

# **Decision and Reasons for Decision**

Citation:	<i>M96 and Queensland Police Service</i> [2021] QICmr 48 (23 September 2021)
Application Number:	315685
Applicant:	M96
Respondent:	Queensland Police Service
Decision Date:	23 September 2021
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - whether deleted information is irrelevant to the terms of the access application - section 88 of the <i>Information Privacy Act 2009</i> (QId)
	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - PREVENTION OR DETECTION OF POSSIBLE CONTRAVENTION OF THE LAW - information passing between Queensland Police Service Officers and Coronial Officers - prejudice prevention or detection of a possible contravention of the law - whether exempt - section 67(1) of the <i>Information Privacy Act 2009</i> (QId) and sections 47(3)(a) and 48 and schedule 3, section 10(1)(f) of the <i>Right to</i> <i>Information Act 2009</i> (QId)
	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - personal information about other individuals - safeguarding personal information and the right to privacy of other individuals - whether disclosure would, on balance, be contrary to the public interest - whether access may be refused under section 67(1) of the <i>Information Privacy Act</i> 2009 (Qld) and sections 47(3)(b) and 49 of the <i>Right to</i> <i>Information Act 2009</i> (Qld)

## **REASONS FOR DECISION**

## Summary

 The applicant applied to Queensland Police Service (QPS) under the *Information Privacy Act 2009* (Qld) (IP Act) for access to documents regarding the circumstances which led to the applicant being interviewed by QPS Officers as part of an investigation into the death of the applicant's husband.<sup>1</sup> The applicant sought information that would identify the family member who reported the death as suspicious.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> For the time period 26 October 2019 to 5 November 2019.

<sup>&</sup>lt;sup>2</sup> Application dated 10 November 2019.

- 2. QPS did not make a considered decision<sup>3</sup> within the required timeframe and was therefore deemed to have made a decision refusing access to the requested information.<sup>4</sup>
- 3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision.<sup>5</sup> During the external review, QPS located documents and disclosed them to the applicant, subject to the redaction of some information.
- 4. In terms of the redacted information remaining in issue, for the reasons set out below, I find that this information may be refused or deleted on the following grounds:
  - parts of seven pages are not relevant to the access application<sup>6</sup>
  - parts of three pages are exempt information, as disclosure of them could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;<sup>7</sup> and
  - disclosure of parts of 33 pages would, on balance, be contrary to the public interest.<sup>8</sup>

## Background

5. Significant procedural steps taken during the external review are set out in the Appendix to this decision.

# Reviewable decision and evidence considered

- 6. The decision under review is the decision refusing access to all requested information, which QPS is deemed to have made under section 66(1) of the IP Act.
- 7. The evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and the Appendix).
- 8. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), which provides that it is unlawful for a public entity to make a decision in a way that is not compatible with human rights, or to fail to give proper consideration to a human right relevant to the decision.<sup>9</sup> Here, the right to seek and receive information<sup>10</sup> is particularly apposite. I note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:<sup>11</sup> '*it is perfectly compatible with the scope of that positive right in the [*Charter of Human Rights and Responsibilities Act] for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act.<sup>12</sup> I consider a decision-maker will be '*respecting, and acting compatibly with*' the right to seek and receive information and other rights prescribed in the HR Act, when applying the law prescribed

<sup>&</sup>lt;sup>3</sup> Section 65 of the IP Act.

<sup>&</sup>lt;sup>4</sup> Initially QPS made a decision on 20 February 2020 in which it refused to deal with the applicant's application under section 59 of the IP Act and schedule 3, section 10(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**). The applicant applied to OIC for external review. On external review, QPS accepted OIC's view that it was not entitled to refuse to deal with the application, and the application was referred back to QPS to process. QPS then provided notice of the deemed decision, as required by section 66(2) of the IP Act, to the applicant on 12 October 2020.

<sup>&</sup>lt;sup>5</sup> On 20 October 2020.

<sup>&</sup>lt;sup>6</sup> Section 88 of the IP Act.

<sup>&</sup>lt;sup>7</sup> Under section 67(1) of the IP Act and sections 47(3)(a) and 48 and schedule 3, section 10(1)(f) of the RTI Act. Section 67(1) of the IP Act sets out that an agency may refuse access to information in the same way and to the same extent that the agency could refuse access to the document under section 47 of the RTI Act were the document the subject of an access application under the RTI Act

<sup>&</sup>lt;sup>8</sup> Sections 47(3)(b) and 49 of the RTI Act.

<sup>&</sup>lt;sup>9</sup> Section 58(1) of the HR Act.

<sup>&</sup>lt;sup>10</sup> Section 21(2) of the HR Act.

<sup>&</sup>lt;sup>11</sup> Freedom of Information Act 1982 (Vic) and the Charter of Human Rights and Responsibilities Act 2006 (Vic).

<sup>&</sup>lt;sup>12</sup> XYZ v Victoria Police (General) [2010] VCAT 255 (16 March 2010) (XYZ) at [573].

in the IP Act and the *Right to Information Act 2009* (Qld) (**RTI Act**).<sup>13</sup> I have, in accordance with section 58(1) of the HR Act, acted in this way in making this decision.

## Information in issue

9. The information in issue comprises portions of information appearing within QPS activity logs, emails sent or received by QPS's Coronial Support Unit, forensic reports, witness statements, evidence management documents, police reports to the Coroner, a statement of formal identification and police notebooks.

## **Issues for determination**

- 10. On external review, QPS located documents and disclosed them to the applicant, subject to the redaction of some information. The applicant<sup>14</sup> confirmed that she did not want access to QPS Officers' mobile telephone numbers and made submissions regarding some redacted information,<sup>15</sup> but did not address the remaining redacted information. For the sake of completeness, this decision addresses all redacted information, except QPS Officers' mobile telephone numbers.
- 11. Accordingly, the issues for determination in this review are:
  - **Exempt information** whether access to parts of three pages<sup>16</sup> may be refused on the ground that this information is exempt information, namely information the disclosure of which could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.
  - Contrary to public interest information whether access to parts of 33 pages<sup>17</sup> may be refused on the ground that disclosure of this information would, on balance, be contrary to the public interest.
  - Irrelevant information whether parts of seven pages<sup>18</sup> may be deleted on the basis that the information is irrelevant to the scope of the access application.

## **Exempt information**

#### Relevant law

- 12. Under the IP Act, an individual has the right to be given access to documents of a government agency, to the extent they contain the individual's personal information.<sup>19</sup> However, the right of access under the IP Act, is subject to limitations, including grounds for refusing access. One ground for refusing access is where the information is exempt information.<sup>20</sup> Of relevance to this review, information will be exempt information if:
  - there exists an identifiable lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; and

<sup>&</sup>lt;sup>13</sup> XYZ at [573]; see also Horrocks v Department of Justice (General) [2012] VCAT 241 at [111].

<sup>&</sup>lt;sup>14</sup> Applicant's letter to OIC dated 13 May 2021.

<sup>&</sup>lt;sup>15</sup> That is, the information referred to as 'Contrary to public interest information' below.

<sup>&</sup>lt;sup>16</sup> At pages 10, 17 and 56.

<sup>&</sup>lt;sup>17</sup> At parts of pages 1-4, 13-14, 16, 18, 21-34, 38, 40, 44-45, 48-50, 55 and 57-59.

<sup>&</sup>lt;sup>18</sup> At pages 52, 55, 57, 58, 59, 60 and 61.

<sup>&</sup>lt;sup>19</sup> Section 40(1)(a) of the IP Act.

<sup>&</sup>lt;sup>20</sup> Under section 48(4) and schedule 5 of the RTI Act, exempt information is defined as meaning information that is exempt information under schedule 3 of the RTI Act. Schedule 3 sets out the types of information, the disclosure of which Parliament has considered would, on balance, be contrary to the public interest – section 48(2) of the RTI Act.

 disclosure of the information could reasonably be expected to prejudice the effectiveness of that method or procedure.<sup>21</sup>

## Findings

- 13. The three part pages in issue<sup>22</sup> comprise portions of information which appear within:
  - an email from an Officer in QPS's Coronial Support Unit to another QPS Officer;<sup>23</sup> and
  - an email from a Coronial Services Officer of the Coroners Court of Queensland and a Coronial Counsellor with the Department of Health, forwarded to QPS's Coronial Support Unit.<sup>24</sup>
- 14. The information in issue relates to certain steps to be undertaken following concerns raised about the applicant's husband's death. While I am precluded from setting out the nature of this information in more detail,<sup>25</sup> I can say that the information comprises information of a procedural nature in relation to gathering certain types of evidence regarding the applicant's husband's death.
- 15. Further, having noted the *Coroners Act 2003* (Qld) (**Coroners Act**) in particular, its provisions which define '*reportable deaths*', require the reporting of such deaths, and set out how they may be investigated I can confirm that the procedures mentioned in the information in issue are lawful procedures for detecting or investigating possible contraventions of the law.
- 16. Part 3 of the Coroners Act provides general information in relation to investigations undertaken by the Coroner. However, the information in issue is much more specific and detailed. Also, given its context, it provides an indication of the type of circumstances in which certain procedures may be deployed. Given these considerations, I am satisfied that, if the public were to be alerted to the manner in which evidence is obtained in an investigation of this nature,<sup>26</sup> the effectiveness of the procedures in question could reasonably be expected to be reduced in future investigations.
- 17. In these circumstances, I find that both requirements referred to in paragraph 12 above, have been met. I also note that there is nothing in the information before me to suggest that any of the exceptions in schedule 3, section 10(2) of the RTI Act apply in the circumstances of this matter. Accordingly, I find that the three part pages are exempt information<sup>27</sup> and access may be refused on this ground.<sup>28</sup>
- 18. As a general point, the applicant submitted that the redacted information should be provided to her as '*[her deceased husband]*'s wife of almost [...] years'.<sup>29</sup> In the case of exemption grounds, there is no scope under the IP Act to consider this type of submission. This is because Parliament has identified that if information falls under an exemption ground access to it must always be refused, as it is considered contrary to the public interest to disclose, in all circumstances.<sup>30</sup>

<sup>&</sup>lt;sup>21</sup> Schedule 3, section 10(1)(f) of the RTI Act.

<sup>&</sup>lt;sup>22</sup> At pages 10, 17 and 56.

<sup>&</sup>lt;sup>23</sup> At page 10 and repeated at page 56.

<sup>&</sup>lt;sup>24</sup> At page 17.

<sup>&</sup>lt;sup>25</sup> Section 121(3) of the IP Act.

<sup>&</sup>lt;sup>26</sup> Noting that 'There is no provision of that Act which contemplates any restriction or limitation on the use which that person can make of that information, including by way of further dissemination' – see FLK v Information Commissioner [2021] QCATA 46 at [17] per McGill J.

<sup>&</sup>lt;sup>27</sup> Section 48 and schedule 3, section 10(1)(f) of the RTI Act.

<sup>&</sup>lt;sup>28</sup> Section 67(1) of the IP Act and section 47(3)(a) of the RTI Act.

<sup>&</sup>lt;sup>29</sup> Applicant's email to OIC dated 26 April 2021.

<sup>&</sup>lt;sup>30</sup> Section 67(1) of the IP Act and section 48(2) of the RTI Act.

#### Contrary to the public interest information

#### Relevant law

- 19. Under the IP Act, a further ground for refusing access to information is where its disclosure would, on balance, be contrary to the public interest.<sup>31</sup> 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.<sup>32</sup>
- 20. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:<sup>33</sup>
  - identify factors irrelevant to the public interest and disregard them
  - identify factors in favour of disclosure of information
  - identify factors in favour of nondisclosure of information; and
  - decide whether, on balance, disclosure of the information would be contrary to the public interest.

#### Findings

- 21. While I am limited in the extent to which I can describe the Information in Issue,<sup>34</sup> it may be categorised as follows:
  - **Category A Information** the personal information of third parties, which is not about the applicant; including those third parties' names, ages, contact details and signatures.<sup>35</sup>
  - **Category B Information** information provided to QPS by some of those third parties<sup>36</sup> and communications that repeat the information or identify the individual that provided the information to QPS.<sup>37</sup>
- 22. In considering the Category A and Category B Information, I have not taken into account any irrelevant factors.<sup>38</sup>

#### Factors favouring disclosure

23. The RTI Act recognises that, when the information in issue comprises an applicant's personal information, a factor favouring disclosure applies.<sup>39</sup> Personal information is:<sup>40</sup>

information or an 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.

<sup>&</sup>lt;sup>31</sup> Section 67(1) of the IP Act and section 47(3)(b) and 49 of the RTI Act.

<sup>&</sup>lt;sup>32</sup> However, there are some recognised public interest considerations that may apply for the benefit of an individual. See Chris Wheeler, '*The Public Interest: We Know It's Important, But Do We Know What It Means*' (2006) 48 AIAL Forum 12.

 $<sup>^{33}</sup>$  Section 49(3) of the RTI Act.

<sup>&</sup>lt;sup>34</sup> Section 121(3) of the IP Act.

<sup>&</sup>lt;sup>35</sup> At parts of pages 1-4, 13-14, 16, 18, 21-32, 34, 40, 44-45, 48, 50, 55, 58 and 59.

<sup>&</sup>lt;sup>36</sup> At pages 2, 32-33, 38, 55, 57 and 58.

<sup>&</sup>lt;sup>37</sup> At pages 18 and 49.

<sup>&</sup>lt;sup>38</sup> Section 49(3)(d) of the RTI Act.

<sup>&</sup>lt;sup>39</sup> Schedule 4, part 2, item 7 of the RTI Act.

<sup>&</sup>lt;sup>40</sup> Definition of 'personal information' in schedule 5 of the RTI Act and section 12 of the IP Act.

- 24. This pro-disclosure factor does not apply to the Category A Information, given that the information is not about the applicant.
- 25. It does apply to some of the Category B Information, which comprises information about the applicant provided by third parties to QPS.<sup>41</sup> Noting the public interest in individuals being able to access their own personal information held by government agencies, I afford this factor significant weight with respect to some of the Category B Information.<sup>42</sup>
- 26. I have also considered whether disclosure of the Information in Issue could reasonably be expected to:
  - promote open discussion of public affairs and enhance Government's accountability<sup>43</sup>
  - inform the community of the Government's operations;<sup>44</sup> or
  - reveal reasons for a Government decision and any background or contextual information that informed the decision.<sup>45</sup>
- 27. I recognise that the disclosure of the Category A and Category B Information would provide the applicant with a greater understanding of what information was provided to QPS and by whom and why QPS decided to report her husband's death to the State Coroner.<sup>46</sup> Accordingly, I afford these factors significant weight in relation to both categories of information.
- 28. The applicant has, as noted above, submitted generally that she should have access to the information as '[her deceased husband]'s wife of almost [...] years'.<sup>47</sup> In terms of the 33 part pages, specifically, the applicant's submissions are:<sup>48</sup>

I have heard with monotonous regularity "in the public interest", my interests are fundamental and I believe worthy of more weighted consideration in this whole process. How is it that a family member can accuse me of this and walk away and yet I am left to feel scarred and devalued as I fight to obtain the answers I have been pursuing for the past 18 months.

The only thing I can add to this submission is the fact that I haven't had the opportunity to grieve the passing of my husband...

29. The Information Commissioner has previously recognised the existence of a public interest in the social and economic well-being of the community,<sup>49</sup> particularly in assisting an individual with the grieving process.<sup>50</sup> To the extent that the applicant is seeking access to her husband's personal information, this has already been disclosed to her by QPS. However, I acknowledge that disclosing the Category A and Category B Information to the applicant would provide the applicant with information as to who contacted QPS about her husband's death. Having carefully considered the applicant's submissions, I am satisfied that it is more probable than not that disclosure of this information would assist the applicant to move forward with her grieving process and, in doing so, contribute to the social and economic well-being of the community. I afford this factor significant weight.

<sup>&</sup>lt;sup>41</sup> At pages 32, 33 and 38.

<sup>&</sup>lt;sup>42</sup> Given the references to the applicant were made by individuals other than the applicant, the information about the applicant is intertwined with the personal information of the other individuals. This issue of the 'intertwined' personal information is addressed below under the heading 'Factors favouring nondisclosure'.

<sup>&</sup>lt;sup>43</sup> Schedule 4, part 2, item 1 of the RTI Act.

<sup>&</sup>lt;sup>44</sup> Schedule 4, part 2, item 3 of the RTI Act.

<sup>&</sup>lt;sup>45</sup> Schedule 4, part 2, item 11 of the RTI Act.

<sup>&</sup>lt;sup>46</sup> Pursuant to the Coroners Act.

<sup>&</sup>lt;sup>47</sup> Applicant's email to OIC dated 26 April 2021.

<sup>&</sup>lt;sup>48</sup> Applicant's letter to OIC dated 13 May 2021.

<sup>&</sup>lt;sup>49</sup> OKP and Department of Communities (Unreported, Queensland Information Commissioner, 9 July 2009) at [82].

<sup>&</sup>lt;sup>50</sup> Keogh and Department of Health (Unreported, Queensland Information Commissioner, 31 August 2010) at [12]-[22].

Finally, I have also carefully considered the remaining factors listed in schedule 4, part 30. 2 of the RTI Act and turned my mind to other possible factors favouring disclosure;<sup>51</sup> however, I am satisfied that no other public interest factors favouring disclosure are relevant in the circumstances of this review.

#### Factors favouring nondisclosure

- 31. As noted at paragraph 21 above, both the Category A and the Category B Information comprise the personal information of other third parties.
- The RTI Act recognises that disclosing an individual's personal information<sup>52</sup> to someone 32. else can reasonably be expected to cause a public interest harm<sup>53</sup> 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.<sup>54</sup>
- 33. I consider these nondisclosure factors warrant significant weight with respect to the Category A Information which, as noted above,<sup>55</sup> comprises solely the personal information of third parties.
- In terms of the Category B Information, as noted above,<sup>56</sup> some of this information 34. comprises information about the applicant, provided by third parties to QPS. Given the intertwined nature of this information, it is not possible to separate information concerning the applicant from information concerning the third parties. While some of the Category B Information is about the applicant, it is not solely about her, and its disclosure would also disclose the personal information of the third parties.
- 35. The Category B information records the third parties' opinions, observations, and/or concerns relating to the death of the applicant's husband. I consider that this information is highly sensitive in nature, given that it was provided in the context of concerns about the circumstances of the death of the applicant's husband. In the circumstances of this review, I am satisfied that disclosure could reasonably be expected to prejudice the protection of the individuals' right to privacy and cause a public interest harm; and I consider that these two nondisclosure factors should be given significant weight in relation to the Category B Information.
- The Category A Information includes the identity of the third parties who contacted QPS 36. to raise concerns about the death of the applicant's husband and the Category B Information includes information that was provided to QPS in relation to those concerns. Accordingly, I have also considered whether disclosure of the Category A and Category B Information could reasonably be expected to prejudice the flow of information to law enforcement or regulatory agencies.57
- It is generally recognised that there is very strong public interest in protecting the free 37. flow of information to law enforcement agencies.<sup>58</sup> This is because agencies such as

<sup>&</sup>lt;sup>51</sup> Noting that, given the wording of section 49(3)(b) of the RTI Act, the factors favouring disclosure listed in schedule 4, part 2 of the RTI Act are non-exhaustive.

<sup>&</sup>lt;sup>52</sup> Again, 'personal information' is defined in section 12 of the IP Act as 'information or an 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.'

<sup>&</sup>lt;sup>53</sup> Schedule 4, part 4, section 6(1) of the RTI Act. <sup>54</sup> Schedule 4, part 3, item 3 of the RTI Act.

<sup>55</sup> At paragraph 21.

<sup>&</sup>lt;sup>56</sup> At paragraph 25.

<sup>&</sup>lt;sup>57</sup> Schedule 4, part 3, item 13 of the RTI Act.

<sup>&</sup>lt;sup>58</sup> See for example P6Y4SX and Queensland Police Service [2015] QICmr 25 (11 September 2015), P6Y4SX and Department of Police (Unreported, Queensland Information Commissioner, 31 January 2012), SW5Z7D and Queensland Police Service [2016]

QPS often rely on information from the public and the efficient and effective use of public resources is facilitated by QPS being able to seek and obtain information from members of the community, whether they are complainants, witnesses, informers or the subjects of complaint.<sup>59</sup> Routinely disclosing this type of information under the IP Act process, would tend to discourage individuals from coming forward with relevant information. It is reasonable to expect that this would, in turn, detrimentally affect QPS's ability to effectively discharge its functions.<sup>60</sup>

38. Taking into account the nature of the Category A and Category B Information, I consider the prejudice to the flow of information to QPS arising from the disclosure of this information would be significant and afford this nondisclosure factor significant weight.

#### Balancing the public interest

- 39. As outlined above, in relation to the Category B Information, I afford the pro-disclosure factor concerning the applicant's personal information significant weight. I also afford the pro-disclosure factors regarding accountability, informing the community of the Government's operations, background or contextual information and the social and economic wellbeing of the community significant weight in relation to both the Category A and Category B Information.
- 40. On the other hand, I afford the nondisclosure factors regarding personal information and privacy of other individuals significant weight in relation to both the Category A and Category B Information. Similarly, I afford the nondisclosure factor regarding prejudice to the flow of information to QPS significant weight with respect to the Category A and Category B Information.
- 41. The applicant submits that she considers that her interests are 'fundamental' and require a 'more weighted consideration' when balancing the public interest.<sup>61</sup> While there are circumstances where an individual's personal interest in accessing information may align with the public interest for example, the circumstances noted at paragraph 29 above<sup>62</sup> generally it is not necessary to consider the interests of an individual when considering the public interest.<sup>63</sup> As noted at paragraph 19 above, 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.
- 42. I acknowledge that the circumstances have been very distressing for the applicant and she has a strong personal interest in finding out who made the notification to QPS; however, in relation to the both the Category A and the Category B Information, I find that the pro-disclosure bias<sup>64</sup> and the combined weight of the applicable pro-disclosure factors, while significant, are outweighed by what I consider to be the relatively greater collective weight of the nondisclosure factors
- 43. Accordingly, I find that access to the both the Category A and Category B Information may be refused on the ground that its disclosure would, on balance, be contrary to the public interest.

OICmr 1 (15 January 2016) and *Marshall and Department of Police* (Unreported, Information Commissioner of Queensland, 25 February 2011) (*Marshall*).

<sup>&</sup>lt;sup>59</sup> See Marshall at [29].

<sup>&</sup>lt;sup>60</sup> See *Marshall* at [29]. Adopting the ordinary meaning of the term '*prejudice':* see *Daw and Queensland Rail* (Unreported, Queensland Information Commissioner, 24 November 2010) at [16].

<sup>&</sup>lt;sup>61</sup> Applicant's letter to OIC dated 13 May 2021.

<sup>&</sup>lt;sup>62</sup> Another example is where an applicant is seeking access to documents to pursue a legal remedy.

<sup>&</sup>lt;sup>63</sup> Parsons v Office of the Information Commissioner [2021] QCATA 75 at [5].

<sup>&</sup>lt;sup>64</sup> Section 64(4) of the IP Act.

#### Irrelevant information

#### Relevant law

44. Section 88 of the IP Act provides that an agency may give access to a document subject to the deletion of information it considers is not relevant to an access application. This provision does not set out a ground for refusal of access. Rather, it provides a mechanism to allow irrelevant information to be deleted from documents which are identified for release to an applicant. In deciding whether information is irrelevant, it is necessary to consider whether the information has any bearing upon, or is pertinent to, the terms of the application.<sup>65</sup>

#### Findings

- 45. The deleted information comprises small portions of information on seven pages.<sup>66</sup> I am satisfied that these portions of information comprise details about other duties attended to by QPS Officers. These duties relate to entirely separate matters that do not, in any way, involve or have any relevance to the applicant or the circumstances referred to in her application.
- 46. Given the small portions of information on seven pages clearly fall outside the terms of the application, I find that they can be deleted from the copies of the documents released to the applicant.<sup>67</sup>

#### DECISION

- 47. For the reasons set out above, I vary QPS's decision and find that:
  - parts of seven pages are not relevant to the access application and therefore may be deleted<sup>68</sup>
  - access to parts of three pages may be refused on the ground that they comprise exempt information, namely information the disclosure of which could reasonably be expected to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;<sup>69</sup> and
  - access to parts of 33 pages may be refused on the ground that disclosure of this information would, on balance, be contrary to the public interest.<sup>70</sup>

<sup>&</sup>lt;sup>65</sup> O80PCE and Department of Education and Training (Unreported, Queensland Information Commissioner, 15 February 2010) at [52].

<sup>&</sup>lt;sup>66</sup> At pages 52, 55, 57, 58, 59, 60 and 61.

<sup>&</sup>lt;sup>67</sup> Under section 88 of the IP Act.

<sup>&</sup>lt;sup>68</sup> Section 88(2) of the IP Act.

<sup>&</sup>lt;sup>69</sup> Section 67(1) of the IP Act and section 47(3)(a) and schedule 3, section 10(1)(f) of the RTI Act.

<sup>&</sup>lt;sup>70</sup> Section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

48. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

A Rickard A/Right to Information Commissioner

Date: 23 September 2021

## APPENDIX

# Significant procedural steps<sup>71</sup>

Date	Event
20 October 2020	OIC received the applicant's external review application.
21 October 2020	OIC notified the applicant and QPS that the external review application had been received and requested procedural information and documents from QPS.
5 November 2020	OIC received the procedural information from QPS.
11 November 2020	OIC notified the applicant and QPS that the external review had been accepted, and requested the information in issue from QPS.
26 November 2020	QPS provided the information in issue to OIC.
23 February 2021	OIC wrote to QPS conveying a preliminary view.
31 March 2021	OIC contacted QPS requesting a response to OIC's preliminary view dated 23 February 2021.
16 April 2021	OIC contacted QPS requesting a response to OIC's preliminary view dated 23 February 2021. The applicant requested an update.
19 April 2021	QPS advised OIC that it accepted OIC's preliminary view.
26 April 2021	The applicant contacted OIC expressing her dissatisfaction with the information disclosed to her by QPS.
28 April 2021	OIC provided a response to the applicant's email dated 26 April 2021.
29 April 2021	The applicant contacted OIC to confirm that she wished to proceed with the external review.
6 May 2021	OIC wrote to the applicant conveying a preliminary view.
12 May 2021	The applicant provided a response to OIC's preliminary view.
13 May 2021	OIC received a submission from the applicant.
21 May 2021	OIC advised the applicant that it would be proceeding to a formal decision.

<sup>&</sup>lt;sup>71</sup> In addition to the steps which progressed the review, OIC provided the applicant with updates on 27 November 2020, 28 January 2021, 10 February 2021, 12 February 2021, 1 March 2021, 4 March 2021, 20 April 2021, 6 August 2021 and 2 September 2021.