



Decision and Reasons for Decision

Citation:	<i>Y44 and T99 and Office of the Public Guardian [2019] QICmr 62 (20 December 2019)</i>
Application Numbers:	314580 and 314581
Applicants:	Y44 and T99
Respondent:	Office of the Public Guardian
Decision Date:	20 December 2019
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - application for guardianship arrangement information of another person - personal information, privacy and Office of the Public Guardian's ability to obtain confidential information - whether disclosure would, on balance, be contrary to the public interest - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld).</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - applicant submits further documents exist - whether all reasonable steps have been taken to locate relevant information - whether access may be refused to information that is nonexistent or unlocatable - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and 47(3)(e) and 52 of the <i>Right to Information Act 2009</i> (Qld).</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - information that is not about the applicants - whether information is irrelevant - section 88 of the <i>Information Privacy Act 2009</i> (Qld).</p>

REASONS FOR DECISION

Summary

1. The applicants applied¹ to the Office of the Public Guardian (**Public Guardian**), under the *Information Privacy Act 2009* (Qld) (**IP Act**), for information naming or referring to themselves as it appeared in the guardianship records of a close family member.
2. The Public Guardian decided² to refuse access to some information on the basis that its disclosure would be contrary to the public interest. On internal review, the Public

¹ By two separate access applications, dated 22 and 29 October 2018, received by the agency by email on 31 October 2018.

² Original decisions dated 29 January 2019.

Guardian varied its decision,³ and refused access to certain information the disclosure of which would be contrary to the public interest and deleted irrelevant information.

3. The applicants applied⁴ to the Office of the Information Commissioner (**OIC**) for external review.
4. I vary the Public Guardian's decisions and find that:
 - access to certain information may be refused on the basis that its disclosure would be contrary to the public interest
 - access to any further information may be refused on the basis it does not exist or is unlocatable; and
 - information that is irrelevant to the access applications may be deleted.

Background

5. The applicants applied individually for information about themselves, held by the Public Guardian within the guardianship records of a close family member.
6. On external review, the applicants agreed to progress the reviews together due to their common interest. Given the overlapping information in issue and submissions, this decision applies to both applications 314580 and 314581.⁵
7. Significant procedural steps relating to the external reviews are set out in the Appendix. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes and Appendix).

Reviewable decision

8. The decisions under review are the Public Guardian's internal review decisions dated 29 January 2019.

Information in issue

9. The Public Guardian located 105 pages common to both applications and considered each applicant's entitlement to access these pages. In each case, the personal information of each applicant was disclosed to that applicant only. On external review the applicants sought⁶ access to the information that had not been released to *either* applicant.⁷
10. Six full pages and ten part pages were considered on external review. Four of these pages⁸ do not refer to the applicants and therefore, these pages fall outside the scope of the applications made under the IP Act. This was conveyed to the applicants during the review,⁹ and the applicants did not contest this. Accordingly, this decision addresses the remaining two full pages and ten part pages.¹⁰

³ Internal review decisions dated 22 March 2019.

⁴ Email applications for external review dated 22 and 23 April 2019.

⁵ The applicants agreed to this approach in a telephone conversation with OIC on 22 July 2019 and confirmed in my letter to the applicants dated 25 October 2019. Section 95 of the RTI Act provides that the procedure to be followed on an external review is within the discretion of the Information Commissioner.

⁶ Telephone conversations with OIC on 22 July 2019 and confirmed in my letter to the applicants dated 25 October 2019.

⁷ That is, full pages 7, 8, 15, 16, 22, 23 and part pages 3, 11, 13, 17, 18, 19, 29, 30, 40 and 41.

⁸ Pages 15, 16, 22 and 23.

⁹ Letter to applicants dated 25 October 2019.

¹⁰ That is, full pages 7 and 8 and part pages 3, 11, 13, 17, 18, 19, 29, 30, 40 and 41.

Issues for determination

11. The issues for determination are whether:

- access to two full and six part pages¹¹ (**CTPI Information**) may be refused on the basis that its disclosure would be contrary to the public interest¹²
- access to any further information may be refused on the basis that it does not exist or is unlocatable;¹³ and
- whether information appearing on four pages (**Irrelevant Information**)¹⁴ may be deleted on the basis of irrelevance.¹⁵

12. The applicants provided me with extensive submissions in support of their case. While I have carefully considered all the applicant's submissions, not all matters raised are issues that can be determined in this review, for example, the IP Act does not entitle applicants to obtain answers to questions. This was conveyed to the applicants during the reviews,¹⁶ and I have addressed the applicants' submissions to the extent they are relevant to the issues identified above.

CTPI Information

Relevant law

13. The IP Act provides a right to access government held documents; to the extent the documents contain the individual's personal information.¹⁷ This right is subject to certain limitations, including grounds for refusing access.¹⁸ The IP Act sets out that it is Parliament's intention that the Act should be administered with a pro-disclosure bias¹⁹ and the grounds on which access may be refused are to be interpreted narrowly.²⁰
14. A personal interest in obtaining information does not necessarily equate to *public* interest in its release. Generally, for disclosure to be in the public interest, disclosure must impact more than an individual's personal interest and must promote an interest that is common to a significant part of the public or community.²¹
15. A decision-maker is required to take specific steps in reaching a decision on disclosure²² and various factors may be relevant to deciding where the balance of the public interest lies.²³ I have set out below my assessment of, and findings in relation to, the public interest factors which I consider are relevant in this case.²⁴

¹¹ Full pages 7 and 8 and part pages 17, 18, 29, 30, 40 and 41.

¹² Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

¹³ Under section 67(1) of the IP Act and section 47(3)(e) of the RTI Act.

¹⁴ This information appears on pages 3, 11, 13, 19.

¹⁵ Section 88 of the IP Act.

¹⁶ Letter to the applicants dated 25 October 2019.

¹⁷ Section 40 of the IP Act.

¹⁸ Section 67(1) of the IP Act states that access may be refused to a document in the same way and to the same extent as access may be refused under section 47 of the *Right to Information Act 2009* (Qld) (**RTI Act**).

¹⁹ Section 64 of the IP Act.

²⁰ Section 67(2)(a) of the IP Act.

²¹ There are some recognised public interest considerations that may apply for the benefit of an individual, for example, schedule 4, part 2, item 17 of the RTI Act identifies a factor favouring disclosure where disclosure contributes to the administration of justice.

²² Section 49 of the RTI Act. The steps include: disregarding any irrelevant factors, identifying relevant factors favouring disclosure and nondisclosure and balancing the relevant factors.

²³ Including the non-exhaustive list of factors in schedule 4 of the RTI Act.

²⁴ No irrelevant factors arise in the circumstances of this case and I have not taken any irrelevant factors set out in schedule 4 part 1 of the RTI Act into account.

Findings

16. Primarily, the CTPI Information is about the Public Guardian's client (who is the parent of one applicant) and relates to the Public Guardian's role in acting for the client. I accept that disclosure of the CTPI Information would further enhance the Public Guardian's accountability²⁵ and transparency,²⁶ and reveal contextual information about the Public Guardian's decisions²⁷ in discharging its statutory functions.
17. I also accept the applicants' submissions²⁸ that disclosure may advance the applicants' fair treatment²⁹ and contribute to procedural fairness or natural justice³⁰ in terms of providing the applicants with a more comprehensive understanding of the information known to the Public Guardian when certain decisions were made in relation to the client.
18. Further, I accept the submission³¹ that the CTPI Information comprises information identifying and about the applicants, giving rise to a further factor favouring disclosure³² which allows an applicant to access their own personal information.³³
19. The applicants also submit³⁴ that disclosure of the CTPI Information could reasonably be expected to 'allow scrutiny of a Government's agency.' Having carefully considered the CTPI information and the applicant's submissions, I accept that disclosure may allow or assist inquiry into possible deficiencies in the Public Guardian's conduct or administration.³⁵ However, given the nature of the CTPI Information and the absence of specific evidence of misconduct or negligent, improper or unlawful conduct, I am satisfied disclosure of the CTPI Information could not reveal or substantiate such matters.³⁶
20. The applicants have also raised concerns about the CTPI Information containing false allegations about them.³⁷ The RTI Act recognises that where disclosure could reasonably be expected to reveal that the information is incorrect, out of date, misleading, gratuitous, unfairly subjective, or irrelevant, this will give rise to a factor favouring disclosure.³⁸ In a workplace investigation context, the Information Commissioner previously found that information provided by other individuals:

*... is, by its very nature, the particular opinions and versions of events expressed by the relevant individuals... It is shaped by factors such as the individuals' memories of relevant events and subjective impressions. This inherent subjectivity does not mean that the [information] is necessarily incorrect or unfairly subjective.*³⁹
21. The CTPI Information includes the recollection of certain events by other individuals, and due to its very nature as one individual's recollections, this information is subjective. However, I am not satisfied that this subjectivity necessarily means this information is

²⁵ Schedule 4, part 2, item 1 of the RTI Act.

²⁶ Schedule 4, part 2, item 3 of the RTI Act.

²⁷ Schedule 4, part 2, item 11 of the RTI Act.

²⁸ Applications for internal review dated 24 and 25 February 2019, telephone conversations with OIC on 12 and 22 July 2019 and 1 October 2019, and submissions dated 29 July 2019 and 7 November 2019.

²⁹ Schedule 4, part 2, item 10 of the RTI Act.

³⁰ Schedule 4, part 2, item 16 of the RTI Act.

³¹ Applications for internal review dated 24 and 25 February 2019 and submissions dated 7 November 2019.

³² Schedule 4, part 2, item 7 of the RTI Act.

³³ Section 12 of the IP Act defines personal information as 'information or opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.'

³⁴ Internal review applications dated 24 and 25 February 2019.

³⁵ Schedule 4, part 2, item 5 of the RTI Act.

³⁶ Schedule 4, part 2, item 6 of the RTI Act.

³⁷ Applications for internal review dated 24 and 25 February 2019 and submissions dated 7 November 2019.

³⁸ Schedule 4, part 2, item 12 of the RTI Act.

³⁹ F60XCX and Department of Natural Resources and Mines [2017] QICmr 19 (9 June 2017) at [52].

incorrect or unfairly subjective.⁴⁰ Disclosure of the perspectives of others may reveal that the other individuals describe or recall events differently to the applicants, however, this does not, in itself, demonstrate that information is incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant. The applicants' assertions are insufficient to establish that the CTPI Information can be viewed objectively as incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant. I acknowledge that the applicants submit⁴¹ that some of the *released* information is incorrect, however, for this factor to apply, it is the *refused* information that must be incorrect or misleading. Therefore, I am satisfied that this factor does not apply to the CTPI Information in this case.

22. The applicants also submit⁴² that disclosure of the information in issue could reasonably be expected to contribute to the administration of justice for a person.⁴³ The Information Commissioner has previously found that this factor will apply when disclosure would enable the pursuit or evaluation of an appropriate legal remedy.⁴⁴ The applicants have not provided evidence detailing a specific intended claim, a reasonable basis for seeking to pursue the remedy, or how the CTPI Information would assist in pursuit of or evaluation of that remedy.⁴⁵ In the absence of such evidence I am unable to afford any weight to this factor.
23. Despite the applicants' assertion that they were not afforded procedural fairness in a parallel QCAT process,⁴⁶ their own submission states that the Public Guardian '*published the allegations... in their Guardianship report 13/11/17 in support of their application to have (an applicant) removed as Guardian for Health.*'⁴⁷ Further, the applicants detail that they were provided with the Public Guardian's submissions to the Tribunal, and given an opportunity to provide evidence to the Tribunal by questioning a delegate of the Public Guardian.⁴⁸ I also observe the applicants' own submissions indicate that the applicant was re-appointed as guardian at the conclusion of the QCAT process.⁴⁹
24. I am satisfied that these circumstances go some way to discharging the weight that can be attributed to the pro-disclosure factors. Therefore, I afford moderate weight to the factors favouring disclosure of the CTPI Information.
25. When considering the weight that can be attributed to the relevant factors favouring disclosure, I acknowledge that the applicants have raised very serious concerns, giving rise to several pro-disclosure factors set out in the preceding paragraphs. I accept that there is a very strong public interest in advancing the identified pro-disclosure factors. However, I am satisfied that the information released to the applicants reduces the weight that can be attributed to the public interest factors favouring disclosure.
26. The only public interest factor in favour of disclosure that I consider is deserving of significant weight is that which is raised by the fact that the CTPI information is also the personal information of one or both applicants.⁵⁰

⁴⁰ *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) at [15]-[20].

⁴¹ Internal review applications dated 24 and 25 February 2019 and telephone discussion with OIC on 22 July 2019.

⁴² Internal review applications dated 24 and 25 February 2019, and submissions dated 7 November 2019.

⁴³ Schedule 4, part 2, item 17 of the RTI Act.

⁴⁴ *Willsford and Brisbane City Council* (1996) 3 QAR 368.

⁴⁵ I acknowledge the applicants' submission in a telephone conversation with OIC on 22 July 2019 that a Supreme Court proceeding is on foot which loosely relates to the subject matter of this external review, however, the applicants advised they were not parties to that proceeding at that time.

⁴⁶ Submissions dated 7 November 2019.

⁴⁷ Application for internal review dated 25 February 2019.

⁴⁸ Submissions dated 7 November 2019.

⁴⁹ Telephone conversation with OIC on 22 July 2019.

⁵⁰ As discussed at paragraph 18 above.

27. The CTPI Information comprises information about and identifying other individuals, and as such, comprises their personal information, giving rise to a factor favouring nondisclosure.⁵¹ I accept that the applicants may be aware of some of the CTPI Information including the names of involved individuals. Therefore, this information may not necessarily be subject to the harm factor. However, disclosure of the words those individuals used and the feelings they may have expressed would reveal sensitive personal information of those individuals, which may not already be known by the applicants. To the extent the CTPI Information is not already known to the applicants, I am satisfied that disclosure would cause a public interest harm.
28. The concept of privacy is not defined in the IP Act. However, it can be viewed as the right of an individual to preserve their personal sphere from the interference of others.⁵² As the CTPI Information discusses the individuals' personal observations and responses to sensitive issues, I am also satisfied that this information forms part of the 'personal sphere' of those individuals and disclosure would significantly intrude on the right to privacy of those individuals, giving rise to a further factor favouring nondisclosure.⁵³
29. I am also satisfied that disclosure of information of this type and in this context, where there is no restriction on its use, dissemination or re-publication, would deter concerned parties from raising issues and discourage parties from providing confidential information to the Public Guardian.⁵⁴ This would have a detrimental impact on the Public Guardian's ability to obtain information about the well-being of its clients, and in turn, the Public Guardian's ability to discharge its statutory functions.
30. The applicants submit that the provision of false information should not be protected.⁵⁵ The Information Commissioner has previously recognised that there is a strong public interest in protecting the free flow of information to agencies even if this may, on occasion, result in the investigation of allegations ultimately found to be untrue.⁵⁶ Therefore, while I acknowledge the applicants' submission, it does not reduce the significant weight that I have attributed to the factor relating to protecting the Public Guardian's ability to obtain confidential information.
31. I consider there is an inherent sensitivity to information given by an individual raising concerns with the Public Guardian in the context of a family matter, as it can describe their emotions, personal feelings and opinions. I also consider that there is a very strong public interest in protecting the flow of information to the Public Guardian, charged with protecting individuals that are unable to act on their own behalf. I therefore afford each of these factors significant weight in favour of nondisclosure.
32. In conclusion, I accept that individuals have a right to obtain access to their personal information and are entitled to understand any allegations against them. I also recognise the public interest in enhancing the Public Guardian's accountability and transparency. These factors carry reduced weight due to the volume of information that has already been released to the applicants through this application and a related QCAT proceeding.
33. On the other hand, consideration must also be given to the personal information and privacy of other individuals involved in the guardianship process, and any associated

⁵¹ Schedule 4, part 4, section 6 of the RTI Act.

⁵² 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 [1.56].

⁵³ Schedule 4, part 3, item 3 of the RTI Act.

⁵⁴ Schedule 4, part 3, items 13 and 16 of the RTI Act. I also consider the public interest harm factor set out in schedule 4, part 4, section 8 of the RTI Act applies for the same reason.

⁵⁵ Telephone conversations with OIC on 12 July 2019 and 1 October 2019 and submissions dated 7 November 2019.

⁵⁶ See 6XY7LE and child of 6XY7LE and Department of Education, Training and Employment [2014] QICmr 1 (15 January 2014) at paragraphs [34] to [39].

prejudice that may occur to the Public Guardian's ability to obtain information in order to discharge its statutory functions. Accordingly, I am satisfied that the nondisclosure factors attract significant weight and outweigh the identified factors favouring disclosure.⁵⁷

Sufficiency of search

Relevant law

34. Access to information may also be refused under the IP Act where the requested documents are nonexistent or unlocatable.⁵⁸
35. A document is *nonexistent* if there are reasonable grounds to be satisfied it does not exist.⁵⁹ To be satisfied that a document does not exist, the Information Commissioner has previously had regard to various key factors including the agency's record keeping practices and procedures (including, but not limited to, its information management approaches).⁶⁰ By considering the relevant factors, the decision maker may conclude that a particular document was not created because, for example, the agency's processes do not involve creating that specific document. In such instances, it is not necessary for the agency to search for the document. Rather, it is sufficient that the relevant circumstances to account for the nonexistent document are adequately explained by the agency.
36. The Information Commissioner may also rely on the agency's searches to satisfy themselves that a document does not exist. In those cases, all reasonable steps must be taken to locate the documents.⁶¹ Such steps may include inquiries and searches of all relevant locations identified after consideration of relevant key factors.⁶²
37. A document is *unlocatable* 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. In determining whether a document is unlocatable, it is necessary to consider the specific circumstances of each case,⁶³ and in particular whether there are reasonable grounds for the agency to be satisfied that the requested documents have been or should be in the agency's possession and the agency has taken all reasonable steps to find the documents.⁶⁴
38. The agency that made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.⁶⁵ Where the issue of missing documents is raised on external review, the agency must demonstrate that reasonable steps have been taken to identify and locate relevant documents.⁶⁶ If the applicant maintains further documents exist, the

⁵⁷ Additionally, and in any event, even if I were wrong in the findings expressed – and one or more of the factors which I have not attributed any weight to could be said to apply and carry low weight in this case – I am nevertheless of the view the factors favouring nondisclosure are of sufficient gravity to tip the balance of the public interest in favour of nondisclosure.

⁵⁸ Sections 47(3)(e) and 52(1) of the RTI Act.

⁵⁹ Section 52(1)(a) of the RTI Act.

⁶⁰ *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) (*PDE*) at [37]-[38]. *PDE* addresses the application of section 28A of the now repealed FOI Act. Section 52 of the RTI Act is drafted in substantially the same terms as the provision considered in *PDE* and, therefore, the Information Commissioner's findings in *PDE* are relevant.

⁶¹ As set out in *PDE* at [49]. See also section 137(2) of the IP Act.

⁶² As set out in *PDE* at [38].

⁶³ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [21]. See also, *F60XCX and Office of the Queensland Parliamentary Counsel* [2016] QICmr 42 (13 October 2016) at [84] and [87], and *Underwood and Minister for Housing and Public Works* [2015] QICmr 27 (29 September 2015) at [33]-[34] and [49].

⁶⁴ Section 52(1)(b) of the RTI Act.

⁶⁵ Section 87(1) of the RTI Act.

⁶⁶ Section 130(2) of the RTI Act.

applicant bears a practical onus of demonstrating that the agency has not discharged its obligation. Suspicion and mere assertion do not satisfy this onus.⁶⁷

Findings

39. The applicants submit that the Public Guardian failed to locate a number of relevant documents, including audio recordings, phone call notes and emails.⁶⁸ In support of this submission, the applicant provided two emails not located by the Public Guardian and identified a number of instances in the released information that indicate further documents should exist. Further, the applicants submit that an external care provider confirmed receipt of certain audio recordings in QCAT proceedings and the released information indicates that the Public Guardian also received this information. Finally, the applicants submitted that, under oath, in the related QCAT proceeding, the Public Guardian delegate *'did not deny knowledge of the recordings'*.
40. The Public Guardian provided evidence, in the form of search records and certifications,⁶⁹ certifying that searches for information provided to or obtained by the Public Guardian naming or referring to the applicants had been requested and the following steps were taken:
 - enquiries were made with involved officers; and
 - searches were conducted of:
 - electronic files and emails
 - electronic file management system / eDocs / recfind
 - bookshelves and binders
 - desks and drawers; and
 - filing cabinets and storage areas.
41. On external review, the Public Guardian also responded to the applicants' specific submissions about missing documents.⁷⁰ The Principal Executive Officer made further enquiries with relevant staff members and confirmed that the Public Guardian does not possess any further documents responding to the access applications. In response to the concerns about missing audio recordings, the Principal Executive Officer confirmed that these recordings are not in the possession of the Public Guardian and were not uploaded into eDocs or the Resolve case management system.
42. I have considered the applicants' submissions regarding missing documents, the evidence provided by the Public Guardian regarding the steps taken to locate relevant documents during initial processing and the further enquiries conducted during the external review as well as the information located in response to the applications. I consider that the nature and extent of the Public Guardian's searches and enquiries have been comprehensive, informed by the Public Guardian's record keeping practices and appropriately targeted. While I acknowledge the applicants' submissions regarding missing documents, including references in the located information, I am unable to identify any evidence of further particular documents that are clearly in the possession or under the control of the Public Guardian, as opposed to the external care provider, which is a separate entity. Even in the case that further specific documents can be identified, I am unable to identify any further lines of enquiry or searches that could reasonably be undertaken, with reference to the record keeping practices and systems of the Public Guardian.

⁶⁷ *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36].

⁶⁸ In a telephone conversation with OIC on 22 July 2019, emailed submissions dated 29 July 2019 and submissions dated 7 November 2019.

⁶⁹ Search certifications dated 23 November 2018.

⁷⁰ Submissions from the Public Guardian received by OIC on 12 September 2019.

43. For these reasons, I am satisfied that the Public Guardian has taken all reasonable steps to locate information responding to the access applications and access to any further documents may be refused on the basis that they do not exist or are unlocatable.⁷¹

Irrelevant information

44. The IP Act also allows irrelevant information to be deleted from released documents.⁷² Information will be irrelevant if it does not pertain to the scope of the access application.
45. The applicants applied under the IP Act for '*all documentation provided to or obtained by the Office of the Public Guardian which names or makes reference to [the applicants]*' including any related note or communications for a three-month period, from 1 September 2017 to 30 November 2017.⁷³
46. Some information appearing in the pages released by the Public Guardian is not about the applicants and is solely about other individuals. This information is irrelevant to the applicants' request for information about themselves and may be deleted on that basis.

DECISION

47. I vary the Public Guardian's decisions and find that:
- access to two full pages and ten part pages may be refused on the basis that its disclosure would be contrary to the public interest⁷⁴
 - access to any further information may be refused on the basis it does not exist or is unlocatable;⁷⁵ and
 - information that is irrelevant to the application may be deleted from four pages on that basis.⁷⁶
48. I have made this decision under section 123 of the IP Act in respect of external reviews 314580 and 314581, as a delegate of the Information Commissioner under section 139 of the IP Act.

S Martin
Assistant Information Commissioner

Date: 20 December 2019

⁷¹ Under section 47(3)(e) of the RTI Act.

⁷² Section 88 of the IP Act.

⁷³ The scope of the application was clarified in an email to the Public Guardian dated 13 November 2018.

⁷⁴ Section 67 (1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

⁷⁵ Section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

⁷⁶ Section 88 of the IP Act.

APPENDIX

Significant procedural steps

Date	Event
22 and 23 April 2019	OIC received the applications for external review.
24 April 2019	OIC notified the applicants and the Public Guardian that applications for external review had been received and requested procedural documents from the Public Guardian.
26 April 2019	OIC received the requested information from the Public Guardian.
22 May 2019	OIC notified the applicants and the Public Guardian that the applications for external review had been accepted. OIC requested a copy of the following documents from the Public Guardian: <ul style="list-style-type: none"> • documents located in response to the access applications • correspondence with third parties • search records; and • scope negotiations.
7 June 2019	OIC received the requested information from the Public Guardian.
12 June 2019	OIC received telephone submissions from the Public Guardian.
12 July 2019	OIC conveyed a preliminary view to an applicant by telephone and received submissions.
22 July 2019	OIC conveyed a preliminary view to the applicants by telephone and received submissions.
29 July 2019	OIC received submissions from the applicants.
21 August 2019	OIC requested further information from the Public Guardian.
12 September 2019	OIC received the requested information from the Public Guardian.
1 October 2019	OIC conveyed a preliminary view to the applicants by telephone and received submissions.
25 October 2019	OIC conveyed a written preliminary view to the applicants.
28 October 2019	OIC conveyed a written preliminary view to the Public Guardian.
8 November 2019	OIC received further submissions from the applicants.