



Office of the Information Commissioner
Queensland

Our ref: 312328

11 February 2015

Dr Tom Lonsdale
PO Box 6096
Windsor Delivery Centre
NSW 2756

By email: tom@rawmeatybones.com

Dear Dr Lonsdale

**External review of decision under the *Right to Information Act 2009*
Agency: James Cook University**

I refer to your telephone discussion with Mr Paul Kettle of this Office (OIC) on 6 February 2015.

OIC has accepted your application for external review of James Cook University's (JCU) decision in relation to your access application dated 29 September 2014. I have **enclosed** information about OIC, the external review process, relevant timeframes and review rights.

Having reviewed the relevant timeframes, it appears that JCU's initial decision was not given to you by the end of the processing period and, as a result, the *Right to Information Act 2009 (Qld) (RTI Act)* deems JCU to have made a decision refusing access to the requested documents.¹ We have reminded JCU that, where this occurs, the agency is required to refund the application fee as soon as practicable.² Please note that, despite the decision being "deemed", OIC's review will proceed as normal.

In this review, OIC will consider whether access to certain information may be refused under the RTI Act, and whether all reasonable steps have been taken to locate the documents you seek. We have asked JCU for a copy of the refused information and for further information about the searches conducted. We will contact you to confirm the next steps in this review once we have completed a preliminary assessment.

In the meantime, if you have any questions or require further information, you can contact OIC by writing to the above address, emailing administration@oic.qld.gov.au, faxing 07 3405 1122 or telephoning Mr Paul Kettle, Review Officer, on 07 3405 1111.

Yours sincerely

L Lynch

Assistant Information Commissioner

Encl. Information sheet for applicants

¹ Section 46(1)(a) of the RTI Act.

² Section 46(1)(b) of the RTI Act.

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Information for applicants

How does the Office of the Information Commissioner conduct an external review?

The Office of the Information Commissioner (OIC) is an independent body that conducts merit-based reviews of specific government decisions on access to, and amendment of, documents. As an independent body we review decisions in a fair and unbiased way.³

The *Right to Information Act 2009 (Qld) (RTI Act)* requires OIC to identify opportunities for early resolution and to promote settlement of external review applications.⁴ This may be done by discussing the application with participants in the review,⁵ either by telephone or in writing. This may include a discussion about the merits of an application and asking participants to consider resolving the matter on the basis of OIC's view.⁶

If a resolution is not reached, the Information Commissioner will make a formal decision to finalise the review.⁷ Formal decisions contain the names of the parties, all the facts relied on, details of the law used, details of submissions made by the parties and reasons for the decision. OIC publishes formal decisions on its website, including participant names.⁸

During the review, participants may be asked to provide submissions to express views. Participants may get only one opportunity to do so during a review so it is important that submissions are comprehensive. If an external review submission contains information relevant to the issues being decided, that information will be given to other participants.⁹

All external review applications are initially dealt with by the OIC's early assessment and resolution team. During a review, the matter may be transferred to one of OIC's review teams, and may also be transferred to different review officers or decision-makers. Decisions to transfer files are based on a range of factors, all of which are directed at ensuring matters are progressed as efficiently and expeditiously as possible.

OIC is committed to providing a fair and efficient external review service. We will communicate with courtesy and respect at all times. In turn, OIC requests your cooperation in corresponding with OIC staff in the same manner.

³ More information about OIC is available on our website at www.oic.qld.gov.au. You can also contact the OIC Enquiries Service by telephoning (07) 3234 7373 or emailing enquiries@oic.qld.gov.au to obtain general information on the relevant legislation.

⁴ Section 90 of the RTI Act.

⁵ Generally, the participants in a review are the applicant and the agency. However, other parties affected by the agency's decision may apply to the Information Commissioner to participate in the review under the RTI Act.

⁶ A view may assist in resolving a matter or provide any party adversely affected an opportunity to put forward their views. A view is not a decision. Any information provided in response to OIC's view will be considered and may influence the final outcome of the review.

⁷ Under section 110 of the RTI Act. **If the external review is resolved informally, OIC will not issue a formal decision and there will be no right of appeal under the RTI Act.**

⁸ In limited circumstances, the Information Commissioner may exercise the discretion to deidentify the name of a participant in an external review.

⁹ This is a matter of procedural fairness. Procedural fairness requires that parties to the external review whose interests would be adversely affected by specific information be given the opportunity to assess and respond to that information. OIC can provide a guideline on making submissions if required.

What issues can OIC consider?

On external review OIC can only consider what was asked for in the original access or amendment application. OIC does not have jurisdiction to:

- investigate complaints about the conduct of agencies or actions taken by their officers
- answer questions about the content of released documents; or
- investigate complaints about an agency's recordkeeping practices.

Information about complaint handling agencies in Queensland may be viewed at <http://www.complaints.qld.gov.au/>.

Please also note that it is not uncommon for documents released under the RTI Act to suggest that further documents of interest to the applicant exist. Applicants will need to make a fresh application to the relevant government agency for any documents that do not fall within the terms of their original application.

How long will the review take?

The time taken to complete an external review varies depending on the particular circumstances of the case. OIC aims to resolve a majority of external reviews within 90 days.

In other cases, for example, where the review involves complex issues or large numbers of documents, it may take significantly longer for OIC to resolve an external review. OIC will work hard with all participants to an external review to encourage settlement of an external review without the need to issue a formal decision.

Where a review cannot be informally resolved, OIC will proceed to make a decision in the matter. Reviews requiring a written decision may take up to one year to finalise.¹⁰

Timeliness is important to us and we will try to finalise this review as quickly as possible.

What if I do not agree with OIC's decision?

Parties to a review have a right to appeal OIC's decision on a question of law only to the Queensland Civil and Administrative Tribunal (**QCAT**).¹¹ An appeal to QCAT must be made within 20 business days of the date of the Information Commissioner's decision.¹²

¹⁰ A majority of OIC decisions are issued within a year of receiving the external review application.

¹¹ Section 119 of the RTI Act.

¹² Section 119(3)(a) of the RTI Act.