



Our Ref: 313828

16 July 2018

Mr Peter Coulson - Principal Advisor
Office of the Leader of the Opposition
PO Box 15057
CITY EAST QLD 4002

Tabled by: Mr J. Bleijie MP
At: 10.00am
Date: 26 July 2018
Signature: [Signature]

By email only: Peter.Coulson@opposition.qld.gov.au

Dear Mr Coulson

**External review of decision under the *Right to Information Act 2009 (Qld)*
Applicant: Mrs Deb Frecklington MP, Leader of the Opposition**

I refer to previous correspondence in relation to this external review.

The purpose of this letter is to convey a preliminary view on the issues in this review.¹

At this stage, my view is that access to the information you seek may be refused. My reasons for this view are explained in this letter. However, after reading this letter you may have more information that you would like me to consider. If you provide further relevant information, I will take this into account before reaching a final decision.

As noted in the attachment to OIC's letter dated 11 April 2018, as an independent statutory body, OIC's role on external review is limited to merits review² of specific government decisions about access to, and amendment of, government-held information. As an independent body, we review access and amendment issues in a fair and unbiased way.

Background

You applied for access under the *Right to Information Act 2009 (Qld)* (RTI Act) to 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 Department identified 92 pages as falling with the scope of your access application and decided to refuse you access to all information on the grounds that its disclosure would, on balance, be contrary to the public interest.

Having reviewed the information in issue, I consider a preliminary issue arises as to whether the information comprises a 'completed investigation report' and therefore falls within the scope of your application. Although the report has been signed by the Senior Investigator, it has not been endorsed by either the Principal Investigator or the Director of the Ethical Standards Unit. It is therefore arguable that it is not a completed investigation report.

¹ A preliminary view may assist in resolving a matter or provide any party adversely affected an opportunity to put forward their views. A preliminary view is not a decision. If you provide additional information supporting your case, this will be considered and may influence the final outcome.

² Which is an administrative reconsideration of a case that can be described as 'stepping into the shoes' of the primary decision-maker, to determine the correct and preferable decision.

There are also parts of the information in issue that do not relate to matters of 'fraud or serious financial irregularity' and therefore do not fall within the scope of your application.

But in any event, it is my preliminary view that the report is exempt from disclosure under schedule 3, section 10(4) of the RTI Act.

Preliminary view

Schedule 3, section 10(4) of the RTI Act provides that information is exempt information if it consists of information obtained, used or prepared for an investigation by a prescribed crime body, or another agency, in the performance of the prescribed functions of the prescribed crime body. The Crime and Corruption Commission (**CCC**) is a prescribed crime body.

Based on information provided by the Department, it appears that, following an audit of Cavendish Road State High School's finances, the Queensland Audit Office raised matters of concern with the Department. On 21 July 2017, the Department referred the matters to the CCC. The CCC carried out an initial assessment and then referred the matters back to the Department for investigation, at which stage the Department's Ethical Standards Unit conducted an investigation and the report in issue was prepared.

Section 45 of the *Crime and Corruption Act 2001* (Qld) (**CCA**) provides that the CCC has primary responsibility for dealing with information involving possible corrupt conduct. Section 46(2) lists the possible actions that the CCC may take in dealing with a complaint about possible corrupt conduct, including referring it to be dealt with by a public official, subject to the CCC's monitoring role. Section 48 sets out the CCC's monitoring role and provides that the CCC may require the public official to provide stated information about the complaint in the way and at the times the CCC directs. It also provides that the CCC may assume responsibility for and complete an investigation by a public official at any time.

In my preliminary view, the report in issue consists of information 'obtained, used or prepared' for an investigation by the CCC, or another agency, 'in the performance of the prescribed functions of' the CCC. That is, a prescribed function of the CCC under the CCA is the investigation of possible corrupt conduct. In performing that prescribed function, the CCC elected to refer the matters to the Department for investigation under section 46(2)(b) of the CCA, but subject to the CCC's monitoring and audit role.

It is therefore my preliminary view that the information in issue is exempt information under schedule 3, section 10(4) of the RTI Act.

Next steps

If you accept OIC's preliminary view, or you do not wish to continue with the review, you do not need to do anything further.

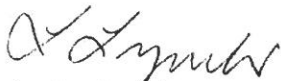
If you do not agree with OIC's preliminary view, please provide a submission supporting your case by **3 August 2018**. **Enclosed** is the OIC guide on providing submissions in an external review.

If I do not hear from you by **3 August 2018**, OIC will finalise the review under section 90(4) of the RTI Act and no formal decision will be issued.³

³ If this matter is resolved informally, that is, without a formal decision being issued, there will be no right of appeal under the RTI Act.

If you have any questions, please contact OIC by emailing administration@oic.qld.gov.au or telephoning Rachel Moss, Principal Review Officer on 07 3234 7373.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Louisa Lynch', written in a cursive style.

Louisa Lynch

Right to Information Commissioner

Encl External review – a guide for making a submission to OIC