substantially on the *nature* of the documents under consideration and the factual context of the particular case, as noted by Justice Chaney in *H-v-Department of Education*,³⁶ a decision of the Supreme Court of Western Australia affirming a decision of the Information Commissioner of Western Australia refusing access to the questions in a chemistry test paper for a Senior chemistry unit.
42. Turning now to the public interest factors favouring nondisclosure of the Information in Issue, I acknowledge that the RTI Act is to be administered with a pro-disclosure bias,³⁷ and that UQ bears the onus of establishing that access to the Information in Issue may be refused in accordance with the provisions of the RTI Act.³⁸
43. I accept UQ’s submission that disclosure of the Information in Issue would compromise the educational value of future examinations. I also accept that the Information in Issue evidences the philosophy behind the intent of the questions and that, if this information were to be disclosed, students could anticipate the emphasis of questions in future exams in CIVL3510. While the applicant has been given supervised access to the marking guide, I do not consider that this contradicts UQ’s submissions. Supervised access, where a student is permitted to read a document, is significantly different from unfettered access under the RTI Act, which is, in effect, access to the world at large.
44. The applicant contends that the assessment for CIVL3150 has changed significantly since 2015, such that disclosure of the Information in Issue could not reasonably be expected to prejudice future testing in CIVL3510. I acknowledge that there was no mid-semester examination in 2016, this apparently having been replaced by a series of tutorial exercises, but I note that the end of semester exam was retained, the only difference being that it was worth 70% of the course evaluation in 2015, as opposed to 60% in 2016. Both examinations were stated to address all eight learning objectives for the course. I also acknowledge that the 2016 examination was ‘open book’. However, I do not see how that reduces the relevance or value of a marking guide.

³² *McKean* at [24].

³³ Deputy President Dwyer’s reasons at [24] refer to section 40 of the repealed *Freedom of Information Act 1992* (Qld), as his decision in *McKean* was issued prior to the enactment of the RTI Act. The comments remain relevant, however, as the prejudices against which section 40(a) sought to safeguard – prejudice a method for conducting an examination or attaining the objects of an examination – are reflected in the public interest harm factor in schedule 4, part 4, section 3 of the RTI Act.

³⁴ At [25]. This was the case, even though the type of information the Deputy President considered would need to be updated comprised only numbers and examples. The decision in *McKean* is discussed in a previous decision of the Information Commissioner: *Tsai and Griffith University* [2014] QICmr 39 (16 October 2014) at [20].

³⁵ The Australian, “University of Melbourne exam ‘secrets’ come out in court” (3 September 2008) <http://www.theaustralian.com.au/higher-education/secrets-come-out-in-court/news-story/56d402c6f013aac8ced52ad2c5508e4c>, as cited in applicant’s submissions dated 12 September 2016.

³⁶ [2015] WASC 276 at [14].

³⁷ Section 44 of the RTI Act. This accords with the primary object of the Act, being to give a right of access to information in the government’s possession or control, unless, on balance, it is contrary to the public interest to give access. The Act must be applied and interpreted to further the primary object (section 3 of the RTI Act).

³⁸ Section 87(1) of the RTI Act.

45. The nature of the course taught in CIVL3510 is such that the areas of knowledge being tested are relatively narrow. In my view, providing access to the Information in Issue would allow, and perhaps even encourage, students to confine their study efforts to those aspects of the course which they anticipate will maximise their marks, and in particular to, rote learn model answers in some areas of the course rather than engaging with the learning objectives required for the unit as a whole. In such circumstances, it is reasonable to expect that the effectiveness of UQ's testing procedure for CIVL3510 will be impaired because the examination outcomes would not accurately reflect the learning attained by individual students. The risk posed by this public interest harm is particularly significant in the context of examinations which assess student competence for progression toward professional accreditation.

Balancing the public interest

46. Given the material and feedback that the applicant has already received through UQ, I consider that disclosure of the Information in Issue would advance the public interest only minimally. Accordingly and for the reasons explained above, I afford low weight to each of the public interest factors identified at paragraph 18 above, in favour of disclosure of the Information in Issue.
47. I afford significant weight to each of the public interest factors identified at paragraph 20 above, in favour of nondisclosure of the Information in Issue as I am satisfied that its disclosure could reasonably be expected to prejudice the effectiveness of UQ's testing procedure for CIVL3510, and cause a public interest harm by prejudicing the effectiveness of a method or procedure for the conduct of examinations by UQ.
48. On balance, I am satisfied that the nondisclosure factors in this case outweigh the disclosure factors and therefore, I find that disclosure of the Information in Issue would, on balance, be contrary to the public interest under section 49 of the RTI Act.

DECISION

49. I affirm the decision under review. I find that access to the Information in Issue may be refused under section 47(3)(b) of the RTI Act as its disclosure would, on balance, be contrary to the public interest.
50. I have made this decision pursuant to section 110 of the RTI Act, as a delegate of the Information Commissioner under section 145 of the RTI Act.

K Shepherd
Assistant Information Commissioner

Date: 7 April 2017

APPENDIX

Significant procedural steps

Date	Event
24 May 2016	OIC received the external review application, dated 21 May 2016.
31 May 2016	OIC notified the applicant and UQ that it had accepted the external review application and asked UQ to provide a copy of relevant documents, including the information in issue.
6 June 2016	The applicant clarified to OIC the scope of his access application. UQ provided OIC with the requested information.
7 July 2016	OIC requested further information from UQ to support its decision.
20 July 2016	UQ released additional information to the applicant.
26 August 2016	OIC conveyed a preliminary view to the applicant that access to the information remaining in issue may be refused on the basis that disclosure would, on balance, be contrary to the public interest.
12 September 2016	OIC received submissions from the applicant contesting the preliminary view.
23 September 2016	OIC provided UQ with a copy of the applicant's submissions and requested submissions from UQ in response.
10 October 2016	OIC received submissions from UQ.
12 October 2016	OIC wrote to the applicant to convey an offer made by UQ to informally resolve the review, by inspecting the marking guide.
16 October 2016	The applicant contacted OIC to decline the offer of informal resolution.
18 October 2016	OIC requested final submissions from UQ.
3 November 2016	OIC received final submissions from UQ.
4 November 2016	OIC provided the applicant with a copy of UQ's final submissions and requested final submissions from the applicant.
1 December 2016	OIC received final submissions from the applicant.