

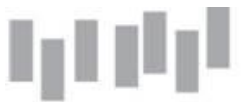


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De-identification of declaration

The Respondent's correspondence was an important part of the Information Commissioner's decision to declare them vexatious and the reasons for decision contains several examples. However, due to the nature of the correspondence, certain examples may identify the Respondent. As such, in the published decision some examples have been partially redacted and others have been fully redacted and replaced with a description.



Vexatious Applicant Declaration

Citation:	<i>Information Commissioner and Respondent [2021] QICmr 70 (20 December 2021)</i>
Reference Number:	431007
Respondent:	'Respondent'
Third Party:	Queensland Police Service
Fourth Party:	Gold Coast Hospital and Health Service
Declaration Date:	20 December 2021
Catchwords:	ADMINISTRATIVE LAW – APPLICATION TO DECLARE A PERSON A VEXATIOUS APPLICANT – section 127 of the <i>Information Privacy Act 2009 (Qld)</i>

DECLARATION

Section 127 of the *Information Privacy Act 2009 (Qld)*

I declare, in accordance with section 127 of the *Information Privacy Act 2009 (Qld)* (**IP Act**), that the respondent is a vexatious applicant on the basis that he has repeatedly engaged in access and amendment actions and the repeated engagement involves an abuse of process for an access action and an amendment action.

I make the declaration in the following terms:

1. The respondent is prohibited from making any application for access to documents under section 43 of the IP Act, or application for internal review under section 94 of the IP Act, of a decision made on an application for access under section 43 of the IP Act,¹ to either the Third Party or Fourth Party, for a period of two years from the date of this declaration.
2. The respondent is prohibited from making any application for amendment under section 44 of the IP Act, or application for internal review under section 94 of the IP Act, of a decision made on an application for amendment under section 44 of the IP Act,² to the Fourth Party, for a period of two years from the date of this declaration.
3. The respondent is prohibited from making any external review application to the Office of the Information Commissioner (**OIC**) under section 101 of the IP Act for review of:
 - Any decision of either the Third or Fourth Party on any IP Access Application

¹ Together, 'IP Access Applications'.

² Together, 'Amendment Applications'.

- Any decision of the Fourth Party on any Amendment Application.
4. I will from today's date cease dealing any further with any applications for external review of decisions of the Third or Fourth Party under the IP Act that are currently before me.

REASONS FOR DECLARATION

Background

1. Since 2019, the respondent has made multiple information access applications under the IP Act to both the Third and Fourth Parties, numerous applications to the Fourth Party for amendment of information, and a similar multitude of applications to OIC under the IP Act for external review of those agencies' decisions.
2. In view of the impact the respondent's engagement in relevant applications has had and is having on OIC, and the operations of the Third and Fourth Parties, I have on my own initiative determined to declare him a vexatious applicant, and prohibit him from engaging in further access and/or amendment actions under the IP Act, on terms stated above.

Relevant law

3. On the application of an agency or on the Information Commissioner's own initiative, the Information Commissioner may declare in writing that a person is a vexatious applicant under section 127(1) of the IP Act.³ Such a declaration has effect subject to any terms or conditions stated in the declaration.⁴ A declaration under these provisions can only be made if the respondent has been given an opportunity to make written or oral submissions.⁵
4. The Information Commissioner may declare a person vexatious if satisfied that:⁶
 - a. the person has repeatedly engaged in access or amendment actions; and
 - b. the repeated engagement involves an abuse of process for an access or amendment action.
5. Access or amendment action is defined in section 127(8) of the IP Act. This section provides that '*access or amendment action*' means any of the following:
 - an access application
 - an amendment application
 - an internal review application; and
 - an external review application.
6. '*Engage*', for an access or amendment action, means to make the access or amendment action.⁷
7. Section 127(8) of the IP Act sets out a non-exhaustive list of circumstances which might constitute an '*abuse of process*', including unreasonably interfering with the operations of an agency⁸ in relation to the access or amendment action.

³ I will refer to section 127 of the IP Act as the '**Vexatious Applicant Provision**'.

⁴ Section 127(4) of the IP Act.

⁵ Section 127(3) of the IP Act.

⁶ Section 127(2) of the IP Act.

⁷ Section 127(8) of the IP Act.

⁸ The definition of '*agency*' in section 127(8) only states that agency '*includes a Minister*'. Therefore it is necessary to refer to the definition of '*agency*' in schedule 5 of the IP Act, which in turn refers to section 17 of the IP Act, which in turn refers to section 14 of the *Right to Information Act 2009* (Qld) (**RTI Act**).

8. Other grounds for abuse of process are established at common law.⁹ These include:
- the making of unsubstantiated or defamatory allegations in applications;¹⁰ and
 - wastage of public resources and funds.¹¹

Application of the Human Rights Act 2019

9. In deciding to make this declaration, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information as enacted in section 21(2) of that Act. I acknowledge that declaring a person a vexatious applicant, and placing conditions on or otherwise restricting an individual's right to engage in access or amendment actions under the IP Act for a period of time, could be regarded as interfering with that right. However, I am satisfied that where, as here, such a declaration is made consistently with and in observation of the relevant law – the Vexatious Applicant Provision – then I may be regarded as '*respecting and acting compatibly with*' applicable rights prescribed in the HR Act.¹²
10. In enacting section 127 of the IP Act, Parliament recognised that, in limited and specific circumstances, the right to engage in an access or amendment action under the IP Act may be circumscribed or interfered with, where such an action involves an abuse of process or would be manifestly unreasonable. As required by section 58 of the HR Act, I have considered and am satisfied that, in applying the law contained in section 127 of the IP Act, which contemplates restrictions being placed upon the right to seek and receive information, I am acting compatibly with the right prescribed in section 21 of the HR Act. I have also considered other wider rights contained in the HR Act and do not consider that I am acting incompatibly with them in making this declaration. In this regard, I note Bell J's observations on the interaction between the Victorian equivalents of Queensland's RTI/IP Acts and HR Act: '*it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act*'.¹³

Operation of the Vexatious Applicant Provision

11. Section 127 of the IP Act and its counterpart in section 114 of the RTI Act have been analysed and applied by OIC on several occasions, including:
- *UQ and Respondent*
 - *Cairns and Hinterland Hospital and Health Service and Respondent* (Unreported, Queensland Information Commissioner, 26 October 2017)
 - *Moreton Bay Regional Council and Respondent* [2020] QICmr 21 (8 April 2020)
 - *QPS and Respondent*; and
 - *Gold Coast Hospital and Health Service and Respondent* [2020] QICmr 25 (6 May 2020).¹⁴

⁹ *The University of Queensland and Respondent* (Unreported, Queensland Information Commissioner, 27 February 2012) (**UQ and Respondent**) at [13].

¹⁰ *Hearl and Mulgrave Shire Council* (1994) 1 QAR 557, cited in *Queensland Police Service and Respondent* [2020] QICmr 53 (**QPS and Respondent**), [9].

¹¹ *Re Cameron* [1996] 2 Qd R 218, at [220], cited in *QPS and Respondent*.

¹² As is the case with decisions made on amendment, access and review applications under the IP Act: *T34 and Queensland Police Service* [2020] QICmr 1 (28 January 2020) at [26], citing and applying *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

¹³ *XYZ* at [573].

¹⁴ Upheld on appeal – *Frost v Gold Coast Hospital and Health Services and Anor* [2021] QCAT 133.

12. I have had regard to the above in making this declaration and authorities cited therein (where relevant).
13. The power to make a declaration under the Vexatious Applicant Provision is discretionary, and the definition of 'abuse of process' is not, as noted, exhaustive. This means that in addition to considering the grounds for a declaration specified in the legislation, I may also consider other relevant aspects of a person's access/amendment actions.¹⁵

Evidence considered

14. As this declaration is made on my initiative, I have had regard to my Office's records and communications with the respondent,¹⁶ and my own knowledge of our dealings with him and the interference caused to our operations by those dealings. I have also had regard to correspondence received from both the Third and Fourth Parties at my invitation, my letter to the respondent dated 2 November 2021 (including enclosures), and emails received from him in reply. Materials relied upon are disclosed in these reasons.

Discussion

Repeated engagement in access or amendment actions

15. The respondent has engaged in:
 - at least 50 relevant access/amendment actions with OIC about Third Party and Fourth Party decisions since 2019;¹⁷
 - 37 with the Third Party between 26 June 2019 and 11 October 2021;¹⁸ and
 - 49 with the Fourth Party between 22 March 2017 and 29 September 2021.¹⁹
16. The term '*repeatedly*' is not defined in the IP Act, and may thus be interpreted in accordance with its ordinary meaning: '*done, made or said again and again*'.²⁰ I am satisfied that in making the applications listed above, the respondent has repeatedly engaged in access and amendment actions.

Abuse of process

17. I also consider that the repeated engagement by the respondent in access/amendment actions involves an abuse of process, on the basis that that repeated engagement has unreasonably²¹ interfered with relevant agencies' – the Third and Fourth Parties', and OIC's – operations.
18. It is well established that the Third and Fourth Parties – that is, recipients of the respondent's access/amendment applications – are agencies. In terms of OIC, while a

¹⁵ QPS and Respondent at [15].

¹⁶ Identified, where relevant, through these reasons.

¹⁷ Being applications for external review of Third Party and Fourth Party decisions under the IP Act. Applications for external review must give details of the decision for review (section 101(1)(c) of the IP Act). OIC has received numerous emails from the respondent requesting external review, some of which have not progressed as they were received after this process commenced. Others comprise convoluted emails to multiple parties, attaching multiple documents referencing various agencies, making it extremely difficult to discern what decision the respondent seeks to have reviewed.

¹⁸ Correspondence from the Third Party dated 13 October 2021. I note the Third Party reported two access actions as being made under the RTI Act. These access actions do not include external review applications.

¹⁹ Correspondence from the Fourth Party dated 13 October 2021. These access actions do not include external review applications.

²⁰ *Sweeney and Australian Information Commissioner & Ors* [2014] AATA 531 (4 August 2014) (**Sweeney**) at [53], quoting the Macquarie Dictionary.

²¹ '*Unreasonable*' is relevantly defined as meaning '*exceeding the bounds of reason; immoderate; exorbitant*'. '*Interfere*' is defined as '*to interpose or intervene for a particular purpose*' (Macquarie Dictionary, 7th edition).

member of the community cannot make an access/amendment application to OIC, they can, of course, make an external review application, and OIC is an 'agency' within the broad definition in section 14 of the RTI Act.²² Accordingly, OIC, as well as the Third and Fourth Parties, may have its operations subject to unreasonable interference for the purposes of the Vexatious Applicant Provision.

19. The following factors are relevant when considering this issue:²³

- *the total number of a person's access actions to the agency in a specific period, and in particular, whether a high number of actions has led to a substantial or prolonged processing burden on the agency or a burden that is excessive and disproportionate to a reasonable exercise by an applicant of the right to engage in access actions*
- *the impact of the person's access actions on...[IP] administration in the agency, and in particular, whether a substantial workload impact has arisen from the nature of a person's access actions, such as multiple...[IP] requests that are poorly-framed or for documents that do not exist, requests for documents that have already been provided or to which access was refused, or requests that are difficult to discern and distinguish from other complaints a person has against the agency. It is nevertheless important to bear in mind that an individual, who may lack both expertise in dealing with government and a close knowledge of an agency's records system, may make access requests that are poorly framed, overlapping or cause inconvenience to an agency*
- *the impact of the person's access actions on other work in the agency, and in particular, whether specialist or senior staff have to be redeployed from other tasks to deal with...[IP] requests, or the requests have caused distress to staff or raised security concerns that required separate action.*

20. The number of access/amendment actions to OIC concerning Third and Fourth Party decisions – that is, applications for external review by OIC of Third and Fourth Party decisions – comprises a significant number of review applications from one applicant over a relatively short period. The respondent has, as listed above at paragraph 15, lodged over 50 external review applications with OIC, at least 22 of which were for review of Third Party decisions, and at least 20 for review of Fourth Party decisions.

21. Further, the amount of work involved in dealing with those actions – ie 'in relation to' those actions – has been exceptional, and unreasonably interferes with OIC operations. In this regard, I note:

- the extraordinarily high volume of emails received from the respondent since 2019, most of which are not relevant to the external review process but management of which has nevertheless required substantial commitment of OIC resources
- his disregard of reasonable administrative requests and repeated failure to comply with lawful directions²⁴ given by my delegates to enable OIC to carry out statutory functions, and to conduct reviews as expeditiously and informally as possible²⁵
- the respondent's continued use of discourteous and inflammatory language in communications with both OIC and the Third and Fourth Parties, including levelling by him of serious yet baseless allegations
- his failure to cooperate with Third and Fourth Party staff to enable processing of his access and amendment actions²⁶

²² Which applies by virtue of the provisions noted at footnote 8 above.

²³ *QPS and Respondent*, [36], citing the Office of the Australian Information Commissioner (OAIC) FOI Guidelines at [12.27].

²⁴ Under section 108(2) of the IP Act.

²⁵ Sections 103(1) and 108(1)(b) of the IP Act.

²⁶ Plainly apparent from the reams of correspondence by the respondent with each agency, into which he has copied OIC.

- the premature lodgment of applications for external review,²⁷ and, on other occasions, the apparently mistaken lodgment of applications for external review, necessitating preliminary work by OIC and the Third and Fourth Parties, only for the respondent to then withdraw his applications once notified of the commencement of a review;²⁸ and
- the complex and repetitive nature of the access and amendment actions in which the respondent has engaged with the Third and Fourth Parties, and OIC, including re-applying for access to or amendment of documents previously considered in earlier applications and on external review.

Excessive, confusing and inflammatory email communication

22. The respondent has sent over 2,700 emails to OIC between 4 November 2019 and 22 November 2021, with attachments totalling over 21 gigabytes.²⁹ Frequently, these are unsolicited emails and/or emails directed to other agencies, persons or entities, into which OIC has been 'copied in'. Each requires review, however, as it is unclear as to whether a given email relates to a matter within OIC's jurisdiction (as it relates to the Third and Fourth Parties).
23. Information received from each of those agencies indicates that excessive email communication by the respondent similarly interferes with the operations of both the Third and Fourth Parties. The Third Party advises³⁰ that in the 2019-2021 period, it has in its central RTI/IP processing account fielded some 1,331 emails from the respondent – including 477 received from 1 January to 11 October 2021 alone, **and excluding** emails sent directly to Third Party personnel. Such is the impact of the respondent's email communication on the Fourth Party, that it has taken the step of restricting his correspondence with that agency to ordinary postal mail only.³¹ This is a restriction which the Fourth Party advises the respondent nevertheless ignores.
24. The communications themselves are more often than not discursive, disjointed and confusingly-worded, and/or framed in a manner that assumes detailed knowledge of the respondent's grievances and various other concerns about agencies and certain individuals with whom he has had past involvement. They include long tracts of extracts from emails between the respondent and other persons or entities, many appear to be edited and the relevance of each to any given review is mostly unclear. Most emails attach a large range of additional documents, which range from the clearly irrelevant,³² to the close to impenetrable.
25. In short, the respondent has inundated OIC – and the Third and Fourth Parties – with communications comprising, in the words of the President of the Queensland Civil and Administrative Tribunal (**QCAT**), an '*assemblage of statutory provisions and extracts from various documents*'³³ of little to no relevance to the issues OIC has power to consider.
26. Additionally, the respondent has sought to circumvent OIC's external review process, by directing communications couched as service complaints or similar to others within my office, which communications in reality often agitate matters entirely and appropriately

²⁷ For example, 314757, 314924 and 315891.

²⁸ For example, 315815 and 315848.

²⁹ Further emails were received after the latter date. The number of emails relates only to OIC's central registry unit and does not include other functional units within OIC.

³⁰ Correspondence dated 13 October 2021.

³¹ Email from Fourth Party dated 13 October 2021.

³² Such as the now-dozens of copies of evidence of the respondent's admission as a solicitor, a fact that has no bearing on any matter within my jurisdiction.

³³ In an unpublished decision dismissing an application by the respondent involving OIC: APL [redacted]-21, 3 August 2021, [5].

within the purview of the external review officers communicating directly with him about specific review applications.

27. Dealing with the respondent's inordinate quantity of email communications has required my staff in both external review and OIC's corporate services division to commit a significant amount of time to examining his emails, in an effort to discern whether they relate to a given access or amendment action, and/or raise matters in some way coming within my jurisdiction or constituting a valid service complaint.
28. On occasion we have found that the respondent's requests for external review are 'buried deep' or embedded in emails sent to multiple recipients and not appearing, on their face, to relate in any way to RTI or IP matters, let alone agency decisions that might be the subject of review. This has led us to not only overlook some of the respondent's applications for external review, but diverted our energies from the many other external review applications before us lodged by other members of the community.
29. The following lengthy email chain provides an illustration of the excessive, confusing and inflammatory nature of the respondent's communications, in this instance towards staff of the Fourth Party and others.³⁴ In his emails of 22 and 24 August 2021, the respondent insisted to the Fourth Party that they 'stop harassing' him by requesting an extension of time, stating that he had applied for external review on 27 July 2021. He simultaneously made a complaint to OIC about service delivery by the Fourth Party. While the subject heading of the later emails is 'Application of External Review 27 July 2021 in [REDACTED]', all earlier emails have the subject line '*Stepping of toes at the Gold Coast University*' and specifically reference a QCAT oral hearing concerning OIC and the Third Party. The preceding emails relate to a range of other matters, including external reviews. They also evidence that, as at 27 July 2021, the Fourth Party was still working within the processing period for the access application, as the requirement to undertake third party consultation extended the statutory time-frame.³⁵ This was explained to the respondent by telephone and in writing. As the processing period had not ended, OIC had no jurisdiction to conduct an external review at that time.³⁶ In any event, I note that the respondent's purported external review application was addressed to multiple recipients, ranged across various issues which the respondent appeared to consider relevant to the QCAT matter referenced, with his request for review buried in the fourth and last paragraph of his 27 July 2021 email. Consequently, it was not until later in August that OIC Registry staff became aware that the respondent had sought to apply for external review in this matter.

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]
Sent: Tuesday, 24 August 2021 3:09 PM
To: GCHHSInformationAccess@health.qld.gov.au; [REDACTED]@health.qld.gov.au
Cc: Administration - OIC <administration@oic.qld.gov.au>; Complaints <complaints@oic.qld.gov.au>
Subject: Re Application of External Review 27 July 2021 in [REDACTED]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]
To:³⁷

³⁴ The identity of the respondent and others he has referred to in the body of the email chain below or included (either to or cc'd) in the email chain have been de-identified to ensure their personal information and privacy is protected, particularly in this context where they have not been consulted and are in many instances targets of behaviour of the respondent as described above.

³⁵ Section 56 of the IP Act.

³⁶ See the definition of 'processing period' in section 22(2)(c) of the IP Act, which provides that 10 business days do not count as part of the 'processing period' (itself defined as 25 business days, in section 22(1) of the IP Act) where an application involves third party consultation under section 56 of the IP Act.

³⁷ It appears that the recipients of this email were blind copied by the respondent.

Sent: Tuesday, 24 Aug, 2021 At 3:04 PM
Subject: Fwd: Application of External Review 27 July 2021 in [REDACTED]
Dear Gold Coast University,

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email, the Respondent told the agency to stop harassing them and that the agency could not have an extension of time. The Respondent advised that they had already applied for an external review because the agency did not give the Respondent access to the document. The Respondent also advised the agency that the Respondent had applied for 126 pages of section 126 of the *Criminal Code 1899* (Qld) factors in relation to 126 pages that the Respondent had previously provided to a Senior Constable and Constable of a named police station.]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]
To: complaints@oic.qld.gov.au
Cc: administration@oic.qld.gov.au
Sent: Sunday, 22 Aug, 2021 At 2:35 PM
Subject: Re: Application of External Review 27 July 2021 in [REDACTED]

Dear Ms Yuksel,

There appears to be a problem with service and delivery and settling matters with respect of my matters at the Gold Coast University Hospital matters. Would you kind read the statutory requirements with no exceptions on settlements. It is a matter of Law and not a matter of preference.

Yours faithfully,

[REDACTED]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]
To: complaints@oic.qld.gov.au
Sent: Friday, 13 Aug, 2021 At 6:36 AM
Subject: Fwd: : RE: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commissioner and the Queensland Police Service

Dear Ms Yuksel,

I am loathe to believe anything the Gold Coast University Hospital told Assistant Commissioner Jefferies. Now I never received the 4 decisions as I would have contacted your Office.

Or is Assistant Commissioner Jefferie's suggesting that I am lying.

Yours faithfully,

[REDACTED]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: administration@oic.qld.gov.au

Sent: Tuesday, 10 Aug, 2021 At 7:14 PM

Subject: : RE: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Dear Office of the Information Commissioner,

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email, the Respondent accused the agency officer of dishonesty and of wasting the Respondent's time. The Respondent stated that they had not given an extension under section 55 of the IP Act. The Respondent also stated that there had been no consultation by the agency under section 56 of the IP Act, because if there had been, the agency officer would have the third parties' views. The Respondent stated that this was obviously made up and again stated that it was a waste of their time.]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: administration@oic.qld.gov.au

Sent: Friday, 30 Jul, 2021 At 8:52 PM

Subject: RE: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Dear Office of the Information Commissioner,

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email, the Respondent referred to the below email from the Gold Coast University Hospital, which the Respondent has italicised and underlined, and stated that the agency officer manufactured it. The Respondent advised that they did not understand why their decision was due on the 27 July 2021. They referred to their twelve submissions made to this Office and stated that this Office should be able to see why the Respondent did not trust the agency. The Respondent advised that the agency officer was panic stricken when the Respondent mentioned another officer to them. The Respondent asserted that the time was up under section 22(1) of the IP Act, that they did not consent to an extension under section 55 of the IP Act, and that the agency officer had not requested one.]

----- Original Message -----

From: "Right to Information and Privacy" <[REDACTED]@health.qld.gov.au>

To: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

Sent: Friday, 30 Jul, 2021 At 5:53 PM

Subject: RE: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Dear Mr [REDACTED],

For completeness, I have attached the email from my office that you have responded to. Thank you for your time on the phone yesterday - It was great to discuss your applications in detail, it was very productive and has assisted my office with progressing your requests.

On 26 July 2021 and again on 29 July 2021, via phone, I advised you that 10 business days had been added to two of your access applications (5063 IP and 5069 IP) as it may be reasonably practical that a consultation is conducted under s.56 of the Information Privacy Act 2009 (Qld) (IP Act). I note that you had no issue with this when I advised you via phone - Accordingly, I had my office [REDACTED] send you a courtesy email so that you had it this information in 'writing'.

Unfortunately, I can confirm that you will not receive a Notice of Decision or documents relating to same by close of business today. I apologise for the inconvenience this will cause.

Thank you in advance for your understanding as my office works through your applications. Please feel free to give me a call if you would like to discuss anything further.

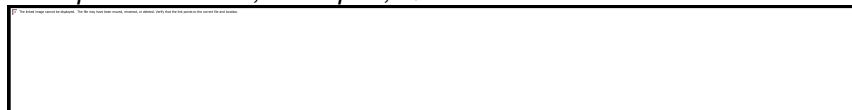
Kind regards,

[REDACTED]
[REDACTED]
Legal Services | People and Corporate Services

E: [REDACTED]@health.qld.gov.au

P: M: [REDACTED]

Level 5, D Block, Gold Coast University Hospital
1 Hospital Boulevard, Southport, Queensland 4215



Web: www.goldcoast.health.qld.gov.au

Social: [Facebook](#) | [LinkedIn](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

Intranet: gchweb.sth.health.qld.gov.au

Our values: Integrity | Community first | Excellence | Respect | Compassion | Empower

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

Sent: Friday, 30 July 2021 8:28 AM

To: Right to Information and Privacy <GC-RTIP@health.qld.gov.au>

Cc: QSA Office of the State Archivist <Officeofthe.StateArchivist@archives.qld.gov.au>;

health@ministerial.qld.gov.au; MD06-GoldCoast-HSD <[\[HSD@health.qld.gov.au\]\(mailto:HSD@health.qld.gov.au\)>; \[REDACTED\] <\[REDACTED\]@health.qld.gov.au>;](mailto:MD06-GoldCoast-</p></div><div data-bbox=)

administration@oic.qld.gov.au; [REDACTED] <[REDACTED]@police.qld.gov.au;

complaints@oic.qld.gov.au; Complaints <complaints@ccc.qld.gov.au>;

[REDACTED] <[REDACTED]@police.qld.gov.au; police@ministerial.qld.gov.au

Subject: Fwd: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing

APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Attn: Ms [REDACTED],

Dear Ms [REDACTED],

[REDACTED]

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email the Respondent told the recipient agency officer not to get caught up in their own mistake and referred to an email the Respondent sent to Policelink, the Crime and Corruption Commission, and the Gold Coast Hospital in 2017, which the Respondent stated is present on their medical file. The Respondent stated that their medical file is a public record under the *Public Records Act 2002* (Qld), which is also in the custody of a named police station.

The Respondent stated that if the email is not on their file, it is a contravention of the Public Records Act and referred to an officer of Queensland State Archives who wrote to the Respondent in late 2020, and states that that officer advised the Respondent that they could write to the officer if anything further arose. The Respondent then stated that, because the Gold Coast University Hospital covered up for the Queensland Police Service, they are sending this email to Queensland State Archives. The Respondent then stated that the agency officer is to make sure they have the documents by close of business. The Respondent also stated that the agency officer should resign because they are dishonest.]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: GCHHSInformationAccess@health.qld.gov.au; [REDACTED]@health.qld.gov.au

Cc: administration@oic.qld.gov.au; [REDACTED]@police.qld.gov.au

Sent: Friday, 30 Jul, 2021 At 6:36 AM

Subject: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Attn: Ms [REDACTED],

Dear Ms [REDACTED],

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email the Respondent claimed that the agency officer intentionally misled them by claiming that a certain person is a third party when they are not. The Respondent stated that the Referral document they are seeking access to contained their personal information and was previously provided to them with no issues in 2017, at which time they gave a copy to the Officer in Charge at a named police station. The Respondent stated that there was no legal basis for the agency to refuse access to the document, that the agency officer could not be trusted, and that the Respondent required access by close of business. The Respondent stated that they did not consent to an extension for any of their applications under section 55 of the IP Act and that a named agency officer knew they were out of time because the Respondent had applied for an external review.]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: GCHHSInformationAccess@health.qld.gov.au; [REDACTED]@health.qld.gov.au

Cc: administration@oic.qld.gov.au; [REDACTED]@justice.qld.gov.au;

[REDACTED]@police.qld.gov.au

Sent: Thursday, 29 Jul, 2021 At 4:02 PM

Subject: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-

21 [REDACTED] v Office of the Information Commissioner and the Queensland Police Service

Attn: Ms [REDACTED],

Dear Ms [REDACTED],

[REDACTED]

Yours faithfully,

[REDACTED]

[In this email, the Respondent stated that they did not give permission for the agency officer to address them by their first name, and that the agency could not advise the Respondent that they were adding ten business days for consultation. The Respondent referred to the Royal Brisbane and Women's Hospital and stated that the agency was required under section 55 of the IP Act by 26 July 2021 and by an agency officer by 27 July 2021 [sic]. The agency officer didn't and so the Respondent required the documents by 4:30 pm.

The Respondent noted there was no consultation with a named person in 2017. The Respondent stated that when a named agency officer phoned them that the officer panicked when the Respondent told them that the Referral document they had applied for showed that charges had not been made for contravention of provisions of the *Criminal Code 1995* (Cth), and that the Respondent was seeking it for use in a QCAT matter. The

Respondent stated that they required the agency to comply with its statutory obligations and provide the documents by 4:30 pm. The Respondent commented that the dishonesty at the Gold Coast University Hospital was astounding.]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: administration@oic.qld.gov.au

Sent: Thursday, 29 Jul, 2021 At 2:00 PM

Subject: Fwd: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Office on the Information Commissioner,

Dear Office on the Information Commissioner,

[REDACTED] at the GCUH just telephoned me. I sent him the following. He thinks the referral is on the old system before Kitworks. I will let you know.

Yours faithfully,

[REDACTED]

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: ethics@parliament.qld.gov.au

Cc: administration@oic.qld.gov.au; "Complaints" <Complaints@ccc.qld.gov.au>;

police@ministerial.qld.gov.au; [REDACTED]@police.qld.gov.au;

[REDACTED]@health.qld.gov.au; police@police.qld.gov.au;

escstatecoordinator@police.qld.gov.au; commissioner@police.qld.gov.au;

[REDACTED]@police.qld.gov.au; [REDACTED]@qls.com.au

Sent: Tuesday, 27 Jul, 2021 At 5:28 PM

Subject: : RE: Stepping of toes at the Gold Coast University - QCAT Oral Hearing APL [REDACTED]-21 [REDACTED] v Office of the Information Commission and the Queensland Police Service

Attn: Ms [REDACTED], Committee Secretary of the Ethics Committee and the Office on the Information Commissioner,

Dear Ms [REDACTED] and the Office of the Information Commissioner,

Firstly, Ms [REDACTED]. This is a complaint against Mr [REDACTED] of [REDACTED] in relation to Section 86 and 104 (b) & (c) of the Parliamentary Act 2001 (Qld) with respect of making a false complaint to the [REDACTED] and contravened Section 10.21 of the Police Service and Administration (Qld). I note that Mr [REDACTED] of the Gold Coast University Hospital promised me that I would receive the [REDACTED] that I gave to contact officer PMM of the Crime & Corruption Commission ("CCC") on the 24 July 2017. Mr [REDACTED] consented to myself sending him CC emails with respect of my matters to the CCC as per my online complaint to the CCC on the 30 June 2017. The reason Mr [REDACTED] filed this complaint is due to the fact of my email to contact PMM of the CCC and Mr [REDACTED] of the [REDACTED] and ORS on the 27 June 2017. This is due to the fact that I was going before the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[In this paragraph of the email, the Respondent referred to the Referral document, noting that they had a copy in 2017 but it was damaged. The Respondent stated that the document was relevant to their upcoming QCAT proceeding, for which a date had not been set. The Respondent stated that the Referral document would show that they were not charged by a named police station for contravening a named section of the *Criminal Code 1995* (Cth) in relation to two named individuals, as well as making a false complaint to the Queensland Police Service that the Respondent sent thousands of emails. The Respondent denied this.]

[REDACTED]

[In this paragraph, the Respondent stated that they were found to be a credible person by the president of the Tribunal, who also wrote to the Respondent seeking their assistance. The Respondent stated that the Referral document will show that the Respondent wanted to have two named individuals imprisoned and referred to defences under the *Criminal Code 1899* (Qld) that the Queensland Police Service should have been aware were available to the Respondent. The Respondent referred to email correspondence sent to a named officer of an agency in 2018 and to the hypocrisy of a named officer of that agency in harassing the Respondent.]

[REDACTED]

[REDACTED]. Due to size constraints. I will send you an email which is relevant. Office of the Information Commissioner. Pursuant to Section 66 & 99 of the Information Privacy Act 2009 (Qld) this is an Application for an External Review. I rely upon *Willford and Brisbane City Council and SJN v Office of the Information Commission & Anor* [2019] QCATA 115 and Section 144 of the Uniform Evidence Law (ALRC Report 2006). On a positive note [REDACTED]. I exposed the Royal Brisbane and Women's Hospital as being so corrupt and dishonest.

[In this paragraph, the Respondent referred to the Referral document and stated that it would show that the police of a named police station "had it in for them". The Respondent advised that they raised these allegations with the CCC, not the police station, in 2017, in relation to the Respondent's former flatmate attempting to set them up on social media, because the Respondent wanted a character reference for their appearance in a named Magistrates Court in 2017. The Respondent stated that their reason for contacting one of the recipients of this email related to the above named police station inventing allegations regarding their mental health.]

I will revert you you when I get the referral.

Yours faithfully,

[REDACTED]

30. Additionally, we have expended time and publicly-funded effort when, on more than one occasion, we have worked through such confusing communications, identified an apparent external review application, committed resources to initial enquiries and file opening and, in some cases, progressed the external review (as discussed at paragraph 21 above) – only to have the respondent abruptly request in one case that we cease our ‘harassing’ of him,³⁸ and in other instances claiming that he never made any application for review or withdrawing his application.³⁹
31. Compounding the above is the fact that the respondent’s emails to each of OIC and the Third and Fourth Parties are generally couched in extremely discourteous, condescending, and obnoxious terms, referring to public officers and others (including my staff) as ‘dishonest’, ‘criminals’, ‘biased’ and their behaviour as ‘fraudulent’.⁴⁰ Unsupported by substantiating evidence, the above comprises conduct which, objectively assessed, could reasonably be expected to distress and disturb those to whom it is directed. An example of such accusatory and hostile communications is included at paragraph 38 below. It includes, among other things, claims of ‘fabrication’ of material by the Third Party and demand that an employee of the Third Party ‘tender your resignation for dishonesty’.
32. Harassing or intimidating agency and OIC staff via repeated engagement in access and amendment actions is itself a discrete ground on which a finding of abuse of process may be made,⁴¹ and one which I think an objective reader of the respondent’s communications would agree is quite readily established in this case. I also think it more than sufficient, however, to take the discourteous and troublesome tenor of the respondent’s communications into account as yet one more factor going towards the unreasonableness of the impact his access and/or amendment actions are having and have had on OIC and each of the Third and Fourth Parties, and his general abuse of the IP process.⁴²

Steps taken by OIC; noncompliance with directions

33. In an attempt to manage the volume and impact of the respondent’s correspondence, OIC took the exceptional steps of:
- establishing an email ‘inbox’ dedicated to the collation and storage of his communications alone; and
 - issuing the respondent with a broad set of procedural directions on 11 June 2021.
34. Further specific directions were issued by my delegates in a series of individual external reviews.⁴³ I have reviewed the terms of each, and am satisfied that they were both lawfully given,⁴⁴ and reasonable in their compass.
35. Unfortunately, despite relevant directions being clear and comprehensible in their terms, and open to ready compliance, the respondent disregarded them, repeatedly failing to

³⁸ 315352.

³⁹ 315815, 315848, 315891 and 316144.

⁴⁰ See, for example, email to the Fourth Party extracted at paragraph 387 below and email dated 8 May 2021 at 9:14 am (‘criminals’), emails dated 31 July 2021 at 7:11am and 2 August 2021 at 1:02pm (‘biased’), emails dated 12 December 2020 at 1:04pm and 18 June 2021 at 3:05pm (‘dishonest’) and emails dated 12 February 2021 at 5:53am and 3 July 2021 at 12:52pm (‘fraudulent’).

⁴¹ Section 127 of the IP Act.

⁴² Noting the breadth of the discretion conferred by the Vexatious Applicant Provision, as canvassed above (paragraph 13), and the factors stated in paragraph 19.

⁴³ For example, reviews 315849, 315850, 315851, 315852, 315866, 315867, 315873, 315874, 315886, 315919, 315920, 316006, 316045 and 316140-316143, involving the Fourth Party. 316076 involving the Third Party.

⁴⁴ Under powers conferred by section 108(2) of the IP Act.

comply with each by sending OIC numerous emails in breach of directions to provide a single submission in response to the OIC preliminary view and to only address the issues being decided.

36. The respondent has faced consequences for some of this non-compliance, the Right to Information Commissioner determining not to deal, or not to further deal, with 13 external review applications as a direct result of his failure to comply with directions issued.⁴⁵ Of course, although discontinued relatively early, even these applications required work on the part of my office and respondent agencies – some of it extensive – prior to the issuance of preliminary correspondence containing relevant directions. Indeed, the decisions finalising these matters early themselves required many hours of work on the part of my staff.
37. The volume and incomprehensible nature of a number of the respondent's external review applications has also caused OIC to have to resort to various other provisions of the IP Act permitting early disposal of applications for review, in an attempt to mitigate the impact of the respondent's multiple requests; ie where we have considered his applications are misconceived or lacking in substance.⁴⁶

Uncooperative attitude

38. In a related vein, I note that that the respondent's interactions with the Third and Fourth Parties often evince an uncooperative attitude, bordering on outright hostility – the following being a particularly egregious example:

----- Original Message -----

From: [REDACTED] <[REDACTED]@bigpond.com> [respondent]

To: [REDACTED]@health.qld.gov.au

Cc: "Complaints" <Complaints@ccc.qld.gov.au>; health@ministerial.qld.gov.au;

[REDACTED]@police.qld.gov.au; administration@oic.qld.gov.au;

[REDACTED]@police.qld.gov.au; MD06-GoldCoast-HSD@health.qld.gov.au;

police@ministerial.qld.gov.au; policelink@police.qld.gov.au; [REDACTED]@qls.com.au

Sent: Sunday, 1 Aug, 2021 At 1:03 PM

Subject: RE Gold Coast University Hospital Medical Record of the 6 February 2017 - Re [REDACTED]

Mr [REDACTED],

Here is my material. Do not telephone and harass me with your stupidity. I will not grant an extension for criminals. The Gold Coast University Hospital should have thought about this four years ago. [REDACTED]

[REDACTED] Unlike some.

Yours faithfully,

[REDACTED]

⁴⁵ As above.

⁴⁶ 316076, 316140, 316141, 316142 and 316143.

39. Apart from demonstrating a total lack of courtesy and basic respect toward agency staff processing his requests,⁴⁷ the above illustrates the respondent's disregard of the RTI/IP application process and the constraints faced by agency decision-makers when managing access request caseloads within statutory timeframes. In other Third and Fourth Party matters OIC has reviewed, the respondent has regularly refused reasonable requests for extensions of time to enable these agencies to process his applications and provide him with a decision (a more expeditious outcome than that achieved by denying such extension) and then applied directly to OIC for external review on the basis of a 'deemed refusal' of access/amendment.⁴⁸ While this is, of course, the respondent's prerogative, this lack of cooperation further points toward a pattern of conduct suggestive of a continuing abuse by him of the IP process.
40. Indeed, the respondent's failure to cooperate with the Third and Fourth Parties has a direct impact on OIC's external review services. External Review is a small team within OIC that manages a substantial workload. In the 2020-21 financial year, OIC received 685 applications for external review of agency decisions, continuing a trend of increased and substantial demand from applicants seeking to exercise their rights to access or amend information. It is a wasteful use of our limited resources to be dealing with a continuing series of review applications arising from a denial by the respondent of reasonable requests by processing agencies for extensions of time. This impact is compounded by applications lodged with us, as noted above, prematurely or mistakenly.
41. There is also the increasingly convoluted and misconceived nature of the respondent's recent access actions. In review 316140, for example, he applied for:⁴⁹

All source documents from notifier as indicated on my Gold Coast University Hospital Note of the 2 February 2017 that indicates that I have been sending excessive emails of a litigious nature to QLD Health Staff. That I have sent a barrage of emails to the HR Department and that some staff are feeling unsafe. As the Medical Record is a document created by the Gold Coast University Hospital pursuant to Section 6 (1) of the Public Records Act 2002 (Qld), ("The Act") - Schedule 2 of the Act at (i) being a Public Authority then there must be a source document from another Public Authority otherwise the Medical Record of the 2 February 2017 is a fraud.

Timeframe: 30 November 2016 - 2 February 2017

42. The Fourth Party, in dealing with this unwieldy and close to impenetrable application, decided to refuse to deal with the application under section 62 of the IP Act, on the basis that the application was an application for the same documents previously considered under an earlier application.
43. The respondent then lodged an out of time external review application.⁵⁰
44. OIC wrote to the respondent, conveying the preliminary view that we intended to decline to extend the time for making an external review application,⁵¹ as we did not consider there to be merit in the application: that by asking questions, the underlying access application essentially proceeded from a misunderstanding of the limits of the information access scheme set out in the IP Act. Getting to even this threshold point, however,

⁴⁷ None of whom, as far as I am aware, would have any interest in matters underpinning the respondent's access/amendment actions, beyond that necessary to discharge their obligations under the RTI/IP Acts. It should be noted that the respondent denies having sent this email; this is an issue I have addressed below.

⁴⁸ A decision taken to have been made by an agency refusing an application for access to or amendment of information: see, for example, section 66 of the IP Act. Examples of such denials include Fourth Party ref 5063 IP and 5097 IP and Third Party ref RTI/35393 and RTI/35328.

⁴⁹ Fourth Party ref: 4911 IP.

⁵⁰ Dated 21 June 2021.

⁵¹ As allowed for under section 101(1)(d) of the IP Act.

nevertheless consumed a not inconsiderable quantity of OIC time and effort, diverting us from other, valid and in-time applications for review.

45. The respondent has also re-applied to each of the Third and Fourth Parties, seeking the same amendments or access to the same documents considered in external reviews finalised by my staff due to his failure to comply with OIC's procedural directions⁵² and appears to have lodged external review applications in relation to these matters.⁵³ By these actions, the respondent has engaged in further access/amendment actions necessitating both OIC and agency attention: actions that, essentially, attempt to re-enliven concluded review processes brought to an end by his own conduct.
46. Additionally, I think it worth bearing in mind that of the respondent's applications for external review that have been finalised, few have resulted in either the Third or Fourth Party's decisions being disturbed when independently reviewed. His appeals to QCAT of relevant OIC decisions have been similarly fruitless.⁵⁴
47. Given this, I consider that the respondent's engagement in repeated access and amendment actions – which appears to be escalating⁵⁵ – is oppressive to OIC and affected agencies, and has impacted our ability to deliver external review services, to the disadvantage of other members of the community seeking to exercise their right to access/amend information under the RTI and IP Acts. As noted, these access/amendment actions are accompanied by vast quantities of confusing, often irrelevant and abrasively-worded communications, many are misconceived, and the respondent often ignores OIC's reasonable requests and directions which are imposed to bring some order to the review process and apply our finite resources productively and equitably.
48. In considering the impact the respondent's repeated engagement in access/amendment actions has on OIC and affected agencies, I also think it open to me to take into account the fact noted above, ie that three of those actions have been followed by ultimately futile appeal proceedings initiated by the respondent. These proceedings (each of which has involved the Third Party as respondent) have themselves spurred the respondent to generate additional inordinate quantities of correspondence and launch various interlocutory proceedings, and dealing with these has further taxed, dissipated and diverted OIC resources.
49. With the above in mind, I consider that the respondent's repeated engagement in access/amendment actions amounts to an abuse of process, on the basis that it unreasonably interferes with OIC and the Third and Fourth Parties' operations in relation to the access/amendment actions.

Respondent's submissions

50. As required by the Vexatious Applicant Provision, I wrote to the respondent by letter dated 2 November 2021, setting out the substance of the paragraphs above, detailing information taken into account by me in forming the view that a declaration under those provisions was warranted, and inviting submissions in reply. I also requested the respondent ensure that any reply was by way of one written submission, contained in

⁵² The resolved reviews were 315849, 315850, 315851, 315852, 315866, 315867, 315873, 315874, 315895, 315919, 315920, 316006 (Fourth Party matters) and 316045 (Third Party matter).

⁵³ 316252. The respondent's requests for external review in relation to the 12 Fourth Party amendment matters did not comply with OIC directions and therefore have not been further considered.

⁵⁴ Two of these appeals were dismissed by QCAT. A third was withdrawn by the respondent.

⁵⁵ Indeed, figures obtained from the Third Party indicate that the respondent's engagement in access/amendment actions is escalating – as at 2 November 2021, the number of his actions with that agency in 2021 (22) is already twice as many as in 2020 (11), and more than five times greater than 2019 (4). A large proportion of his external review applications were made in 2021.

one email clearly marked with OIC's file reference number (431007), and only addressed issues relevant to my proposed declaration.

51. In keeping with the pattern of conduct that has, in part, led me to contemplate the declaration the subject of these reasons, the respondent ignored my request, and instead replied by way of some 14 emails.⁵⁶ Using discourteous and provocative language, and attaching a variety of miscellaneous materials the majority of which appear to be of no apparent relevance, the respondent opted not to engage in any meaningful way with the substance of my letter, but instead level baseless and scandalous allegations.
52. By email dated 2 November 2021, received some five minutes after despatch of my letter, the respondent stated that he *'will pass this letter onto Acting Sergeant [REDACTED] as I take this as intimidation.'*
53. This accusatory tone was continued in a further email received later that day. Entitled *'Intimidation by Ms Rachel Rangihaeata...'*, this email provided as follows:

I refer to your threatening letter today. I require you retract the letter unreservedly. I have asked Acting Sergeant [REDACTED] to refer your Office to the Brisbane CIB for being the enabler to facilitate crimes on my medical records at the Gold Coast University Hospital. That is my submission.
54. Attached to the above email were various documents, including a copy of my letter of the same date to which it replied, on which the respondent had made various handwritten markings and annotations. Most of these pose irrelevant questions or make no meaningful point that I can discern. One, however, appears to comprise a denial that the respondent ever sent the email extracted in paragraph 38 above.⁵⁷
55. A copy of that email was received by my office, and is held, in original digital form as received, on our servers. It was clearly sent from the respondent's usual email address. It is, of course, possible that it was authored by someone else, via the respondent's email address. In the absence of something more than bare denial on the part of the respondent, however, I am comfortable concluding that on the balance of probabilities, it was authored and sent by the respondent.
56. At 7:58pm on 2 November 2021, OIC received another email from the respondent *'requiring'* me to desist *'from ever contacting'* him again, and stating that I had *'no idea what [the respondent] told [Acting Sergeant] [REDACTED] on the telephone'*.⁵⁸ To this email was attached various documents, including one entitled *'The dishonesty of Ms Rachel Rangihaeata'*, which included within it the allegation that I was guilty of *'malicious fabrication'*.
57. A number of emails have followed the above.⁵⁹ They are entirely of a kind with those already discussed, and, where comprehensible, are largely comprised of groundless accusations against me and others. Indeed, far from dissuading me from the preliminary

⁵⁶ It is noted that significantly more than 14 emails were received from the respondent after this letter was sent, however, we were only able to identify 14 emails as responding or otherwise referring to my letter.

⁵⁷ That email was also extracted in my 2 November 2021 letter to the respondent. The respondent has drawn a cross through the email text, and annotated the words 'CAN'T FIND'. The respondent further challenged the veracity of this email in emails to my office dated 19 November 2021, including on the basis that the officer whose conduct it impugned did apparently not reply or complain. I do not consider that of itself supports a finding that the email itself was not authored and sent by the respondent, particularly given that, as discussed earlier, requests that he modify his behaviour and even statutory directions in this regard largely prove ineffective.

⁵⁸ I do not contest this, given I have never been a party to conversations involving the respondent and any other person, of the name referred to by the respondent or otherwise.

⁵⁹ For example, emails received at 8:00pm on 2 November 2021, 5:11am, 3:17pm and 8:45pm on 3 November 2021, 6:10pm on 4 November 2021, 1:43pm on 11 November 2021, 9:47am and 9:48am on 13 November 2021, 2:54pm on 19 November 2021 and 5:49am and 5:50am on 23 November 2021.

view explained to the respondent in my 2 November 2021 letter, they have, given their content, irrelevance, number and outrageous tone, simply fortified me in that view.

Conclusion

58. Taking all relevant circumstances into account, I consider that the respondent's repeated engagement in access and amendment actions with OIC and the Third and Fourth Parties is imposing a '*substantial or prolonged processing burden on ...[OIC and affected agencies] or a burden that is excessive and disproportionate to a reasonable exercise by an applicant of the right to engage in access actions.*'⁶⁰ Allowing the respondent to continue to pursue access/amendment actions involving either of the Third or Fourth Parties risks the continued unreasonable interference by him with OIC and agency functions, and the unjustified and unwarranted dissipation and wastage of public resources that would follow.
59. The respondent has been given the opportunity to make written submissions, as required under the Vexatious Applicant Provision. Accordingly, I am satisfied that the requirements of those provisions have been met, and that sufficient grounds exist for me to justifiably exercise the discretion conferred by each provision, and make a declaration in terms 1-4 as stated on pages 1-2 under the heading 'Declaration'.⁶¹ I thus make that declaration.
60. I consider that the terms of such a declaration would comprise a proportionate response to the interests I am seeking to protect,⁶² noting that the ambit of the declaration is confined to those access/amendment actions in relation to only the Third Party and Fourth Party which have given rise to this action.

Rachael Rangihaeata
Information Commissioner

Date: 20 December 2021

⁶⁰ OAIC FOI Guidelines, cited in *QPS and Respondent*, [36].

⁶¹ Including a declaration that I will from today's date cease dealing any further with any access/amendment actions under the IP Act involving the Third or Fourth Parties that are currently before me, which declaration is consistent with the way analogous powers have been exercised in the comparable Commonwealth jurisdiction: see *Services Australia and 'RS' (Freedom of Information)* [2020] AICmr 6 (24 February 2020), *National Archives Australia and Ronald Price (Freedom of Information)* [2019] AICmr 16 (29 April 2019) and *Office of the Registrar of Indigenous Corporations and 'PW' (Freedom of Information)* [2019] AICmr 6 (13 February 2019).

⁶² The discretion in section 127 of the IP Act must be exercised reasonably. When exercising discretionary power which impacts on an individual, that impact should be proportionate to the interests which the decision-maker is seeking to protect: *Sweeney*, [82]-[84].