



Decision and Reasons for Decision

Application Number: 310930

Applicant: Mathews

Respondent: The University of Queensland

Decision Date: 21 September 2012

Catchwords: ADMINISTRATIVE LAW - INFORMATION PRIVACY - SCOPE OF APPLICATION - applicant sought access to information relating to his previous Freedom of Information and Information Privacy access applications - agency excluded information outside the scope of the access application - whether access may be refused under section 40(1) of the *Information Privacy Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LEGAL PROFESSIONAL PRIVILEGE - access refused to documents - whether information is exempt on the basis of legal professional privilege under schedule 3, section 7 and sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LEGAL PROFESSIONAL PRIVILEGE - access refused to documents - whether information is exempt because it could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation - schedule 3, section 10(1)(g) and sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - access refused to information about other individuals - personal information and privacy - whether disclosure would, on balance, be contrary to public interest - whether access may be refused under sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

Summary

1. The applicant applied to the University of Queensland (UQ) under the *Information Privacy Act 2009* (Qld) (IP Act)¹ for access to the contents of four files regarding previous access applications made by him under the *Freedom of Information Act 1992* (Qld) (FOI Act) and the IP Act.²
2. The applicant is a UQ graduate and has been involved in a series of disputes with UQ since at least 1995. The applicant has made numerous access applications under the FOI Act and the IP Act to UQ.
3. The applicant maintains a website,³ which he describes as a '*Public Journal*'.⁴ On the website he publishes material about various individuals against whom he holds a grievance. These individuals include numerous UQ staff and students. The website includes allegations and insults directed at these individuals. The website states that it is specially designed to achieve a high 'Google rank' when an internet search is conducted for the names of the individuals against whom it is targeted, and thereby to harm their reputation, job prospects, and financial interests.⁵
4. In response to the applicant's access application, UQ released the majority of the information located. However, UQ refused to release any information that identified particular individuals, initially on the grounds that to do so would be contrary to the public interest, and later on internal review on the basis that disclosure of that information could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation. UQ withheld some documents as they did not contain any personal information about the applicant. UQ withheld some further documents on the basis of legal professional privilege.
5. It is the decision of this Office that:
 - 25 pages do not contain personal information of the applicant. Therefore the applicant does not have a right to obtain access to those documents under the IP Act
 - 53 pages are in part exempt under schedule 3, section 10(1)(d) of the RTI Act as their disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation
 - 14 pages are exempt under schedule 3, section 7 of the RTI Act as they are protected by legal professional privilege; and
 - 242 pages contain information of third parties that would not, on balance, be contrary to the public interest to release.

¹ By application dated 20 November 2011.

² In the access application, the applicant identified the files he sought access to as follows: '*Ranking and/or sorting the files by order of the date of the creation of the file, of, if that is not available for any particular file, then the date of the first dated document on that particular file, I require access to all documents meeting my specification of document, in the file next later in time to that file just released with the earliest ranking date, and the three files with the next latest ranking dates prior to the dates of the three files with the latest ranking dates just released.*'

³ In his application for external review, the applicant submitted: 'While I may be aware of the [website] and much of its contents, and aware that my name is plastered all over it, that does not mean that I have authored or approved the authoring that has occurred.' For the reasons outlined at paragraph [42] below, I am nonetheless satisfied that the applicant publishes the website. In these reasons, I do not provide the website's URL. As discussed below, the website states that it is designed to gain the highest possible 'Google rank' to cause maximum harm to the individuals against whom it is directed. Providing the URL of the website in these reasons would improve its Google rank.

⁴ Submissions from applicant, 28 March 2012.

⁵ See discussion at paragraph [32]-[33] below.

Significant procedural steps

6. Significant procedural steps are set out in the Appendix to these reasons.

Reviewable decision

7. UQ's initial decision was made on 23 December 2011 (**initial decision**). The applicant applied for internal review on the same day. UQ sought to vary the initial decision by refusing access to the information in issue on different grounds (**purported decision**). As the purported decision was communicated to the applicant outside the statutory timeframe,⁶ UQ is deemed to have made a decision affirming its initial decision (**deemed decision**).⁷
8. The decision under review is the deemed decision, taken to have been made on 25 January 2012.

Information in Issue

9. The Information in Issue is contained in a variety of documents located on four files created by UQ while processing FOI requests and IP Act access applications made by the applicant.
10. In these reasons, the information in issue is divided into four categories:
- Category A information: 25 pages⁸ of internal university documents that UQ withheld because they do not contain any personal information of the applicant
 - Category B information: 14 pages⁹ that UQ withheld claiming legal professional privilege
 - Category C information: 53 pages¹⁰ that UQ released in part, which contain the personal information of third parties; and
 - Category D information: 242 pages¹¹ that UQ released in part, which consist of printouts from the applicant's website containing personal information of third parties.

Issues in this review

11. The issues to be determined in this review are whether:
- the information in issue (in particular, the category A information) contains the applicant's personal information
 - UQ can refuse access to the category B information on the basis that the information is exempt matter as it is subject to legal professional privilege
 - UQ can refuse access to the category C and D information on the basis that disclosure of the information could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation; and

⁶ The University's purported decision, dated 19 January 2012, was emailed to the applicant on 27 January 2012, one business day outside of the timeframe established by section 83(2) of the RTI Act.

⁷ Under section 97(2) of the IP Act, as the University did not notify the applicant of its decision within 20 business days after 23 December 2012, i.e., by 25 January 2012.

⁸ Pages unnumbered.

⁹ In full: File CR A16031-2: pages 47, 48, 52, 53, and 57-61. In part: File CR A16031-2: 49-51, 54, 55.

¹⁰ File A6610: pages 1-12; File CR A16031-1: pages 1, 49-55, 89, 160, 166, 167, 170, 172, 202-211, 213, 214, 216, 217;

File CR A16031-2: pages 1-4, 8, 49-51, 54-56, 62, 93; File CR A16032: pages 1-3, 5-17, 19, 20.

¹¹ File CR A16031-1: pages 2-4, 5-10, 12-14, 16, 21-38, 40-42, 45, 58, 74, 75, 78, 81, 83-86, 88, 89, 91, 94, 96, 98-100, 102, 107, 108, 110, 112, 115, 118-130, 134, 135, 139, 141, 143, 148-151, 154, 161-165, 173-201; File CR A16031-2: pages 9-19, 21-46, 63-92, 94-107, 109-110, 123-166.

- whether it would, on balance, be contrary to the public interest for the balance of the information in issue (the category D information) to be disclosed.

Material considered

12. Evidence, submissions, legislation and other material I have considered in reaching my decision are disclosed in these reasons (including footnotes and Appendix).

Do all of the documents contain the applicant's personal information?

13. Under the IP Act an individual has a right to access documents of an agency to the extent that those documents contain the applicant's personal information.¹² Applicants do not have a right to obtain access under the IP Act to documents that do not contain their personal information.
14. Personal information is defined as '*information or an opinion ... about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.*'¹³
15. Therefore, for a person to have a right to obtain access to a document under the IP Act, they must be able to be identified from information contained in that document.¹⁴
16. UQ refused access to the category A information on the grounds that the applicant could not be identified from the information. Although the category A information is contained on files that relate to the applicant's RTI application, the documents themselves contain no reference to him. These documents include, for example, internal university email correspondence and handwritten notes. There is nothing in the Category A documents from which the applicant's identity could be ascertained.
17. I am satisfied that because the category A information does not contain the applicant's personal information, the applicant has no right to be given access to that category of information under section 40 of the IP Act. UQ is entitled to withhold the category A information.
18. I am satisfied that the remainder of the information in issue (categories B, C and D) does contain the personal information of the applicant. The applicant therefore has a right to access that information, subject to certain exceptions. I will now consider whether any of those exceptions apply.

Is any of the Information in Issue subject to legal professional privilege?

19. The right to access in the IP Act is subject to the grounds for refusal contained in section 47 of the RTI Act.
20. Sections 47(3)(a) and 48 of the RTI Act provide that access may be refused to a document to the extent that it comprises 'exempt information'. Schedule 3 sets out the categories of information which Parliament has considered to be 'exempt information' as its disclosure would, on balance, be contrary to the public interest. If information is exempt, it is not necessary to apply a separate public interest test,¹⁵ because the Act

¹² Under section 40 of the IP Act.

¹³ Under section 12 of the IP Act.

¹⁴ For further discussion see *Mahoney and Ipswich City Council* (Unreported, Queensland Information Commissioner, 17 June 2011) [19]-[22].

¹⁵ *BL v Office of the Information Commissioner, Department of Communities* [2012] QCATA 149 [15].

- specifically provides that Parliament considers disclosing exempt information would be contrary to the public interest.
21. Schedule 3, section 7 provides that information is exempt if its disclosure would be privileged from production in a legal proceeding on the ground of legal professional privilege (**LPP**).¹⁶ UQ claims LPP in relation to the category B information.
 22. *C01MAA and The Public Trustee of Queensland*¹⁷ (**C01MAA**), sets out the relevant law relating to LPP, including legal advice from salaried employee legal advisers.¹⁸
 23. The category B information consists of:
 - correspondence requesting and providing legal advice, between various UQ staff and the UQ General Counsel (a salaried employee legal adviser); and
 - correspondence requesting and providing legal advice between UQ's external legal counsel and:
 - the University Secretary and Registrar; and
 - the University General Counsel.
 24. Having carefully reviewed the category B information, I am satisfied that this correspondence was prepared by either the University General Counsel or UQ's external legal counsel, for the dominant purpose of providing independent legal advice to UQ. I am also satisfied that the communications were made confidentially. I therefore find that this information satisfies the requirement for LPP. There is no information before me that suggests that LPP has been waived.
 25. Based on the above, I am satisfied that the category B information is exempt information under schedule 3, section 7 of the RTI Act. UQ is entitled to refuse access to this information.

Would disclosure of the information in issue result in a person being subjected to a serious act of harassment or intimidation?

26. Schedule 3, section 10(1)(d) provides that information is exempt if its disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation.¹⁹
27. A number of previous decisions of this Office have considered this exemption.²⁰ These decisions state that for this exemption to apply, there must be, first, an apprehended serious act of harassment or intimidation, and second, a reasonable basis for expecting that that act would be the result of the disclosure of the information in issue. Therefore, I will consider:
 - Do postings on the applicant's website constitute serious acts of harassment or intimidation?
 - If the information were released, could it be reasonably expected that the applicant would make further postings?

¹⁶ Schedule 3, section 7 of the RTI Act.

¹⁷ (Unreported, Queensland Information Commissioner, 8 May 2012).

¹⁸ C01MAA [11]-[17].

¹⁹ Schedule 3, section 10(1)(d) of the RTI Act.

²⁰ See, e.g., *Richards and Gold Coast City Council* (Unreported, Queensland Information Commissioner, 28 March 2012) ('**Richards**'); *Sheridan and South Burnett Regional Council and others* (Unreported, Queensland Information Commissioner, 9 April 2009) ('**Sheridan**').

Do postings on the applicant's website constitute serious acts of harassment or intimidation?

28. Previous decisions of this Office have stated that because the terms 'harass', 'intimidate' and 'serious' are not defined in the RTI Act their ordinary meaning should be adopted.²¹ This Office has previously referred to the following dictionary definitions for guidance in interpreting the terms 'harass' and 'intimidate':²²
- 'harass' includes 'to trouble by repeated attacks, ... to disturb persistently; torment'; and
 - 'intimidate' includes 'to make timid, or inspire with fear; overawe; cow ... to force into or deter from some action by inducing fear.'
29. The Information Commissioner has noted that because this section refers to a 'serious' act of harassment or intimidation, some degree of harassment or intimidation must be permissible before the exemption will apply.²³ In other words, the expected harassment or intimidation must be 'serious' in nature for schedule 3, section 10(1)(d) to apply. Relevant dictionary definitions of 'serious' include:
- 'weighty or important'²⁴
 - 'giving cause for apprehension; critical';²⁵ and
 - 'having (potentially) important, esp. undesired, consequences; giving cause for concern'.²⁶
30. UQ has submitted that disclosure of the information in issue will result in a person being subjected to a serious act of harassment or intimidation via the applicant's website. UQ states that its conclusion is based on previous 'harassing posts' on the website. Examples of particular posts provided by UQ include:
- accusations that UQ staff are guilty of criminal assault
 - accusations that a UQ staff member is a 'Nazi Bully'
 - accusations of UQ staff bullying students
 - references to UQ staff as parasites and labelling a staff member a 'bitch/slut'
 - accusations that a UQ employee is endorsing criminal behaviour by engaging in death threats; and
 - description of a UQ employee as a 'post-menopausal fat fraudster'.
31. I have perused the website. The website makes these and other allegations against various UQ staff and students. Many pages on the website describe, in length, the applicant's grievances against various individuals, and make a range of offensive statements, attacks and accusations.
32. The website states that one of its purposes is to harm the reputations of the individuals that it targets. Some of these pages attempt to quantify the harm that they will cause. For example, one page states:

When employment agencies google on "[a UQ student]"s name, they will find our explanation ... The chances are the employment agencies will not even [the student]

²¹ Sheridan [188].

²² Ogawa and Queensland Police Service (Unreported, Queensland Office of the Information Commissioner, 21 June 2012), applying Sheridan, at paragraphs [194]-[197] referring to the Macquarie Dictionary Online (Fourth Edition).

²³ Sheridan [187].

²⁴ Macquarie Dictionary Online (Fifth Edition).

²⁵ Macquarie Dictionary Online (Fifth Edition).

²⁶ New Shorter Oxford Dictionary (4th Edition), as quoted by the Information Commissioner in Sheridan.

they know. That will greatly reduce her employment prospects. It will take her longer to find a job and when she does find a job, it will be paying far less. That will snowball in subsequent jobs because she has not had the better experience. The gap will be quite a few thousand dollars per year. That gap will increase in time, in REAL terms, apart for in CURRENT VALUE terms which will be much greater. In rough terms, when that gap is discounted back to present value terms, each year will be about the same present value. If we allow about 40 years for a working life, the present value for each year can be between \$3,000 and \$5,000. That is up to \$200,000 per person. We calculate that as about a 10% drop in salary. That would be for one about to graduate. ... Her lecturers and tutors will soon know about our references. They will not disregard what she has said as it will indicate the type of person she is. I would welcome cross-examining her in the witness box with the documented evidence I have, if she thought for one moment that she would sue me. She would be a mumbling mess. She should know, I have just started on her. Go ahead, sue. If anyone else thinks they too may sue, I will subpoena [the UQ student], as her evidence will be relevant. ...

Our journals will be online for many years. Do you realize how internet "content" is so desirable? If I do not keep it published, (I will) there will be many others who will wish to publish it. (It is also in the National Library of Australia as part of our Nation's Literary Heritage.) ...

This will apply to ALL "members" whose names are published. Now, they all have something to think about.

33. Another page on the website includes details of a UQ employee including his name, photos of him, his address, and photos and maps of his home. The page states:

If [the UQ employee] wishes to sell his home soon, prospective buyers may be turned off by the prospect of this house being targeted by a disaffected student or staff member of UQ, when that person does not know that [the employee] has sold.

Prospective buyers will very likely know of this page. Within two days of this page going online, Google will have indexed it in many ways, INCLUDING BY THE ADDRESS ...

34. In previous decisions of this Office, the Information Commissioner has stated that the 'subjective purpose of the applicant' is not a relevant consideration in assessing whether disclosure will result in a person being subjected to a serious act of harassment or intimidation.²⁷ It is correct that the objective of the access applicant is irrelevant, where, for example, it is a third party who is likely to engage in the anticipated harassing or intimidating conduct.²⁸ However, the stated objective of that third party might be relevant if it evidences an intention to harass or intimidate. While the motive of the *applicant* for making the access application is not directly relevant in assessing whether this exemption arises, the motive of the *potential harasser or intimidator* may be. In this case, they happen to be the same person.²⁹
35. I consider that the above postings on the applicant's website show that the website's purpose is to harass (in other words, to '*disturb persistently*' and '*torment*') and to intimidate (in other words, to '*force into or deter from some action by inducing fear*') individuals against whom it is targeted. I consider that this weighs in favour of a finding that postings on the website constitute an act of harassment or intimidation.

²⁷ *Sheridan* [187].

²⁸ As was the case in *Sheridan*.

²⁹ See paragraph [42] below.

36. Having considered submissions made by UQ and correspondence from individuals affected by the website,³⁰ I am satisfied that some individuals have been caused significant distress by being targeted by the applicant.
37. The posting of offensive commentary on the internet might not, by itself, be enough to reach the threshold of a 'serious act of harassment or intimidation'. But the malicious nature of the applicant's website including its stated purpose, together with the impact that it has had on the individuals it targets, bring me to the conclusion that this website meets the threshold.
38. I am satisfied that the act of publishing pages on the applicant's website that target individuals, is a serious act of harassment or intimidation against those individuals.
39. I will now consider whether disclosure of the information in issue could reasonably be expected to result in such acts occurring.

If the information in issue were released, could it reasonably be expected that the applicant would make further postings?

40. Depending on the circumstances of the particular matter, a range of factors may be relevant in determining whether an expectation of serious harassment or intimidation is reasonable. These factors may include:³¹
 - past conduct or a pattern of previous conduct
 - the nature of the relevant Information in Issue
 - the nature of the relationship between the parties and/or relevant third parties; and
 - relevant contextual and/or cultural factors.
41. During this external review the applicant attempted to distance himself from this website. The applicant stated:³²

While I may be aware of [the website] and much of its contents, and aware that my name is plastered all over it, that does not mean that I have authored or approved the authoring that has occurred.

42. In previous external reviews involving the applicant, he has stated that he publishes the website.³³ Furthermore, information released to the applicant under the FOI Act and the IP Act have been published on the applicant's website. I consider that these are reasonable grounds to conclude that the applicant is the publisher of the website.
43. I will now consider whether disclosure of the remaining information in issue (categories C and D) could reasonably be expected to result in the applicant making new postings on his website that would constitute serious acts of harassment or intimidation.

Category D information – printouts from the applicant's website

44. The category D information consists of the personal information of third parties contained in printouts of the applicant's website. All of the information within those pages is available to the applicant, both as the publisher of the information, and via the

³⁰ The information in issue contains correspondence from individuals affected by the applicant's website. This correspondence describes the significant impact that the website has had on the individuals it targets.

³¹ Richards [19].

³² Email from the applicant to OIC, dated 27 January 2012.

³³ Email from the applicant to OIC, dated 2 November 2011.

Internet. I am not satisfied that the disclosure of printouts of the applicant's website could reasonably be expected to result in a serious act of harassment or intimidation as the applicant has access to this information already.

45. I will now consider this exemption in relation to the remaining information in issue: the category C information.

Category C information – other documents containing third party personal information

46. The category C information consists of a wide variety of documents contained on the FOI request and IP Act access application processing files of UQ. These documents include the identities of UQ employees who were involved in the processing of the applicant's FOI request and IP Act access applications.
47. It is unclear how the applicant chooses who to target on his website, but in at least some cases he appears to have targeted individuals identified in information released to him through FOI requests and IP Act access applications. Information previously released to the applicant under the FOI Act and the IP Act is published on the website, alongside offensive and outlandish commentary about individuals named in that information.
48. Given the applicant's ongoing conflict with UQ, and his past conduct, I consider there is a significant chance that he will target the individuals whose identities are revealed in the category C information.
49. The applicant's previous conduct provides a reasonable basis for an expectation that should the information in issue be released, the individuals identified in it could reasonably be expected to be subjected to further serious acts of harassment or intimidation.

Applicant's submissions

50. In response to a preliminary view from OIC, the applicant made the following points in support of his case for access:³⁴
- any publication of the requested information would have '*qualified privilege*'
 - there has been a crime of armed robbery committed by various government agencies and individuals against him; and
 - failure to release Information in Issue forms part of a government '*cover up*'.
51. None of these submissions are relevant to the determination of whether disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation. '*Qualified privilege*' may comprise a defence to an action for defamation;³⁵ it does not provide a justification for serious acts of harassment or intimidation. The other two submissions comprise unsubstantiated assertions having no bearing on the question of whether the individuals identified in the category C information will be subjected to serious acts of harassment or intimidation.

³⁴ Emails from applicant to OIC, dated 27 March 2012 and 28 March 2012.

³⁵ Although I have not considered this issue in detail, I express doubt that the applicant could make out this defence in relation to his website.

Conclusion

52. I am satisfied that disclosing the category C information would reveal the identity of individuals who were involved in the processing the applicant's FOI requests and IP Act access applications. This could reasonably be expected to result in those individuals being subjected to serious acts of harassment or intimidation. In particular, based on the past conduct of the applicant it could reasonably be expected that he will post unfounded allegations and offensive commentary on his website about those individuals.

Would release of the balance of information be contrary to the public interest?

53. The balance of information (the category D information) consists of 242 pages which are printouts of the applicant's website. UQ has deleted information from these printouts that identify third parties.
54. Sections 47(3)(b) and 49 of the RTI Act provide that access may be refused to a document where its disclosure would be contrary to the public interest. Section 49 of the RTI Act describes the procedure to be followed in identifying whether information is contrary to the public interest to release.
55. The RTI Act lists factors which may be relevant to deciding the balance of the public interest and sets out the following steps to decide where the public interest lies in relation to the disclosure of information:³⁶
- 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 would, on balance, be contrary to the public interest.

Irrelevant factors

56. Schedule 4, Part 1, item 4 indicates that consideration of whether disclosure 'could reasonably be expected to result in mischievous conduct by the applicant' is an irrelevant consideration for the purpose of this public interest test. I therefore disregard the possibility of mischievous conduct by the applicant³⁷ should the information be released to him for the purpose of this public interest test.

Factors favouring disclosure and nondisclosure

57. I am satisfied that the 242 pages contain the personal information of numerous individuals. As such, I consider that the following factors favouring non-disclosure arise:
- disclosure would cause a public interest harm by disclosing the personal information of a person, whether living or dead;³⁸ and
 - prejudice the protection of an individual's right to privacy.³⁹

³⁶ In section 49(3) of the RTI Act.

³⁷ Such as that discussed in [26]-[49] above.

³⁸ Schedule 4, Part 4, Item 6.

³⁹ Schedule 4, Part 3, Item 3.

58. However, as noted in paragraphs 44 above, the applicant already has full access to this information because he publishes it. Also, it is available on the internet. Therefore I attribute only a low weight to these factors.
59. On the other hand, disclosure of the information would reveal to the applicant what information (i.e., what specific pages of his website) UQ referred to while processing his previous FOI requests and IP Act access applications. This could reasonably be expected to reveal the reason for a government decision and any background or contextual information that informed that decision.⁴⁰ I afford this factor a moderate weight in favour of disclosure.

Balancing the public interest

60. On one hand, disclosure of this information in issue would result in the release of the personal information of third parties. However, I afford this factor only a low weight because this information is already in a publicly available form. It was likely written by the applicant.
61. On the other hand, disclosure of this information would inform the applicant about what specific parts of his website UQ referred to in processing the FOI requests and IP Act access applications to which the documents relate. I am satisfied that this factor outweighs the public interest harm in disclosing the (already publicly available) personal information of third parties identified in those pages.

DECISION

62. For the reasons set out above, I vary UQ's decision and find:
- access is refused to the 25 pages⁴¹ that do not contain the applicant's personal information because the applicant does not have a right to be given access to these documents under section 40(1) of the IP Act
 - 14 pages⁴² are exempt under section 67(1) of the IP Act, and section 47(3)(a) and schedule 3, section 7 of the RTI Act as they would be privileged from production in a legal proceeding on the ground of legal professional privilege; and
 - access is refused to 53 pages⁴³ as they are exempt under section 67(1) of the IP Act, and section 47(3)(a) and schedule 3, section 10(1)(d) of the RTI Act, as their disclosure could reasonably be expected to result in a person being subjected to a serious act of harassment or intimidation
 - 242 pages⁴⁴ withheld in part by UQ should be released to the applicant in full, as their disclosure would not, on balance, be contrary to the public interest under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

Jenny Mead
Acting Information Commissioner

⁴⁰ Schedule 4, Part 2, Item 11.

⁴¹ Unnumbered.

⁴² In full: File CR A16031-2: pages 47, 48, 52, 53, and 57-61. In part: File CR A16031-2: 49-51, 54, 55.

⁴³ File A6610: pages 1-12; File CR A16031-1: pages 1, 49-55, 89, 160, 166, 167, 170, 172, 202-211, 213, 214, 216, 217;

File CR A16031-2: pages 1-4, 8, 49-51, 54-56, 62, 93; File CR A16032: pages 1-3, 5-17, 19, 20.

⁴⁴ File CR A16031-1: pages 2-4, 5-10, 12-14, 16, 21-38, 40-42, 45, 58, 74, 75, 78, 81, 83-86, 88, 89, 91, 94, 96, 98-100, 102, 107, 108, 110, 112, 115, 118-130, 134, 135, 139, 141, 143, 148-151, 154, 161-165, 173-201; File CR A16031-2: pages 9-19, 21-46, 63-92, 94-107, 109-110, 123-166.

Date: 21 September 2012

APPENDIX

Significant procedural steps

Date	Event
20 November 2011	UQ received the access application.
23 December 2011	UQ notified the applicant that it had located a number of relevant documents and decided to release 90 folios in their entirety, partially release a further 315 folios and refuse access 10 other folios (Initial Decision).
23 December 2011	The applicant applied to UQ for internal review of the initial decision.
19 January 2012	On internal review, UQ varied the original decision and decided that the Information in Issue is exempt from disclosure under Schedule 3, section 10(1)(d) of the RTI Act, and also under Schedule 3, section 7 of the RTI Act (Purported Decision).
27 January 2012	UQ internal review decision conveyed to the applicant via email, 21 business days after the application for internal review was lodged.
27 January 2012	The applicant applied to OIC for external review of the internal review decision.
31 January 2012	OIC asked UQ for a copy of relevant procedural documents.
3 February 2012	OIC received the requested documents from UQ.
7 February 2012	OIC asked UQ to provide a copy of the Information in Issue and other procedural documents.
15 February 2012	OIC received a copy of the Information in Issue and relevant procedural documents from UQ.
21 February 2012	OIC notified the applicant that the external review application had been accepted.
27 March 2012	OIC conveyed a preliminary view to the applicant on the Information in Issue and invited the applicant to provide submissions supporting his case by 12 April 2012 if he did not accept the preliminary view.
27 March 2012	The applicant advised OIC that he did not accept the preliminary view and provided submissions.
28 March 2012	The applicant made additional submissions regarding the preliminary view.
20 June 2012	OIC conveyed a second preliminary view to the applicant on the Information in Issue and invited the applicant to provide submissions supporting his case by 10 July 2012 if he did not accept the preliminary view.
20 June 2012	The applicant advised OIC that he did not accept the preliminary view.