

Ref: R17-013

Mr James Smith

By email: James Smith <foi+request-3926-b886a777@righttoknow.org.au>

Dear Mr Smith

**Notice under section 33(6) of the *Right to Information Act 2009* (the RTI Act)**

I refer to your application received by the Department of Science, Information Technology and Innovation on 8 August 2017 in which you seek access to:

*"Documents related to the ten most recent instances where an employee has sought information, advice, guidance, or opinion on their social media use in a private capacity. I limit the scope of documents to:*

- the original request from the employee*
- the agency/department's response*
- any follow-up questions and response*
- only those sent to a relevant HR / conduct / social media (or similar) team (rather than managers across all areas of the organisation)*
- where the original request was created in the last 2 years".*

I draw your attention to section 24(2) of the RTI Act which sets out the requirements of a valid application.

**Section 24 - Making access application**

**(2) The application must –**

- a) be in the approved form and be accompanied by the application fee; and*
- b) give sufficient information concerning the document to enable a responsible officer of the agency or the Minister to identify the document; and*
- c) state an address to which notices under this Act may be sent to the applicant; and*
- d) state whether access to the document is sought for the benefit of, or use of the document by –
  - i. the applicant; or*
  - ii. another entity; and**
- e) if access to the document is sought for the benefit of, or use of the document by, an entity other than the applicant—the name of the other entity.*

I have formed the view that your application is invalid because your application was not in the approved form and accompanied by the application fee of \$48.00. It also does not state whether access to the document is sought for the benefit of, or use of the document by—

- the applicant; or
- another entity; and
- if access to the document is sought for the benefit of, or use of the document by, an entity other than the applicant – the name of the other entity.

Under section 33(3) of the RTI Act, I must not refuse to deal with your application without first giving you a reasonable opportunity to consult with a view to making your application in a form which complies with all relevant application requirements.

My letter to you dated 9 August 2017 extended such a reasonable opportunity for you to make your application compliant by providing the department with further information by 24 August 2017. To date no response to this request has been received by the department.

### **Authority**

In accordance with section 30(2) of the RTI Act, I am an officer authorised by the Director-General of the Department of Science, Information Technology and Innovation to make decisions under the RTI Act.

### **Decision**

I have decided your application does not comply with all relevant application requirements under section 24(2) and (3) of the RTI Act.

The date of my decision is 30 August 2017.

### **Reason for Decision**

In accordance with section 33(6) of the RTI Act your application does not comply with all relevant application requirements. Section 33 outlines the process to deal with non-compliant applications.

Section 33 - Noncompliance with application requirement

*(1) This section applies if –*

- (a) a person purports to make an access application for a document to an agency or Minister; and*
- (b) the application does not comply with all relevant application requirements.*

*(2) The agency or Minister must make reasonable efforts to contact the person within 15 business days after the purported application is received and inform the person how the application does not comply with a relevant application requirement.*

*(3) An agency or Minister must not refuse to deal with an application because it does not comply with all relevant application requirements without first giving the applicant a reasonable opportunity to consult with a view to making an application in a form complying with all relevant application requirements.*

*(4) The applicant is taken to have made an application under this Act if and when the application is made in a form complying with all relevant application requirements.*

*(5) Subsection (4) does not limit section 32.*

(6) *If, after giving the opportunity mentioned in subsection (3) and any consultation, an agency or Minister decides the application does not comply with all relevant application requirements, the agency or Minister must, within 10 business days after making the decision, give the applicant prescribed written notice of the decision.*

(7) *In this section—*

**relevant application requirement**, for an access application, means a matter set out in section 24(2) or (3) that is required for the application.

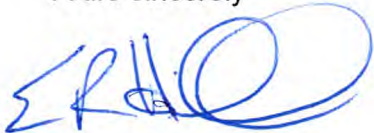
### **Review Rights**

If you are dissatisfied with the decision that I have made under the RTI Act you may exercise review rights.

I have enclosed an information sheet which details your rights of review. Please note that any request for a review must be made within 20 business days after the date of this decision letter.

If you have any queries or concerns about your application, please do not hesitate to contact the Right to Information and Privacy unit on telephone 3719 7989 or email [rti@dsiti.qld.gov.au](mailto:rti@dsiti.qld.gov.au).

Yours sincerely



Evan Hill  
**Deputy Director-General, Corporate**

30 / 9 / 17

Encl. (1)

## **Rights of Review under the *Right to Information Act 2009***

### **Internal Review**

If you disagree with this decision, you are entitled to seek an internal review under section 80 of the *Right to Information Act 2009*.

The time limit for seeking an internal review is twenty (20) business days after the date of the decision letter.

Your request must be in writing and made to the Assistant Director-General, Digital Productivity and Services Division, Department of Science, Information Technology and Innovation.

The internal review will be undertaken by an officer no less senior to the original decision maker.

Your application can be lodged in one of the following ways:

In person: 140 Creek Street, Brisbane  
Post: GPO Box 5078 Brisbane Qld 4001  
Email: [rti@dsiti.qld.gov.au](mailto:rti@dsiti.qld.gov.au)  
Online: <https://www.smartservice.qld.gov.au/services/information-requests/review.action>

### **External Review**

However, you do not have to request an internal review of this decision in order to be eligible to apply for an external review by the Information Commissioner. If you seek an external review, you must apply within twenty (20) business days of the date of the decision letter to the Information Commissioner. Your application can be lodged with the Information Commissioner in one of the following ways:

In person: Level 8, 160 Mary Street, Brisbane  
Post: PO Box 10143, Adelaide Street, Brisbane, Qld 4000  
Email: [administration@oic.qld.gov.au](mailto:administration@oic.qld.gov.au)  
Online: <http://www.oic.qld.gov.au/about/right-to-information/apply-for-external-review-of-an-access-or-amendment-decision>