



Decision and Reasons for Decision

Application Number: 210117

Applicant: Mr R Young

Respondent: Queensland Police Service

Decision Date: 28 February 2007

Catchwords: Arrangements made by an agency – section 22(a) *Freedom of Information Act 1992 (Qld)* – access to documents refused by the Queensland Police Service (QPS)

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Reasons for Decision

Background

1. The applicant seeks review of a decision of the Queensland Police Service (**QPS**) to refuse him access, under the *Freedom of Information Act 1992* (Qld) (**FOI Act**), to documents relating to a traffic accident in which he sustained personal injuries.
2. By letter dated 13 September 2006, Mr King, of Shine Lawyers, applied on behalf of the applicant to the QPS for documents relating to a traffic accident by stating:

... we request that you forward to us any documents that you may hold in relation to the accident including -

- 1. Photographs;*
- 2. Statements;*
- 3. Reports;*
- 4. Police Notebook entries;*
- 5. All documents relating to any traffic incidents since 2000 which have occurred on the stretch of Wynnum Road, Wynnum, which is highlighted in blue on the attached map.*

3. In a decision dated 23 October 2006, P J Robinson, Senior Sergeant, FOI & Privacy Unit, QPS, determined:
 - a) that there were twelve documents which were responsive to the applicant's FOI application;
 - b) that documents numbered 1 to 12 would be released pursuant to section 27(3) of the FOI Act; and
 - c) to refuse access to all documents that are available through another scheme, pursuant to section 22(a) of the FOI Act.
4. Senior Sergeant Robinson indicated that in respect of the documents to which access was refused pursuant to section 22(a) of the FOI Act:

CITEC operates a scheme for the supply of traffic incident information to members of the public, pursuant to section 94 of the Transport Operations (Road Use Management) Act 1995.

The check of the computerised TIRS (TIN: 05/16004), indicated that the investigation into this incident has been finalised.

It is the policy of the QPS:

- to forward all documentation (including sketch plans, TAIS reports and statements) to CITEC on finalisation of the police investigation or enforcement action, with the exception of photographic negatives which are retained by the QPS; and*
- not to retain copies of such documentation ...*

... With regard to point 5 of your letter please note the requested information can be obtained from the Road Crash Data Group, Queensland Transport ...

5. By letter dated 6 November 2006, Mr King sought internal review of Senior Sergeant Robinson's decision, on behalf of the applicant.

6. In a decision dated 27 November 2006, K Rynders, Assistant Commissioner, Metropolitan South Region, decided to uphold Senior Sergeant Robinson's decision, and reiterated that 'the information you request can be obtained through the Road Crash Data Group, Queensland'.
7. By letter dated 4 December 2006, Mr King sought external review of Assistant Commissioner Rynder's decision, on behalf of the applicant.

Steps taken in the external review process

8. On 18 December 2006, a staff member of this office confirmed with Mr King that the scope of the external review is limited to item 5 of the FOI access application (as set out at paragraph 2 above).
9. On 19 December 2006, a staff member of this office made inquiries with staff at Queensland Transport regarding the information available through the Crash Data Unit of Queensland Transport (**Administrative Scheme**). A staff member of the Administrative Scheme indicated that applications to the Administrative Scheme were processed within five working days. This information was conveyed to the applicant's solicitor.
10. On 12 January 2007, a staff member of this office contacted Mr King to determine whether or not the applicant's application pursuant to the Administrative Scheme had been finalised. Mr King indicated that the application was yet to be lodged.
11. By letter dated 17 January 2007, I conveyed to the applicant my preliminary view that the documents sought could be accessed under arrangements made by the QPS and that consequently, the QPS was justified in refusing access to the requested documents, pursuant to section 22(a) of the FOI Act. I indicated that if the applicant contested my preliminary view, he should provide submissions in support of his case by 29 January 2007.
12. By facsimile dated 29 January 2007, Mr King:
 - a) indicated that his client wished to contest my preliminary view; and
 - b) sought an extension of time in which to provide submissions in support of his case.
13. In a telephone discussion between myself and Mr King on 30 January 2007, Mr King indicated that:
 - a) the applicant was primarily seeking traffic incident numbers, which it appeared would be available through the Administrative Scheme;
 - b) he had encountered difficulties in having his client's application processed under the Administrative Scheme; and
 - c) any additional information required by his client could be accessed from CITEC.
14. I also indicated to Mr King that the applicant was required to provide written submissions in support of his request for an extension of time by no later than close of business on 31 January 2007. No submissions were provided to this office.
15. On 30 January 2007, a staff member of this office had discussions with staff of the Queensland Transport Legal Department (**QTLD**) and the Crash Data Unit (**CDU**).

16. Later on 30 January 2007, a staff member of the QTLD indicated to this office that:
 - a) she had facilitated discussions between Mr King and the CDU; and
 - b) the applicant's request for documents through the Administrative Scheme was currently being processed.
17. In a letter to Mr King dated 8 February 2007, I indicated that as there had been no further communication from him to this office, I would assume that this matter was satisfactorily resolved, unless I heard otherwise from him by 14 February 2007.
18. By facsimile dated 14 February 2007, Mr King indicated that:
 - a) this matter had not been resolved to the applicant's satisfaction; and
 - b) he would be providing submissions in support of the applicant's case by 16 February 2007.
19. By letter to Mr King dated 22 February 2007, I advised that I had not received any submissions and provided the applicant with a final opportunity to provide submissions in support of his case by 26 February 2006. I have not received any further correspondence from Mr King or the applicant.
20. In making my decision in this matter, I have taken into account:
 - the applicant's FOI access application dated 13 September 2006, application for internal review dated 6 November 2006 and application for external review dated 4 December 2006;
 - Senior Sergeant Robinson's decision dated 23 October 2006 and Assistant Commissioner Rynders' internal review decision dated 27 November 2006; and
 - file notes of telephone conversations between staff of this office and:
 - a) Mr King; and
 - b) staff of the QTLD, the CDU and CITEC.

Matter in issue

21. The matter in issue in this review concerns documents relating to any traffic accidents which have occurred on a particular stretch of Wynnum Road at Wynnum, between 1 January 2000 and 13 September 2006.

Findings

Section 22(a) of the FOI Act

22. Section 22 of the FOI Act provides that an agency may refuse access to a document in a number of circumstances, including as follows:

22 Documents to which access may be refused

An agency or Minister may refuse access under this Act to—

- (a) *a document the applicant can reasonably get access to under another enactment, or under arrangements made by an agency, whether or not the access is subject to a fee or charge...*

Arrangements made by the QPS

23. As noted above, the QPS has indicated that its policy is to forward all documentation (including sketch plans, TAIS reports and statements) to CITEC on finalisation of the police investigation or enforcement action, with the exception of photographic negatives which are retained by the QPS and not to retain copies of such documentation.
24. A staff member of this office has contacted CITEC to confirm that documents relating to traffic incidents are available from CITEC, for a fee.
25. A CDU staff member has indicated to a staff member of this office that the CDU offers administrative access to de-identified traffic incident statistics, which can be reported in respect of a particular section of a road and time period, such as those sought at item 5 of the applicant's FOI Access application (see paragraph 2 above).
26. Mr King has indicated to me that the applicant is seeking the information described at paragraph 25 above.
27. As indicated at paragraph 16 above, a staff member of Queensland Transport indicated to this office on 30 January 2007 that Queensland Transport had facilitated processing of the applicant's application for administrative access.
28. I have no information before to indicate that the documents sought by the applicant are not available under an arrangement made by the QPS.

Conclusion

29. I am satisfied that the documents sought by the applicant are available through an arrangement made by the QPS with the CDU.

Decision

30. I affirm the decision of Assistant Commissioner K Rynders, dated 27 November 2006, by finding that the documents to which access is sought are available through another scheme, pursuant to section 22(a) of the FOI Act.
31. I have made this decision as a delegate of the Information Commissioner, under section 90 of the *Freedom of Information Act 1992* (Qld).

M Gittins
Assistant Information Commissioner

Date: 28 February 2007