

Mr Robert Hogan
3 McLachlan Crescent
Weetangera ACT 2614

By email: harveyr35@aol.com

13 December 2022

Decision letter on internal review

Dear Mr Hogan

Right to information application for internal review

I refer to your letter dated 14 November 2022 in which you sought internal review of the decision (“**initial decision**”) made by the University in relation to an application for assessed disclosure of information made by you under the *Right to Information Act 2009* (Tas) (“**RTI Act**”) dated 11 August 2022 which sought information in the following terms:

1. *“the names of the members of the selection panel that chose Rufus Black as VC of UTAS;*
2. *selection documentation, including - but not limited to - the public advertisement for the VC position, the job description, the selection criteria, interview questions and any assessment tools used (NB - I AM NOT REQUESTING ANY PERSONAL DETAILS HERE. I AM NOT, FOR INSTANCE, REQUESTING THE NAMES OF APPLICANTS, APPLICATIONS, OR CANDIDATE ASSESSMENTS);*
3. *briefs provided to Rufus Black as the incoming or new VC; and*
4. *any requests by Rufus Black for additional briefing material and such briefing material as this give rise to. I particularly seek any material that may indicate that Rufus Black sought to form his own appraisal of VC Rathjen's plan to move UTAS to the Hobart CBD.”*

On Friday 19 August 2022, following negotiation with you in relation to the scope of your request, Mr Perraton accepted your application on the following terms:

1. *“the names of the members of the selection panel that chose Rufus Black as VC of UTAS;*
2. *selection documentation, including - but not limited to - the public advertisement for the VC position, the job description, the selection criteria, interview questions and any assessment tools used (NB - I AM NOT REQUESTING ANY PERSONAL DETAILS HERE. I AM NOT, FOR INSTANCE, REQUESTING THE NAMES OF APPLICANTS, APPLICATIONS, OR CANDIDATE ASSESSMENTS);*
3. *briefs provided to Rufus Black as the incoming or new VC relating to the move to the Hobart CBD, including the Hobart City Deal; and*
4. *any requests by Rufus Black for additional briefing material and such briefing material as this gave rise to. I particularly seek any material that may indicate that Rufus Black sought to form his own appraisal of VC Rathjen's plan to move UTAS to the Hobart CBD.”*

I am a delegated officer of the University with power to make fresh decisions in relation to applications for internal review of decisions under the RTI Act.

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Decision

In my opinion the information requested in your RTI application undeniably fits in the categories of conditional exemption described in the initial decision letter.

These were:

- internal deliberative information,
- personal information of a person,
- information relating to the business affairs of a public authority, and
- information obtained in confidence.

Information relating to someone's recruitment to an organisation, and information relating to the decision-making process of an organisation in a competitive market crosses into all of the above exemptions. As I see no argument to suggest these exemptions do not apply to this information, the question I see as being in issue is whether the public interest test as defined in the RTI Act is met.

Questions 1 & 2

In your RTI Application you state that you are not seeking personal information, names of applicants, applications, or candidate assessments. This information was redacted from the initial decision.

Information in a job application or selection process is, by its nature, highly personal information and in my opinion the redaction of this was justified. Any information containing personal information, names of applicants, applications, or candidate assessments is therefore outside the scope of your request. You have consented to this information being redacted from any documents released to you and it was redacted from the initial decision.

In making this decision I have considered the decision of the RTI Ombudsman in *Alexandra Humphries and University of Tasmania (February 2022)*, and I am of the view that the facts in that case can be distinguished from the facts under present consideration. Members of ethics committees hold ongoing fixed terms. In my opinion this is different to a recruitment selection panel where panel members are chosen on a one-off basis.

I have considered and affirm the reasoning relied on in the initial decision in relation to the decisions of the RTI Ombudsman in *Suzanne Pattinson and Department of Education (August 2022)*, and *F and Department of Education (June 2022)*.

Further consideration of the initial decision is included in the information table in Schedule 1 of this letter.

Questions 3 & 4

I refer to the detailed reasoning, references to case law, and references to the Ombudsman's guidelines cited in the initial decision. Those citations align with my understanding with respect to documents containing records of internal deliberations of the University. They recognise that there are circumstances in which it is appropriate not to disclose information which shows the internal 'thinking processes' of the University. This is supported by the decision of the Administrative Appeals Tribunal in *Waterford and the Treasurer of the Commonwealth of Australia (No 1) 11* and the decision of the RTI Ombudsman in *Geoffrey Swan v Huon Valley Council (June 2022)*.

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Information contained in Briefing Notes and documents of the form that have been redacted from this release have always been considered by the University to be communicated in confidence. It is the internal communication of commercial instructions by which a decision maker is briefed and on which a decision or future decisions can be made. Exposing information on plans and strategies to invest in a competitive market would expose the University and other third parties to competitive disadvantage and make it difficult for the University to operate in these markets and provide services. Arguments that purchasing buildings and employing services of the contractors and staff who allow the buildings to operate are a deviation from the University's core functions are misguided. Without the buildings and services that support our staff and students there would no ability to provide core functions. I therefore consider it in the public interest for the University to rely on the conditional exemptions contained in the RTI Act for information relating to the business affairs of a public authority, internal deliberation and information obtained in confidence.

Review rights

If you are not satisfied with my decision, you may within 20 working days of receiving this notice of decision seek external review by writing to the Ombudsman whose contact details are as follows:

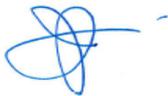
Ombudsman Tasmania
GPO Box 960
HOBART TAS 7001

Email: ombudsman@ombudsman.tas.gov.au

Tel: 1800 001 170

Website: http://www.ombudsman.tas.gov.au/right_to_information

Yours sincerely



Juanita O'Keefe

Deputy General Counsel and Director, Legal

Schedule 1 – Information spreadsheet

Ref	DOCUMENT	DATE	PARTIES/AUTHOR	Decision
1	<i>2017 Selection Criteria</i>	2017	Vice-Chancellor's Office	Initial decision: Release in full. Internal review: Affirmed
2	Attachment A - COO Structure and Priorities	2018	Office of the Chief Operating Officer	Initial decision: Exempt. S38. Further details described in letter. Internal review: Affirmed
3	Commercial Strategy Unit - 2018 Initiatives	2018	Office of the Chief Operating Officer	Initial decision: Exempt. S38, S39. Further details described in letter. Internal review: Affirmed
4	Information for Candidates- Aug 17	2017	Office of the Chief Operating Officer	Initial decision: Release in full. Internal review: Affirmed
5	Transformation VC Critical Issues brief 03022018	03022018	Office of the Chief Operating Officer	Initial decision: Exempt. S38, S39. Further details described in letter. Internal review: Affirmed
6	Transformation VC Critical Issues brief 03022018 Attachment 1	03022018	Office of the Chief Operating Officer	Initial decision: Exempt. S38, S39. Further details described in letter. Internal review: Affirmed
7	<i>VC Selection Gantt Chart – Final</i>	2017	Vice-Chancellor's Office	Initial decision: Redact. S36. Further details described in letter. Internal review: Affirmed
8	<i>Vice-Chancellor Selection Panel Members 2017</i>	2017	Vice-Chancellor's Office	Initial decision: Exempt S36. Further details described in letter. Internal review: Affirmed
9	<i>Vice-Chancellor ad</i>	2017	Vice-Chancellor's Office	Initial decision: Release in full. Internal review: Affirmed
10	<i>UTAS - VC - Suggested Interview Questions</i>	2017	Cordiner King	Initial decision: Redact. S36. Details of an applicant other than the Vice Chancellor. Out of scope for RTI

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				<p>and/or would otherwise be exempt if in scope.</p> <p>Internal review: Out of scope pursuant to your application allowing personal details and details of other applicants to be redacted. If in scope otherwise exempt. Decision affirmed.</p>
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Legal and Audit

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