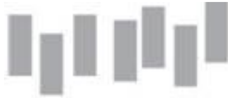

Office of the Information Commissioner
Queensland

Decision and Reasons for Decision

Citation:	***C84 and Legal Aid Queensland*** **[2025] QICmr 90 (3 December 2025)**
Application Number:	**318755**
Applicant:	**C84**
Respondent:	**Legal Aid Queensland**
Decision Date:	**3 December 2025**
Catchwords:	**ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - SUBSTANTIAL AND UNREASONABLE DIVERSION OF RESOURCES - request for information about denial of grant funding and associated complaints over a six year period - estimated 33 hours required to process application involving over 2000 documents - small agency with one part time decision maker - public interest in disclosure - whether dealing with the application would substantially and unreasonably divert the agency's resources - section 60 of the *Information Privacy Act 2009* (Qld)**

REASONS FOR DECISION

Background

1. The applicant applied to Legal Aid Queensland (**LAQ**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) [1] for *'all documents relating to denial of grant funding'* pertaining to his prosecution within a six year timeframe.[2]

2. LAQ decided to refuse to deal with the application under section 61 of the IP Act on the basis that dealing with it would substantially and unreasonably divert its resources.[3]

3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of LAQ's decision submitting that the requested documents *'…may expose corruption or at least inefficient distribution of taxpayer funds and inefficient management of important legal documents'*.[4]

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[1] On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**). References in this decision to the IP Act and the RTI Act, however, are to those Acts as in force prior to 1 July 2025 in accordance with Chapter 8 Part 3 of the IP Act and Chapter 7 Part 9 of the RTI Act, comprising transitional provisions requiring that access applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.
[2] Access application dated 15 May 2025. The access application was received by LAQ on 21 May 2025.
[3] Decision dated 27 June 2025. This is the reviewable decision for the purpose of this review. Prior to issuing its decision, LAQ consulted with the applicant in accordance with section 61 of the IP Act, however, the applicant refused to narrow the scope of his application during that consultation process.
[4] External review application dated 30 June 2025.

4. On external review, OIC required LAQ to provide further information in relation to the resources required to process the application.[5] OIC also consulted with the applicant to seek his views on narrowing the scope of the request.[6] While the applicant indicated an openness to consider OIC's informal resolution proposal, he ultimately elected to proceed with the original scope of the application.[7]

5. The submissions, legislation and other material I have considered in reaching this decision are set out in these reasons (including footnotes and Appendices). I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.[8] I consider a decision maker will be *'respecting'* and *'acting compatibly with'* that right and others prescribed in the HR Act, when applying the law prescribed in the IP Act.[9] I have acted in this way in making this decision.[10] I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation:[11] *'it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the* Freedom of Information Act'.[12]

6. For the reasons set out below, I have decided to affirm LAQ's decision to refuse to deal with the access application on the basis that dealing with it would be a substantial and unreasonable diversion of resources, under section 60 of the IP Act.

Issue for determination

7. The issue for determination in this review is whether dealing with the access application would be a substantial and unreasonable diversion of LAQ's resources.

Relevant law

8. An agency is required to deal with an access application unless doing so would, on balance, be contrary to the public interest.[13] Section 60(1) of the IP Act permits an agency to refuse to deal with an application if the agency considers the work involved in dealing with the application would, if carried out, substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions.

9. An agency may only refuse to deal with an application under section 60 of the IP Act if a procedural prerequisite has been met – giving the applicant an opportunity to narrow the scope of the application, so as to re-frame it into a form that can be processed.[14] The applicant is to be given the benefit of any information an agency may be able to supply to help with this narrowing process, as far as is reasonably practicable.

10. The phrase *'substantially and unreasonably'* is not defined in the RTI Act, nor in the *Acts Interpretation Act 1954* (Qld) (**AI Act**). It is therefore appropriate to consider the ordinary meaning of these words.[15] The dictionary definitions[16] of those terms relevantly provide:

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[5] Request issued to LAQ dated 23 July 2025 and submission received from LAQ dated 5 August 2025.
[6] Generally in accordance with section 61 of the IP Act. OIC emails dated 21 August, 4 September and 17 September 2025.
[7] Confirmed to OIC in an email from the applicant's representative dated 22 September 2025.
[8] Section 21 of the HR Act.
[9] *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) ***(XYZ)*** at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].
[10] In accordance with section 58(1) of the HR Act.
[11] *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).
[12] *XYZ* at [573].
[13] Section 58(1) of the IP Act.
[14] Section 60(1) of the IP Act.
[15] Section 14B of the AI Act.
[16] Macquarie Dictionary, 2nd Edition, 1992.

- '*substantial'* means '*of ample or considerable amount, quantity, size, etc*.'
- '*unreasonable'* means '*exceeding the bounds of reason; immoderate; exorbitant*.'

11. In deciding whether dealing with an application would substantially and unreasonably divert an agency's resources from the performance of its functions, a decision-maker must not have regard to any reasons the applicant gives for applying for access or any belief they may hold about the applicant's reasons for applying for access.[17] The decision-maker must have regard to the resources that would be used for:[18]

    - identifying, locating or collating the documents, or
    - deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations, or
    - making copies or editing copies of any documents, or
    - notifying any final decision on the application.

12. Assessing whether the work involved in processing a given application would, if carried out, substantially and unreasonably divert resources is a question of fact to be assessed in each individual case, taking into account a given agency's operations and resources.[19]

13. The question of whether the impact on an agency's resources would be 'substantial' is a question of fact. In previous decisions, the Information Commissioner has held that relevant factors to consider include:[20]

    - the agency's resources and size[21]
    - the other functions of the agency;[22] and
    - whether and to what extent processing the application will take longer than the legislated processing period of 25 business days.[23]

14. In determining whether the work involved in dealing with an application is unreasonable, it is not necessary to show that the extent of the unreasonableness is overwhelming.[24] Rather, it is necessary to weigh up the considerations for and against, and form a balanced judgement of reasonableness, based on objective evidence.[25] Factors that have been taken into account in considering this question include:[26]

    - whether the terms of the request offer a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought
    - the public interest in disclosure of documents
    - whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications
    - the agency's estimate of the number of documents affected by the request, and by extension the number of pages and the amount of officer time

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[17] Section 60(3) of the IP Act.
[18] Section 60(2) of the IP Act. The word 'or' as it appears in this provision indicates that a finding of a substantial and unreasonable diversion of resources can be made on the basis of one or some of the subsections alone rather than having a cumulative effect.
[19] *Davies and Department of Prime Minister and Cabinet* [2013] AICmr 10 (22 February 2013) at [28].
[20] This is not an exhaustive list.
[21] *Middleton and Building Services Authority* (Unreported, Queensland Information Commissioner, 24 December 2010) at [34]-[37].
[22] *60CDYY and Department of Education and Training* [2017] QICmr 52A (7 November 2017) at [18].
[23] *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [40].
[24] *F60XCX and Department of the Premier and Cabinet* [2016] QICmr 41 (13 October 2016) at [90].
[25] *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [42], adopting *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (***Smeaton***) at [30].
[26] *Smeaton* at [39].

- the reasonableness or otherwise of the agency's initial assessment and whether the applicant has taken a cooperative approach in rescoping the application
- the timelines binding on the agency
- the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and
- whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications.

15. The IP Act does not expressly address the procedure to be followed by the Information Commissioner before deciding to refuse to deal with an application on the ground that doing so would substantially and unreasonably divert an agency's resources from the performance of its functions. However, the Information Commissioner, or their delegate, has the power to decide any matter in relation to an application that could have been decided by the agency; and is required to identify opportunities for early resolution and to promote settlement of external review applications. The procedure to be taken is, subject to the IP Act, at the discretion of the Information Commissioner.[27]

Submissions

16. In its decision, LAQ set out the following about the estimated resourcing that would be required to process the application, and its recordkeeping systems:

    - The wording and date range of the application captures a very large number of documents.
    - LAQ is a small agency with very limited resources available to process IP Act requests, and one part-time delegated decision maker.
    - LAQ has a number of different recordkeeping systems which would require searching for documents.
    - Preliminary searches revealed that for the timeframe stated in the application, there are eight grant files, one legal advice record, three complaint files and one legal file.
    - The grant and complaint files alone comprise thousands of pages.
    - LAQ estimated that processing the application would take in excess of 33 hours, even if the number of pages was limited to 1000.

17. On external review LAQ provided OIC with further submissions in support of its decision:

    - The estimated total number of pages across the 8 grants files is 2278 pages.
    - LAQ uses four electronic databases that would need to be searched in response to the access application, including LARS (Legal Aid Records System), LAQ Office, Grants Online and Visual files.
    - The delegated decision maker for RTI and IP Act decisions also undertakes a wide range of duties additional to processing access applications, including privacy compliance, internal education of LAQ staff, monitoring and reporting, managing staff, stakeholder engagement and policy and procedure development.
    - LAQ calculated the 33 hour estimate on the basis that an individual page takes 2 minutes to assess.

[27] Sections 103(1), 108(1)(a) and 118(1) of the IP Act

18. LAQ also provided OIC with a sample of one grant file and one complaint file for OIC to review the type of information that LAQ would be required to assess and reach a view on, should the application be processed.

19. In response to OIC's preliminary view, the applicant provided a submission,[28] some of which I have extracted below:

> *The outcome denies:*
>
> - *a right to natural justice*
> - *an opportunity to defend against possible defamation*
> - *an opportunity to prove innocence*
> - *access to information that may illustrate paucity of evidence*
> - *access to evidence that may show mischaracterisation*
> - *access to evidence that may show a court has been provided with untruths.*
>
> *The documents requested both impact directly on* [the applicant's] *life and may expose administrative wrongdoing. The questions raised relate to the processes of a Queensland Government funded entity.*
>
> *Everything that is listed in the original request is necessary and a reasonable request considering the six years of interactions that could have been sorted much sooner with improved communication.*
>
> *Legal Aid on over five occasions have removed* [the applicant's] *grant and then quickly reinstated it again when it was pointed out to Legal Aid that there was some false and dishonest behaviour.*
> *…*
>
> *They have already found Eight Grant files along with 2 legal advice files as part of a 'preliminary search', surely it wouldn't be too much of a stretch to go a little further and 'find' the others. Is it possible that they Legal Aid Queensland don't want to share what they have found because it may expose dodgy dealings?*
>
> [LAQ] *also claims that providing the information would 'substantially and unreasonable divert agency resources'. It would be a basic expectation that decisions made, particularly those linked to Queensland Government funding and that seriously impact an individual's life, would be readily accessible, maintained with integrity, through diligent processes and able to be scrutinised and accessed quickly.*
> *…*
>
> *It takes little time to enter basic information into an electronic database and access the information. There would be nothing to hide in any of the documents so scrutiny would be at a minimum?*
>
> *The request is not for 'unreasonably voluminous access applications' as stated. The documents obviously have been accessed and counted in order to state that there are '2278 pages', the bulk of which would be generic proforma.*

20. The applicant also made submissions[29] regarding the conduct of his previous legal representatives, charges brought against him and actions of the prosecution. In summary, those submissions seek to raise public interest arguments to favour disclosure of the requested documents, including the administration of justice, fair treatment, accountability and transparency.

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[28] Submission dated 19 November 2025.
[29] Submissions dated 19 November and 26 November 2025.

Findings

21. Based on the information available to me, I am satisfied that LAQ met the preliminary requirement under section 61 of the IP Act of providing the applicant with an opportunity to narrow the scope of the application, so as to re-frame it into a form that can be processed. I am further satisfied that the options put to the applicant by both LAQ and OIC to encourage narrowing of scope were reasonable in the circumstances of this case.

22. I am satisfied that the access application was framed in terms to capture a broad range of documents over a six year period. I accept LAQ's submission that the grant files alone would comprise over 2000 pages. This is a significant number of documents to be dealt with in the context of a single access application.

23. I have examined the sample grant and complaint files provided by LAQ and consider that it is reasonable to conclude that careful assessment/editing of the documents on those files would be required, particularly to consider whether disclosure of information would, on balance, be contrary to the public interest and whether information is exempt due to legal professional privilege. While the documents contain the applicant's personal information (due to him being the grant applicant and source of the complaint) they also contain information obtained by LAQ during those processes, including information about other individuals, and it is also evident that LAQ legal officers considered matters associated with the grants and/or complaints. The public interest does favour disclosure of an applicant's own personal information, however, given the inherently sensitive nature of grant and complaint documents, it is reasonable to expect that a moderate level of redaction of legally privileged and third party identifying information would be required.

24. I have also taken into account LAQ' estimate of 33 hours, which equates to approximately four working days, for assessing and redacting the documents is reasonable and arguably conservative. This does not include the time already taken to conduct the searches, nor to prepare reasons for decision. I am satisfied that this estimate of time alone is sufficient to support a finding that dealing with the application would substantially divert LAQ's resources. Further, I accept that LAQ is a small agency with very limited resources dedicated to processing information access applications. I am satisfied that the work involved in dealing with the application would have a manifestly excessive impact on LAQ's RTI resources and its ability to perform its functions, including dealing with other access applications and other responsibilities which the delegated decision-maker is responsible for undertaking, eg. privacy compliance.

25. I acknowledge that obtaining information from LAQ about the denial of grant funding is of great importance to the applicant. However, I do not consider it would be reasonable for LAQ to be expected to process a request of this magnitude, taking into account the significant number of documents involved, the estimated time it would take to examine the documents and prepare them for release, and the very limited resources LAQ has available to devote to processing information access applications.

26. I have turned my mind to the public interest in disclosure of the documents[30] and to that end, have had regard to the submissions made by the applicant, as outlined in paragraphs 19 and 20, and considered the content of the sample complaint and grant files that were provided to OIC for the purpose of this review. I accept that obtaining access to information in the grant files would provide the applicant with a greater understanding as to the process involved in the denial of grant funding, and would therefore, somewhat advance his fair treatment and afford him procedural fairness. I also accept disclosure would provide increased transparency around the grant funding

[30] See paragraph 14 of these reasons.

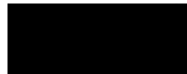
decision making process. However, given the significant resourcing that would be required to process the application, and taking into account my findings in the preceding four paragraphs, I do not consider the public interest in disclosure of the requested documents is sufficient in the particular circumstances of this case, to justify a finding that it would not be an *unreasonable* diversion of LAQ's resources for it to process this application.

27. For the reasons set out above, I find that LAQ was entitled to rely on section 60 of the IP Act to refuse to deal with the access application on the basis that dealing with it would substantially and unreasonably divert LAQ' resources from their use in performance of the agency's functions.

DECISION

28. For the reasons set out above, I affirm[31] LAQ's decision to refuse to deal with the application under section 60 of the IP Act.

29. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.



Katie Shepherd
Assistant Information Commissioner

Date: 3 December 2025

[31] Under section 123(1)(a) of the IP Act.