



Decision and Reasons for Decision

Application Number: 311142

Applicant: The Courier-Mail

Respondent: Queensland Police Service

Decision Date: 15 February 2013

Catchwords: ADMINISTRATIVE LAW – RIGHT TO INFORMATION – GROUNDS ON WHICH ACCESS MAY BE REFUSED – EXEMPT INFORMATION – an agency may refuse access to a document to the extent the document comprises exempt information – disclosure could reasonably be expected to endanger a person’s life or physical safety – information about suicides at a specific location

REASONS FOR DECISION

Summary

1. The applicant applied to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for a range of documents relating to suicides at a specific location since January 2009.
2. QPS refused access to all of the information it located in response to the access application on the basis that (i) it comprised exempt information as its disclosure could reasonably be expected to endanger a person’s life or physical safety and (ii) its disclosure would, on balance, be contrary to the public interest. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS’s decision.
3. The information in issue comprises detailed information about incidents of suicide and attempted suicide at the specific location. For the reasons set out below, disclosing this information could reasonably be expected to lead to an increase in the number of people who either attempt or complete acts of suicide at the specific location. On this basis, the information in issue comprises exempt information as its disclosure could reasonably be expected to endanger the lives or physical safety of individuals.

Background

4. Significant procedural steps relating to the application and the external review are set out in the appendix to this decision.

Reviewable decision

5. The decision under review is QPS’s decision dated 10 August 2012.

Evidence considered

6. Evidence, submissions, legislation and other material considered in reaching this decision are disclosed in these reasons (including footnotes and appendix).

Information in issue

7. The information in issue in this review (**Information in Issue**) comprises 1688 pages and includes a range of documents relating to incidents at the specific location, including QPS job reports and investigation reports.¹

Issues in this review

8. The issue to be determined in this review is whether QPS is entitled to refuse access to the Information in Issue under the RTI Act.
9. QPS refused access to the Information in Issue on the basis that:
 - it comprises exempt information as its disclosure could reasonably be expected to endanger a person's life or physical safety;² and
 - its disclosure would, on balance, be contrary to the public interest³ as it could reasonably be expected to prejudice security, law enforcement or public safety.⁴
10. As I am satisfied that the Information in Issue is exempt information under schedule 3, section 10(1)(c) of the RTI Act, it is not necessary for me to consider whether its disclosure would, on balance, be contrary to the public interest.⁵
11. Therefore, to the extent the applicant's submissions go to the public interests factors favouring disclosure of the Information in Issue, I have not taken them into account in reaching this decision. However, where the applicant's submissions are relevant to determining whether disclosing the Information in Issue could reasonably be expected to endanger a person's life or physical safety, I have addressed them below.

Relevant law

12. Under the RTI Act, a person has a right to be given access to documents of an agency.⁶ However, this right is subject to other provisions of the RTI Act including the grounds on which an agency may refuse access to documents.⁷ Relevantly, the RTI Act provides that access may be refused to documents to the extent that they comprise exempt information.⁸ Schedule 3 sets out categories of information the disclosure of which Parliament has deemed to be contrary to the public interest, and therefore exempt from disclosure.⁹

¹ The applicant did not seek access to identifying information of victims and excluded information that would compromise a police investigation from the scope of the external review.

² Sections 47(3)(a), 48 and schedule 3 section 10(1)(c) of the RTI Act.

³ Sections 47(3)(b) and 49 of the RTI Act.

⁴ Schedule 4, part 3, item 7 of the RTI Act.

⁵ In *7CLV4M and Department of Communities* (Unreported, Queensland Information Commissioner, 21 December 2011) at paragraph 20, Assistant Information Commissioner Jefferies explained that when considering non-disclosure, the appropriate first step is to consider whether the information comprises exempt information and, only if it does not, is it appropriate and necessary to complete the steps set out in section 49 of the RTI Act to decide whether disclosing particular information is contrary to the public interest. This approach was referred to with approval on appeal to the Queensland Civil and Administrative Tribunal. See *BL v Office of the Information Commissioner, Department of Communities* [2012] QCATA 149 at paragraphs 15 and 16.

⁶ Section 23 of the RTI Act.

⁷ As set out in section 47 of the RTI Act.

⁸ Section 47(3)(a) of the RTI Act.

⁹ Section 48(2) of the RTI Act.

13. Schedule 3, section 10(1)(c) of the RTI Act provides that information will be exempt if its disclosure could reasonably be expected to endanger a person's life or physical safety.
14. The term '*could reasonably be expected to*' requires an expectation that is reasonably based, that is, neither absurd, irrational or ridiculous,¹⁰ nor merely a possibility.¹¹ Whether the expected consequence is reasonable requires an objective examination of the relevant evidence.¹² It is not necessary for a decision-maker to be satisfied upon the balance of probabilities that disclosing the document will produce the anticipated harm.¹³ The expectation must arise as a result of the disclosure, rather than from other circumstances.¹⁴
15. Accordingly, to determine whether information is exempt from disclosure for the purposes of schedule 3, section 10(1)(c) of the RTI Act there must be real and substantial grounds for believing that disclosing the Information in Issue will endanger a person's life or physical safety.

Findings

16. In summary, QPS submits that release of the Information in Issue, and the inevitable reporting of the Information in Issue, will lead to an increase in the number of people who either attempt or complete acts of suicide at the specific location. QPS provided a detailed submission and persuasive evidence supporting this view.
17. The RTI Act prohibits the Information Commissioner from including information that is claimed to be exempt in reasons for a decision on external review.¹⁵ QPS's submission is sensitive and goes directly to the content of the Information in Issue. In my view, disclosing the detailed evidence provided by QPS in its submission could also reasonably be expected to endanger a person's life or physical safety for the same reasons that the Information in Issue comprises exempt information. This prevents me from including details of some of QPS's submission in this decision.
18. QPS referred to two documents in its submission which are publicly available resources for the police and media. The relevant extracts of these documents are set out below.
19. *Mental illness & suicide in the media: a Mindframe resource for police*¹⁶ provides guidance to police on media reporting of mental illness and suicide. This guideline relevantly states:¹⁷

Research has demonstrated that the way in which suicide is reported is significant. While some styles of reporting have been linked to increased rates of suicide, appropriate reporting may help rates of suicide.

*People in despair may be influenced by media coverage of suicide, particularly where they identify with the person in the report. Characteristics of reporting associated with increased rates of suicide include: **detailed description of method and/or location**; and or prolonged or repetitive reporting.*

¹⁰ *Attorney-General v Cockcroft* (1986) 64 ALR 97 at 106.

¹¹ *Murphy and Treasury Department* (1995) 2 QAR 744 (**Murphy**).

¹² *Murphy* at [45-47].

¹³ *Sheridan and South Burnett Regional Council (and Others)* (Unreported, Queensland Information Commissioner, 9 April 2009).

¹⁴ *Murphy* at [54].

¹⁵ Section 108(3) of the RTI Act.

¹⁶ http://www.mindframe-media.info/_data/assets/pdf_file/0018/6057/Police-Resource-Book.pdf (**Police Resource Book**).

¹⁷ *Police Resource Book* at page 5.

Characteristics of reporting associated with decreased rates of suicide include: portrayals that position suicide as a tragic waste and an avoidable loss; those that focus on the impact of others; and reports where method and location and not disclosed.

[my emphasis]

20. *Reporting suicide and mental illness: a Mindframe resource for media professionals* also states that ‘explicit descriptions of method or location have been linked to increased rates of suicide by that particular method or at that particular location’.¹⁸
21. The applicant has provided submissions and supporting evidence about the benefits of reporting on suicide and suicide related issues and has indicated it intends to report on the Information in Issue to campaign in favour of constructing suicide prevention barriers at the specific location.¹⁹ The applicant has provided a link to the Border Mail’s *End the Suicide Silence* campaign as an example of positive reporting on suicide related issues.²⁰
22. The applicant also provided OIC with a letter from Professor Patrick McGorry AO MD PhD FRCP FRANZCP, Professor of Youth Mental Health, University of Melbourne, in which he states that there is very little evidence to support the argument that reporting on specific locations leads to an increase in risks.²¹ Professor McGorry refers to the revised Press Council guidelines²² for reporting on suicide and associated issues and says that the guidelines emphasise the positive effects of reporting on suicide and related issues.
23. I acknowledge Professor McGorry’s views on this issue and accept the applicant’s submission that reporting on suicide can be positive in some circumstances. I have also reviewed the recently revised Press Council guidelines on this issue. While the Press Council guidelines acknowledge the substantial public benefit from general reporting on suicide and suicide related issues, I note that the guidelines continue to caution against describing particular locations for suicide, stating:

The method and location of a suicide should not be described in detail (eg, a particular drug or cliff) unless the public interest in doing so clearly outweighs the risk, if any, of causing further suicides. This applies especially to methods or locations which may not be well known by people contemplating suicide.
24. The applicant also provided²³ a copy of a recent finding by the Office of the State Coroner in relation to individuals who had taken their own lives at a separate location. I acknowledge that the published coronial finding included details about the method and the location at which the deaths occurred and made recommendations about the installation of suicide prevention barriers at that location.
25. Professor McGorry’s letter also notes the importance of obtaining statistics about the number of persons who suicide or attempt to suicide from the particular location to enable the applicant to publicly advocate in favour of suicide prevention barriers at the specific location. However, the access application is not for statistics but rather for a broad range of documents. While it may be possible to compile statistics from the Information in Issue, it encompasses a broader category of information, in particular, QPS job reports and investigation reports. This broader range of information is sensitive, specific and personal in nature. It also provides a detailed description of the circumstances surrounding each incident including, in many cases, the methods and

¹⁸ http://www.mindframe-media.info/_data/assets/pdf_file/0018/5139/Media-Book-col.pdf at page 5.

¹⁹ Applicant’s external review application received on 16 August 2012 and oral submissions to OIC on 23 November 2012.

²⁰ Submission to OIC dated 10 December 2012.

²¹ Letter dated 5 December 2012, provided to OIC as part of the applicant’s submissions dated 10 December 2012.

²² <http://www.presscouncil.org.au/document-search/standard-suicide-reporting/>.

²³ Submission to OIC dated 1 February 2013.

locations used in suicides or attempted suicides and QPS's response to these incidents.

26. The applicant submits²⁴ that it:
- would comply with the guidelines established by the National Media and Mental Health Group as well as the Australian Press Council when reporting on the Information in Issue; and
 - is committed to consulting experts in suicide prevention prior to publishing any of the Information in Issue.
27. In the decision of *OKP and Department of Communities*²⁵ the Information Commissioner explained that a decision-maker should not assume that disclosure of information to an applicant is disclosure to the world at large but should not exclude from consideration evidence about the intended or likely extent of dissemination of information by the applicant. I acknowledge that the applicant's intention is to report on the Information in Issue in a way that positively impacts on vulnerable people. However, I note that it is not possible to place restrictions on the use, dissemination or republication of information released under the RTI Act. Accordingly, while I have taken the applicant's submission on this point into account, I am still satisfied that it is reasonable to expect that disclosing the Information in Issue could prejudice the life or physical safety of individuals.
28. The applicant has specifically excluded (i) identifying information of victims and (ii) information that would compromise a police investigation from the scope of its request. However, given the nature of the Information in Issue it would not be possible to delete this type of information from the documents. In any event, I do not consider that deleting this type of information from the documents would remove the basis for refusing access to the Information in Issue as disclosure of the remaining information could still reasonably be expected to endanger a person's life or physical safety given that it would reveal detailed information about incidents of suicide and attempted suicide at the specific location.
29. Having carefully considered the submissions provided by the applicant and QPS, I am satisfied that disclosing the Information in Issue which comprises detailed information about incidents of suicide and attempted suicide at the specific location could reasonably be expected to lead to an increase in the number of people who either attempt or complete acts of suicide at the specific location. For these reasons, I find that:
- disclosing the Information in Issue could reasonably be expected to endanger the lives or physical safety of individuals; and
 - the Information in Issue comprises exempt information under schedule 3, section 10(1)(c) of the RTI Act.

DECISION

30. I affirm the decision under review and find, for the reasons set out above, that QPS is entitled to refuse access to the Information in Issue under sections 47(3)(a) and 48 of the RTI Act.

²⁴ Submission to OIC dated 19 November 2012.

²⁵ (Unreported, Queensland Information Commissioner, 9 July 2009) at [119]-[131]. Referring to the Victorian Court of Appeal decision in *Victoria Police v Marke* [2008] VSCA 218.

31. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

Jenny Mead
Right to Information Commissioner

Date: 15 February 2013

APPENDIX**Significant procedural steps**

Date	Event
18 June 2012	QPS received the applicant's access application.
10 August 2012	QPS issued its decision to the applicant.
16 August 2012	OIC received an application for external review from the applicant along with supporting information.
24 August 2012	OIC notified QPS and the applicant that the external review application had been accepted and requested QPS provide OIC with a copy of the Information in Issue and a submission outlining the basis for refusing access.
10 September 2012	QPS provided OIC with a copy of the Information in Issue.
13 September 2012	QPS provided OIC with a submission.
16 November 2012	OIC conveyed a view to the applicant and invited the applicant to make submissions if it did not agree with the view.
19 November 2012	The applicant advised OIC that it did not accept OIC's view and provided submissions. The applicant requested the opportunity to provide further submissions.
22 November 2012	OIC sought QPS's views on disclosing aspects of QPS's submissions to the applicant.
23 November 2012	QPS advised OIC it considered the relevant parts of QPS's submissions comprise exempt information.
23 November 2012	OIC telephoned the applicant to confirm OIC's view and the applicant made oral submissions.
26 November 2012	OIC confirmed the view and invited the applicant to make further written submissions.
10 December 2012	The applicant provided further written submissions and supporting evidence.
1 February 2013	The applicant provided further written submissions and supporting evidence.