

Our reference: 180254
Contact Officer: Katherine Zaidiza
Phone: (07) 3513 5881
Email: rti@qed.qld.gov.au

Queensland Legislative Assembly	
Number: <u>56187423</u>	Tabled <input checked="" type="checkbox"/>
 22 MAR 2018	By Leave <input type="checkbox"/>
MP: <u>Ms Leahy</u>	
Clerk's Signature: _____	



Department of
Education

15 March 2018

Mr Peter Coulson
Office of the Leader of the Opposition
PO Box 15057
City East QLD 4002

By email – peter.coulson@opposition.qld.gov.au

Dear Mr Coulson

Decision in respect of an application for internal review made under the *Right to Information Act 2009*

I refer to your internal review application (IR application) of 27 February 2018 to the Department of Education (Department) under the *Right to Information Act 2009* (the RTI Act).

Your IR application sought review of the decision made by Mr John Hemsley, Legal Officer - Legal and Administrative Law Branch of the Department, on 27 February 2018 in relation to your application under the RTI Act on behalf of the Office of the Leader of the Opposition (**original application**).

The purpose of this letter is to notify you of my decision regarding your IR application.

BACKGROUND

On 22 January 2018 you applied, on behalf of the Office of the Leader of the Opposition, for access to documents relating to investigations of fraud or irregularity in the expenses of Cavendish Road State High School. The time period/date range listed by your application was January 2014 to November 2017.

The initial scope of your application was subsequently altered following communications between yourself and Mr Hemsley. By email dated on 07 February 2018, you confirmed the following scope of the application:

Any completed investigation reports held by the Ethical Standards Unit created between 1 January 2014 and 30 November 2017 relating to any investigations of fraud or serious financial irregularity in the expenses of Cavendish Road State High School.

The application was processed in those terms.

In response to your application, searches for relevant documents were undertaken by the Corporate Services Branch. These searches identified **92** documents which fell within the scope of the application.

By letter dated 27 February 2018 Mr John Hemsley from this office, gave you notice of his decision in relation to your original application.

Education House
30 Mary Street Brisbane 4000
PO Box 15033 City East
Queensland 4002 Australia
Website www.qed.qld.gov.au
ABN 76 337 613 647

In particular, Mr Hemsley's decision was to refuse you access to all 92 documents because the disclosure of all information in these documents would, on balance, be contrary to the public interest.

By email dated the 27 February 2018 you lodged an IR application seeking review of Mr Hemsley's decision.

YOUR STANDING TO APPLY FOR INTERNAL REVIEW

Section 80(1) of the RTI Act provides an entitlement for a person who is affected by a "reviewable decision" to apply to have the decision reviewed by the agency dealing with the application. Schedule 6 of the RTI Act relevantly states:

reviewable decision means any of the following decisions in relation to an access or amendment application ...

(f) a decision refusing access to a document under section 47 ...; and ...

(j) a decision giving access to documents subject to the deletion of information under section 73, 74 or 75;

Mr Hemsley's decision had the effect of refusing you access to documents pursuant to section 47 of the RTI Act.

I am therefore satisfied that you are affected by a 'reviewable decision' and therefore you are entitled to apply for an internal review of Mr Hemsley's decision.

AUTHORITY TO DEAL WITH REVIEW APPLICATION

In line with section 80(3) of the RTI Act, I am an officer authorised to make decisions in relation to applications made under the RTI Act.

YOUR APPLICATION FOR INTERNAL REVIEW

Your application for internal review was received on 27 February 2018.

In your request for review you request a review of Mr Hemsley's decision to refuse you access to all 92 documents located on the basis that the disclosure of the information would be contrary to the public interest.

INTERNAL REVIEW DECISION

In conducting this review I have considered the 92 documents that were originally considered by Mr Hemsley.

I have decided to CONFIRM Mr Hemsley's decision to refuse access to the 92 documents which fell within the scope of your application and that were originally considered by Mr Hemsley.

I made this decision on 15 March 2018 as Senior Policy Officer, Legal and Administrative Law Branch, Department of Education pursuant to a delegation by the Director-General of the Department, as the principal officer, in accordance with section 30 of the RTI Act.

REASONS FOR DECISION

EVIDENCE AND OTHER MATERIAL CONSIDERED

In conducting this review, I have considered:

- the terms of the initial access application;
- the terms of the application for internal review;
- the content of the documents which fall within the scope of the application;
- relevant provisions of the RTI Act;
- relevant provisions of the *Information Privacy Act 2009* ("The IP Act");
- guidelines issued by the Queensland Information Commissioner as identified in this notice; and
- the previous decisions of the Queensland Information Commissioner and case law from other Australian jurisdictions as identified in this decision notice.

After considering the evidence and material listed above i have made my decision to refuse access to the relevant information for the same reasons, and on the same basis as detailed in Mr Hemsley's decision notice issued on 27 February 2018. As such, i see no need to restate those reasons under this notice and refer you to Mr Hemsley's notice which is attached for your reference.

YOUR REVIEW RIGHTS

If you are dissatisfied with my decision, you may apply for external review of the decision.

An external review is a process which allows decisions made by agencies or Ministers to be independently and externally reviewed by the information Commissioner. The Information Commissioner conducts merits review of decisions and involves a reconsideration of all aspects of the original decision including questions of law, questions of fact, discretion and policy.

An application for external review must be made in writing within 20 days of the date of this letter and be lodged with the Office of the Information Commissioner Queensland in one of the following ways:

Post: The information Commissioner
 Office of the Information Commissioner Queensland
 PO Box 10143
 Adelaide Street Brisbane Qld 4000

In person: Level 8, 160 Mary Street Brisbane Qld 4000

Fax: 07 3405 1122

Email: administration@oic.qld.gov.au

Online: <http://www.oic.qld.gov.au/>

The Office of the Information Commissioner may be contacted by telephone on (07) 3405 1111.

More information about external reviews by the Information Commissioner is available on the Office of Queensland Information Commissioner website at <http://www.oic.qld.gov.au>.

QUESTIONS ABOUT THIS DECISION

If you wish to discuss this decision, please contact me on (07) 3513 5880 or by email at rti@ged.qld.gov.au .

Yours sincerely



Katherine Zaidiza
Senior Policy Officer
Legal and Administrative Law Branch
Office of the Director-General

Attachments

- A. copy of the original decision