

File/Ref: 17-070

22 September 2017

Mr James Smith  
Email: [foi+request-3928-1ff1a23a@righttoknow.org.au](mailto:foi+request-3928-1ff1a23a@righttoknow.org.au)

Dear Mr Smith

### **Refusal Notice under section 33 of the *Right to Information Act 2009***

I refer to your application received by the Department of Tourism, Major Events, Small Business and the Commonwealth Games (DTESB) on 8 August 2017 seeking access under the *Right to Information Act 2009 (Qld)* (RTI Act) to:

*I request 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*

### **Authority to make decisions**

Right to Information Services is aligned with the Department of Environment and Heritage Protection (EHP) which is authorised to deal with information access applications on behalf of DTESB under section 30(3) of the RTI Act.

I am an officer authorised by the Director-General under section 30(4) of the RTI Act to make decisions concerning the provisions of the RTI Act. The Director-General is the principal officer of this agency.

## Refusal to deal with application

Section 33 (3) of the RTI Act states the following:

### **'33 Noncompliance with 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 of making an application in a form complying with all relevant application requirements.*

In accordance with section 33 (3) of the RTI Act, I provided you with the opportunity to consult with the view of making your application in a form which is compliant with the RTI Act.

I refer to my letter dated 23 August 2017 advising that in accordance with section 24(2) of the RTI Act you were required to provide the following within 10 business days of receiving my letter:

- 2 (a) Application fee**
- 2 (b) sufficient information**
- 2 (d) Name of person to use or benefit from access to documents**

However, to date, no response has been received.

Section 33 (6) of the RTI Act states the following:

### **'33 Noncompliance with application requirement**

*(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.*

## Decision

I have taken into consideration the steps involved in making an application in a form complying with all relevant application requirements.

On this basis, I have decided to refuse to deal with your application in accordance with section 33 (6) of the RTI Act.

## Review rights

Please refer to Attachment A for details regarding your review rights. Should you wish to discuss your application in any way, please do not hesitate to contact me on telephone 3330 5134.

Yours sincerely



Mr Jose Orellana  
**Senior Right to Information Officer**  
**Right to Information Services**

## Right to Information and Privacy

### Review Rights

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If you are dissatisfied with a statutory decision the department has made while processing an information access or amendment application under the *Right to Information Act 2009* (the RTI Act) or the *Information Privacy Act 2009* (IP Act), you can apply to have the decision reviewed. The right of review is available to:

- the information access or amendment applicant
- anyone who this department has consulted in the course of dealing with an information access or amendment application
- anyone who believes the department should have consulted them in the course of dealing with an information access or amendment application.

An application for a review must:

- a. be in writing; and
- b. specify an address of the applicant to which notices may be sent; and
- c. give particulars of the decision for review.

There is no charge for a review application.

#### Internal review

An application for internal review must be lodged with the department within **20 business days** of the date of this decision notice.

If the internal reviewer considers the application for internal review to be valid, a fresh decision must be made within 20 business days of the application being lodged with this department.

The internal review decision will be made by an officer of this department more senior than the original decision maker.

Applications for internal review should be addressed to:

Internal Review Officer  
Right to Information Services  
Department of Tourism, Major Events, Small Business  
and the Commonwealth Games  
GPO Box 2454  
BRISBANE QLD 4001

## External review

The Office of the Information Commissioner (OIC) is an independent body responsible for reviewing decisions made under the RTI Act and the IP Act.

An application to the OIC for external review must be made within **20 business days** of the date of the department's initial decision or internal review decision notice (whichever is relevant in the circumstances).

An applicant can apply to the Information Commissioner for a review if the department fails to issue a decision notice on the RTI or IP Act application within the statutory timeframe, and has not sought approval from the applicant to extend the timeframe.

An external review application can be made to the Information Commissioner if:

- the agency has failed to make a decision within the time limits
- you are unhappy with the department's initial decision or internal review decision

Applications for external review should be addressed to:

Office of the Information Commissioner  
PO Box 10143  
Adelaide Street  
BRISBANE QLD 4000

For further information about external reviews, please contact the Office of the Information Commissioner at:

Telephone: (07) 3405 1111  
Email: [administration@oic.qld.gov.au](mailto:administration@oic.qld.gov.au)  
Facsimile: (07) 3405 1122  
Web page: [www.oic.qld.gov.au](http://www.oic.qld.gov.au)

**Note: You may apply for an external review irrespective of whether the department has internally reviewed the decision.**