



Determination

External review - section 39 *Freedom of Information Act 1991*

Applicant:	Mr Peter Malinauskas MP
Agency:	South Australian Tourism Commission
Ombudsman reference:	2021/02410
Agency reference:	FOI 14c/2020
Determination:	The determination of the agency is varied.
Date of Ombudsman's determination:	14 September 2021
Issues considered:	Diminished commercial value Definition of business affairs Adverse effect on business affairs Agency's decision-making functions Free and frank disclosure Breach of confidence Whether matter was obtained in confidence Effective performance by agency of its functions
Exemption clauses relied upon:	7(1)(b) 7(1)(c) 9(1) 13(1)(a) 13(1)(b) 16(1)(a)(iv) 16(2)
Legislation considered:	<i>Freedom of Information Act 1991</i>

Terms of the original application:

All documents (including but not limited to physical, electronic, or written briefs, internal discussion papers, minutes, emails, diary entries and any other correspondence) between the South Australian Tourism Commission and the Office of the Premier concerning the Adelaide 500 between 20 February 2020 and 30 October 2020.

REASONS

Application for access

1. By application under the *Freedom of Information Act 1991 (the FOI Act)* the applicant requested access from the agency to:

All documents (including but not limited to physical, electronic, or written briefs, internal discussion papers, minutes, emails, diary entries and any other correspondence) between the South Australian Tourism Commission and the Office of the Premier concerning the Adelaide 500 between 20 February 2020 and 30 October 2020.

Background

2. For ease of reference, procedural steps relating to the application and the external review are set out in Appendix 1.

Jurisdiction

3. This external review is within the jurisdiction of the Ombudsman as a relevant review authority under section 39 of the FOI Act.

Provisional determination

4. I provided my tentative view about the agency's determination to the parties, by my provisional determination dated 27 August 2021. I informed the parties that subject to my receipt and consideration of submissions from the parties I proposed to vary the agency's determination.
5. By email dated 7 September 2021, the agency advised its views that the reasons outlined in its belated determination for denying access stand, but that it had no further information to provide in response to my provisional determination. No response was received from the applicant or interested party. Accordingly, this determination is in the same terms as my provisional determination.

Relevant law

6. A person has a legally enforceable right to be given access to an agency's documents in accordance with the FOI Act.¹
7. The FOI Act provides that upon receipt of an access application, an agency may make a determination to refuse access where the documents are 'exempt'. Schedule 1 lists various exemption clauses which may be claimed by an agency as a basis for refusing access.
8. The following clauses of Schedule 1 of the FOI Act are relevant to my external review:

7—Documents affecting business affairs

(1) A document is an exempt document—

(b) if it contains matter—

(i) consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and

(ii) the disclosure of which—

(A) could reasonably be expected to destroy or diminish the commercial value of the information; and

¹ *Freedom of Information Act 1991*, section 12.

- (B) would, on balance, be contrary to the public interest; or
- (c) if it contains matter—
 - (i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and
 - (ii) the disclosure of which—
 - (A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and
 - (B) would, on balance, be contrary to the public interest.

9—Internal working documents

- (1) A document is an exempt document if it contains matter—
 - (a) that relates to—
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and
 - (b) the disclosure of which would, on balance, be contrary to the public interest.

13—Documents containing confidential material

- (1) A document is an exempt document—
 - (a) if it contains matter the disclosure of which would found an action for breach of confidence; or
 - (b) if it contains matter obtained in confidence the disclosure of which—
 - (i) might reasonably be expected to prejudice the future supply of such information to the Government or to an agency; and
 - (ii) would, on balance, be contrary to the public interest.

16—Documents concerning operations of agencies

- (1) A document is an exempt document if it contains matter the disclosure of which—
 - (a) could reasonably be expected—
 - (iv) to have a substantial adverse effect on the effective performance by an agency of the agency's functions; and
 - (b) would, on balance, be contrary to the public interest.
- (2) A document is an exempt document if—
 - (a) it relates to an agency engaged in commercial activities; and
 - (b) it contains matter the disclosure of which could prejudice the competitiveness of the agency in carrying on those commercial activities.

9. Under section 48, the onus is on the agency to justify its determination 'in any proceedings'. This includes the external review process.
10. Section 39(11) provides that the Ombudsman may confirm, vary or reverse the agency's determination in an external review, based on the circumstances existing at the time of review.

Documents in issue

11. The agency did not determine the applicant's FOI application or internal review application within the statutory time frames and is deemed to have refused access to all documents.²
12. Section 14(2) of the FOI Act requires agencies to deal with applications within 30 days after they are received. Section 19(2)(b) provides that if an agency fails to determine an application within 30 days after receiving it, it is to be taken to have determined the application by refusing access to the documents sought. However, section 19(2a) of the

² *Freedom of Information Act 1991*, sections 19(2), 29(5)

FOI Act provides that ‘nothing prevents an agency from making a determination to give access to a document on an application after the period within which it was required to deal with the application (and such a determination is to be taken to have been made under this Act)’.

13. In my view, section 19(2a) only has operation when an agency fails to determine an application within 30 days after it is received and has no operation once an applicant has sought an internal review. It should also be noted that section 19(2a) only permits agencies to make belated determinations ‘to give access to a document’ and cannot be utilised to refuse access. I have therefore treated the agency’s purported determination on internal review as further submissions from the agency.
14. The agency identified 14 documents within the scope of the application and, relevantly, has claimed document 3 to be fully exempt and document 13 to be partially exempt. The applicant has sought an external review in relation to documents 3 and 13 only.

Issues in this review

15. Having regard to the agency’s submissions and the exemption clauses provided in Schedule 1 of the FOI Act, it is for me to determine whether to confirm, vary or reverse the agency’s determination in regard to the documents in issue in this external review.

Consideration

Information in the public domain

16. As is evident from the terms of the FOI application, the documents in issue relate to the Adelaide 500, and are dated between February and October 2020. I consider it relevant to first note the amount of information on this topic which is already in the public domain.
17. The fact that the Adelaide 500 did not continue after 2020 has been extensively publicised. Of relevance, on 29 October 2020 the ABC published an article advising that the 2021 event was to be the last under the existing contract between V8 Supercars (**Supercars**) and the agency, but that the 2021 event was cancelled and the contract would not be renewed.³
18. It has been noted that the event was initially planned to be postponed until later in 2021,⁴ specifically by way of moving the Adelaide 500 from being the Superloop season-opener to the season finale.⁵ However, the event was ultimately cancelled, with some reported reasons for the cancellation including:
 - the impact of the COVID-19 pandemic
 - falling revenue
 - the impact on the event for both the consumer and commercial market
 - the long-term decline in the core motorsport fanbase.
19. The end of the Holden brand in Australia and New Zealand was also made public in early 2020, with several published articles speculating about the negative effect this would have on Supercars, noting that its success is somewhat attributable to the interest in the Holden v Ford rivalry.⁶

³ *Coronavirus ends Adelaide 500 supercar race with contract not renewed by SA Government*, ABC News, 29 October 2020.

⁴ *Adelaide Superloop 500 axed for 2021 Supercars season*, Seven News, 29 October 2020.

⁵ *Opposition leader labels Adelaide 500 assets sale ‘sabotage’*, Speedcafe, 22 April 2021.

⁶ *What does the end of the Ford-Holden rivalry mean for the future of Supercars*, ABC News, 19 February 2020; *Holden’s Supercar departure a blow for fans, Gen3 to start a new era in 2022*, ABC News, 5 June 2020.

20. Finally, it is noted that Supercars has publicly expressed a willingness to be involved if at any time the South Australian Government decides to recommence the Adelaide 500.⁷ It has in fact been reported that the Labor Party has already signed an agreement with Supercars to reinstate the Adelaide 500.⁸
21. Whilst the fact that information is in the public domain is not, alone, sufficient to conclude that a document containing that information is not exempt, it is extremely persuasive, particularly where a public interest test is required. In the current circumstances I am satisfied that the claimed exemption clauses do not apply to the information outlined above which is already in the public domain.

Business affairs of Supercars

22. The agency has submitted that portions of the documents are exempt pursuant to clause 7(1)(b) and 7(1)(c) as they relate to the business affairs of Supercars.

Clause 7(1)(b)

23. The agency submits that:

The information is commercially valuable to Supercars for the purposes of carrying on its continuing business operation of staging major motorsport events (*Re Cannon and Australian Quality Egg Farms Ltd*)⁹... While the Adelaide 500 has been cancelled, Supercars continues to stage a race at The Bend Motorsport Park and in other states, and therefore the information continues to have ongoing value to Supercars.

24. Although I accept that Supercars continues to engage in the commercial activity of staging major motorsport events, I am not satisfied that the identified information has commercial value. The information contained in the documents is entirely specific to the commercial activity of participating in the Adelaide 500. From my viewing of the information, it is not applicable or useful to the staging of any other motorsport event, and therefore cannot have any ongoing commercial value as the event no longer takes place.
25. In any event, even if I were to accept that the information has commercial value to Supercars, again noting the specificity of the information relating in particular to the Adelaide 500, it is unclear how disclosure could possibly diminish any commercial value that the information may have.
26. To this point, the agency submits that:
- The loss of an opportunity to secure new motorsport events in Australia would directly result in loss of future income and thus the profitability of Supercars.
27. It is not evident, based on the information before me, how disclosure of documents 3 and 13 would result in a lost opportunity for Supercars to secure new motorsport events in Australia. I consider that this argument in fact contradicts another argument put forward by the agency. The agency has further submitted that disclosure of the documents would negatively affect its negotiations with, and ability to secure, event suppliers. This would appear to indicate that the agency holds the view that such providers, such as Supercars, are highly sought after and that it has the option of securing other events over the Adelaide 500.

⁷ *Coronavirus ends Adelaide 500 supercar race with contract not renewed by SA Government*, ABC News, 29 October 2020.

⁸ *Opposition leader labels Adelaide 500 assets sale 'sabotage'*, Speedcafe, 22 April 2021.

⁹ *Re Cannon and Australian Quality Egg Farms Ltd* [1994] QlCmr 9 [54].

Clause 7(1)(c)

28. I accept that the information as identified by the agency relates to the business affairs of Supercars. The agency submits that:

In addition, the release of sensitive commercial information would cause disrepute to Supercars. Release of this information would reasonably be expected to significantly damage Supercars' reputation as a major and compelling event on Australia's event calendar. This would in turn diminish its ability to maintain and secure new sponsors, private businesses and media partnerships as well as damaging its profile with its core fans and the wider public.

...

Further, it is reasonable to expect that disclosure may prevent the future supply of such information to the SATC, as national sporting bodies and major event organisers in general do not expect such commercially and financially sensitive information to be disclosed to the public.

29. I accept that disclosure of limited portions of the documents could reasonably be expected to have an adverse effect on the business affairs of Supercars, although not for the reasons provided above. Rather, I am satisfied that disclosure of some information would reveal internal information about Supercars which was relayed in confidence, and could potentially be exploited if disclosed.
30. It is unclear to me how disclosure could reasonably be expected to cause disrepute to Supercars. The documents do not contain any negative feedback or comments about Supercars, nor do they reveal any controversial or unpopular decision by Supercars. The basis of this anticipated reputation damage is unknown.
31. I also do not accept that disclosure could reasonably be expected to prevent the future supply of such information to the agency. The information identified by the agency is largely information which was required to be provided to the agency; the provision of information was not optional. I do not accept that Supercars, or any other similar entity, would risk losing such a lucrative arrangement with the agency by refusing to provide required information. I reach this conclusion specifically noting that Supercars has expressed a willingness to participate in the Adelaide 500 if it recommences in the future.¹⁰
32. Additionally, I note that certain information is defined as being confidential in the Sanction Agreement and Mutual Confidentiality Agreement between Supercars and the agency. Were it the case that Supercars had concerns about particular information being disclosed beyond the agency, that information could have been deemed confidential in these agreements.

Business affairs/commercial activities of the agency

33. The agency submits that portions of the documents relate to the agency's business affairs and commercial activities, and are therefore exempt pursuant to clauses 7(1)(b), 7(1)(c) and 16(2). The agency has also claimed clause 16(1)(a)(iv) to be applicable, but notes that its reasoning is largely intertwined with its reliance upon clause 16(2).
34. Before considering the applicability of clauses 7(1)(b), 7(1)(c) and 16(2), I must consider whether the agency has business affairs and is engaged in a commercial activity. The Federal Court of Australia has considered the difference between government functions and commercial functions and concluded that:

¹⁰ COVID-19 factor results in Adelaide 500 being cut from Supercars schedule, The New Daily, 29 October 2020.

... there is a distinction between government functions and trading or commercial functions and that that distinction holds true even though government may deliver its governmental functions to interested members of the public in a commercial format, for example, by “out-sourcing” them to private service providers.¹¹

35. Ordinarily, a function can be clearly characterised as either being a core government function or a commercial function. In this case that distinction is less straightforward. The agency’s core functions include the promotion of tourism and events in South Australia. The management of major events, particularly those involving liaison with a number of external suppliers, invariably becomes a commercial activity.
36. In this case, although the promotion and management of major events in South Australia is clearly one of the agency’s core government functions, I am satisfied that the running of the Adelaide 500 by the agency was also a commercial function. I am therefore satisfied that the documents relate to the business affairs of the agency and the agency’s commercial functions.
37. I note that clauses 7(1)(b), 7(1)(c) and 16(1)(a)(iv) all require a weighing of the public interest. The cancellation of the Adelaide 500 attracted significant media attention, and a large portion of the public have expressed unhappiness and confusion about the cancellation. In light of this, it is clear that there is significant public interest in the disclosure of any documents which discuss the cancellation of the Adelaide 500. I consider that this public interest could only be outweighed by equally substantial public interest factors contrary to disclosure.
38. In light of the above, it is my view that, in relation to information concerning the business affairs and commercial activities of the agency, clause 16(2) poses the lowest threshold. I reach this conclusion also noting that the South Australian Civil and Administrative Tribunal has recently considered the interpretation of ‘prejudice’, and has concluded that the word should be given its broader meaning, being ‘harm’.¹² In my view, any information of this nature which cannot be said to contain information the disclosure of which would harm the agency’s competitiveness, will not meet the requirements of clauses 7(1)(b), 7(1)(c) or 16(1)(a)(iv).
39. In its submissions to this Office, the agency states that:
- The SATC submits that, under clauses 16(1)(a)(iv) and 16(2), the disclosure of financial information, including total amount spent and the various breakdown of expenses (information highlighted and marked as A*), undermines the ability for the SATC to effectively negotiate and attract further events. The SATC submits that it competes with other states, international bodies and private organisations for the right to host events. Disclosing the amount that the SATC is willing to pay, and potentially lose, for an event gives a bottom line for its competitors and could reasonably be expected to prevent the SATC from carrying out its functions and would almost certainly prejudice the competitiveness of the agency in obtaining value for money in our commercial activities.
40. Clause 16(2) requires that a document relates to an agency’s commercial activities, and that disclosure could prejudice the competitiveness of the agency carrying on those commercial activities. I consider this particular wording to be significant; the clause does not require prejudice to the competitiveness of the agency carrying on any commercial activity.

¹¹ *Secretary, Dept of Workplace Relations and Small Business v Staff Development & Training Centre Pty Ltd* [2001] FCA 1375, [26].

¹² *Alexandra Marguerite MacDonald; GlaxoSmithKline v Department for Health and Wellbeing* [2021] SACAT (unreported) 30 March 2021, at [125].

41. In this case, the commercial activity to which the documents relate is the activity of hosting a motorsport event. It must be the competitiveness of this specific activity which is prejudiced in order for the requirements of clause 16(2) to be met.
42. To this point, the agency no longer manages the Adelaide 500 event or, to my knowledge, any other motorsport event. It therefore seems unlikely that disclosure could prejudice the agency's competitiveness in carrying on a commercial activity that it is no longer engaged in.
43. I accept that there is a possibility that the agency could become engaged in the commercial activity of hosting a motorsport event in the future, however I still query the extent to which the agency's competitiveness could be prejudiced by disclosure of the documents, noting in particular that Supercars has publicly expressed a willingness to be involved in the Adelaide 500 if it recommences in the future. I am also mindful that a supplier such as Supercars is not limited to one event per year. The fact that another state may secure Supercars for a motorsport event would not prevent Supercars from also appearing in a South Australian motorsport event. To the contrary, it would be in Supercars' best interests to secure multiple events in multiple locations.
44. The agency submits that disclosure would hinder its ability to negotiate commercial agreements for events in the future. Presumably the agency believes that disclosure of the dollar amounts paid for particular services would encourage vendors to demand a similar or higher payment for the same services in the future. In my view, such a demand would not be reasonable, largely because any future negotiation will take place in a post COVID-19 environment. The South Australian economy has been substantially affected by COVID-19; I do not consider that it would be reasonable for any vendor to expect the agency to be in a position to enter into the same agreements as it had previously.
45. That said, clause 16(2) merely requires that the agency's competitiveness could be prejudiced, it is not necessary for that prejudice to be reasonable in the circumstances. I also again note that 'prejudice' can be considered to mean 'harm'. I am therefore satisfied that disclosure of specific monetary amounts paid, or proposed to be paid, for individual services could prejudice the agency's competitiveness in carrying on the commercial activity of hosting motorsport events in the future.
46. I do not consider that this extends to the total costs associated with running the Adelaide 500 as there is no way for a reader to determine the amount paid to individual suppliers.

Internal working documents

47. Although the agency has determined that document 13 is only partially exempt, it has submitted to this Office that both documents 3 and 13 are fully exempt on the basis of clause 9(1).
48. I am satisfied that the requirements of clause 9(1)(a) are met for both documents. In relation to the public interest test, the agency submits that:

In addressing the public interest test, I have considered the need for the public to be informed and the need for openness, accountability and responsibility of government. However, on balance, I consider that disclosure would be contrary to the public interest given:

- the adverse consequences that could reasonably be expected to flow from disclosure;

- protecting the deliberative processes of government, particularly at high levels of government and in relation to sensitive information and issues; and
 - the preservation of confidentiality so as to promote the giving of full and frank advice.
49. As outlined above, I am satisfied that disclosure of the specific monetary amounts paid for services could potentially have 'adverse consequences'. However I am not satisfied that this applies to the remainder of the documents, or at most, those consequences are minimal.
50. In relation to the final factor identified by the agency, I note the following quote from the matter of *Treglown v SA Police*:¹³

Similar issues were under discussion in the matter of *Pemberton and The University of Queensland*¹⁴ where the Information Commissioner, referring to an earlier decision, commented at [126] that claims:

... that the public interest would be injured by the disclosure of particular documents because candour and frankness would be inhibited in future communications of a similar kind ... should be disregarded **unless a very particular factual basis is laid for the claim that disclosure will inhibit frankness and candour in future deliberative process communications of a like kind, and that tangible harm to the public interest will result from that inhibition.**

51. I do not consider that the agency has established a particular factual basis that disclosure would inhibit 'the giving of full and frank advice', nor am I satisfied that disclosure would have such an effect. As the agency has already submitted, one of its core functions is the promotion and management of major events in South Australia. To fulfil this function properly, documents much like documents 3 and 13 must be created. I do not consider it likely that the agency would cease performing one of its legislated core functions for fear that documents created may be disclosed.
52. Conversely, I consider there are a number of public interest factors in favour of disclosure which have not been identified by the agency. I consider the following factors in favour of disclosure to be relevant:
- furthering the objects of the FOI Act
 - promoting transparency and allowing scrutiny of government decision-making, particularly in relation to major decisions which greatly affect the public
 - the community interest in the Adelaide 500 and its cancellation
 - promoting greater understanding around the cancellation of a major event, and the alternative options considered.
53. As outlined above, I consider the community interest in the Adelaide 500 and its cancellation to be a heavily weighted factor. On balance, I am satisfied that disclosure of documents 3 and 13 would not be contrary to the public interest.

Breach of confidence

54. The agency submits that portions of documents 3 and 13 are exempt pursuant to clause 13(1)(a), stating:

A Sanction Agreement and Mutual Confidentiality Agreement exist between the SATC and Supercars, reinforcing that the highlighted information is imparted on the understanding that it is to be treated and protected as confidential information and should not be disclosed.

¹³ [2011] SADC 139 at [157].

¹⁴ [1984] QICmr 32.

...
The SATC has a contractual obligation to keep the agreements and the information contained therein confidential. The disclosure of the agreements would constitute a breach of a contractual obligation of confidence.

The term of the contracts in question were approved under clause 13(2) of Schedule One of the FOI Act.

55. To better assess these submissions, on 30 June 2021 my Legal Officer requested that the agency provide me with a copy of the Sanction Agreement and Mutual Confidentiality Agreement. On 6 July 2021 the agency provided me with these documents.
56. I first note that, contrary to the agency's submissions, there is no evidence before me which indicates that the confidentiality clauses of the contracts were appropriately approved under clause 13(2). However, clause 13(2) only prevents the applicability of clause 13(1) to the contracts themselves. As neither document 3 or 13 are contracts, it is not necessary for the requirements of clause 13(2) to be met for portions of the documents to be exempt pursuant to clause 13(1).
57. I note that clause 43 of the Sanction Agreement clearly states that the terms and conditions of the Sanction Agreement are confidential and imposes an obligation on the parties to keep that information confidential unless disclosure occurs with the written consent of the party. The agency is a party to this agreement, and I am satisfied that Supercars has not provided written consent to disclose the contents of the agreement.
58. Similarly, clause 6 of the Mutual Confidentiality Agreement (**MCA**) places an obligation on the agency not to disclose 'confidential information', which is defined in clause 1.3.
59. Accordingly, I am satisfied that if the agency were to disclose any information which comprises the terms and conditions of the Sanction Agreement, or any 'confidential information' as defined in the MCA, this would constitute a breach of confidence. I am also satisfied that there are portions of document 13 which fall within this category. I have identified those portions as being exempt in the final paragraph of this determination.
60. I am cognisant of the fact that this creates an unusual situation in which portions of document 13 are exempt pursuant to clause 13(1)(a), but based on the information before me, neither the Sanction Agreement or MCA can be exempt under clause 13(1)(a). However, where I am satisfied that a portion of a document is exempt, I am unable to determine that the information should be released, regardless of whether the information would not be exempt in another context.¹⁵

Determination

61. In light of my views above I vary the agency's deemed refusal determination such that documents 3 and 13 be released in full excepting:

Document 3

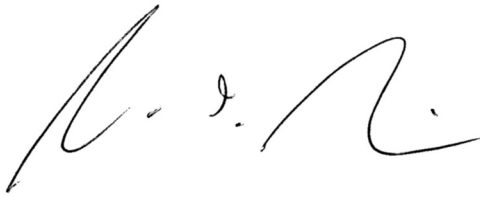
- the second sentence under the third dot point in the email dated 25 June 2020 at 2:23 PM (clause 7(1)(c))

Document 13

- the last sentence in the second paragraph of the email dated 25 June 2020 at 4:47 PM (clause 13(1)(a))

¹⁵ *Freedom of Information Act 1991*, section 39(12).

-
- the second two dollar amounts in the last paragraph of the email dated 25 June 2020 at 4:47 PM (clause 16(2))
 - the end of the eighth dot point on page 2 of the attached brief (clause 7(1)(c))
 - the fourth dot point on page 3 of the attached brief, excluding the last sentence (clause 7(1)(c))
 - the dollar amount in the first paragraph under the graph on page 4 of the attached brief (clause 16(2))
 - the dollar amount in the second to last paragraph on page 4 of the attached brief (clause 16(2))
 - the entirety of page 5 of the attached brief (clause 13(1)(a))
 - the dollar amounts in the second paragraph on page 6 of the attached brief (clause 13(1)(a))
 - the last sentence of the sixth paragraph on page 6 of the attached brief (clause 7(1)(c))
 - the last sentence on page 6 of the attached brief (clause 13(1)(a))
 - the second and third dollar values in the second paragraph on page 7 of the attached brief (clause 16(2))
 - the information following the comma in the first sentence and the dollar value in the same paragraph on page 9 of the attached brief clause 13(1)(a))
 - the second and third dollar values in the second paragraph on page 10 of the attached brief (clause 16(2)).



Wayne Lines
SA OMBUDSMAN

14 September 2021

APPENDIX 1

Procedural steps

Date	Event
30 October 2020	The agency received the FOI application dated 30 October 2020.
29 November 2020	The agency failed to determine the application within the 30 day period required by the FOI Act, ¹ and is deemed to have refused access to the documents. ²
24 March 2021	The agency purported to issue a belated determination to the applicant.
7 April 2021	The agency received the internal review application dated 7 April 2021.
21 April 2021	The agency failed to determine the application within the statutory time frame, and is taken to have confirmed the original determination. ³
27 April 2021	The agency purported to issue a belated internal review determination to the applicant.
20 May 2021	The Ombudsman received the applicant's request for external review dated 20 May 2021.
21 May 2021	The Ombudsman advised the agency of the external review and requested submissions and documentation.
25 June 2021	The agency provided the Ombudsman with its submissions and documentation.
27 August 2021	The Ombudsman issued his provisional determination and invited submissions from the parties.
7 September 2021	The agency provided a response to the provisional determination.

¹ *Freedom of Information Act 1991*, section 14(2).

² *Freedom of Information Act 1991*, section 19(2).

³ *Freedom of Information Act 1991*, section 29(5).