



Decision and Reasons for Decision

Citation:	<i>I66 and Queensland Corrective Services [2025] QICmr 83 (14 November 2025)</i>
Application Number:	318983
Applicant:	I66
Respondent:	Queensland Corrective Services
Decision Date:	14 November 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL WITH ACCESS APPLICATION - PREVIOUS APPLICATION FOR SAME DOCUMENTS - whether the applicant has previously applied to the same agency for the same documents and first application is subject to a current external review - section 43(3)(c)(i) of the <i>Right to Information Act 2009 (Qld)</i>

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Queensland Corrective Services (**QCS**) under the *Right to Information Act 2009 (Qld)* (**RTI Act**) for access to specific examination and assessment documents created during her participation in a QCS training process (**Later Application**).²
2. By decision dated 9 October 2025,³ QCS refused to deal with this Later Application under section 43(3)(c)(i) of the RTI Act on the basis it comprised a repeat application for the same documents as applied for in an earlier application (**First Application**), which Later Application did not disclose on its face a reasonable basis for the making of that application.
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of QCS' decision.
4. For the reasons below I affirm QCS' decision. I consider it may refuse to deal with the Later Application that is the subject of this external review, in accordance with section 43 of the RTI Act.
5. In making this decision I have had regard to the *Human Rights Act 2019 (Qld)* (**HR Act**), particularly the applicant's right to seek and receive information.⁵ I consider that in observing and applying the law prescribed in the RTI Act and *Information Privacy Act 2009 (Qld)* (**IP Act**), an RTI decision-maker will be '*respecting and acting compatibly*

¹ On 3 September 2025.

² I have not included the precise scope of each access application in this decision to protect the applicant's privacy and personal information. However the applicant applied for specific documents relating to an exam.

³ The **reviewable decision**.

⁴ On 9 October 2025.

⁵ As embodied in section 21 of the HR Act.

with' this right and others prescribed in the HR Act,⁶ and that I have done so in making this decision, as required under section 58(1) of the HR Act. In this regard, I note Bell J's observations on the interaction between the Victorian analogues of Queensland's RTI Act and HR Act:⁷ *'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 1982.'*⁸

Relevant law

6. Section 43(1) of the RTI Act relevantly provides as follows:

This section applies if—

- (a) *an applicant makes an access application to an agency or Minister (the **first application**); and*
- (b) *the applicant makes another access application (the **later application**) to the same agency or Minister for access to 1 or more of the same documents sought under the first application and the later application does not, on its face, disclose any reasonable basis for again seeking access to the document or documents.*

7. Section 43(3)(c)(i) relevantly provides:

The agency or Minister may refuse to deal with the later application to the extent it is for access to a document or documents sought under the first application if—

- (c) *the agency's or Minister's decision on the first application—*
 - (i) *is the subject of a review and the review is not complete.*

8. 'Review' includes, relevantly, an external review.⁹ A review is complete if the review has ended either because of informal resolution or because of a decision of the entity conducting the review.¹⁰ Also relevant is section 206M of the RTI Act, which in summary terms provides that the provisions set out above apply to access applications made, and reviews conducted, under the former IP Act. This is relevant in this case, as the First Application was made under now-repealed provisions of the former IP Act.¹¹

Discussion and findings

9. The application of section 43 of the RTI Act turns on several matters of fact. I am satisfied each is met in this case. The First Application,¹² made under the IP Act, requested access to certain documents.¹³ QCS made a decision on that application.¹⁴ The applicant applied for external review of that decision,¹⁵ which external review – review no. 318758 – has not been withdrawn by the applicant and is currently being progressed by OIC (it is not 'complete').

⁶ *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]. OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by Queensland Civil and Administrative Tribunal Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw 'no reason to differ' from our position ([23]).

⁷ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

⁸ *XYZ* at [573].

⁹ Section 43(5)(a) of the RTI Act. See also section 84 of the RTI Act.

¹⁰ Section 43(5)(b) of the RTI Act.

¹¹ Prior to 1 July 2025, certain applications for access to government-held documents could be made under the former IP Act. Agency decisions on those applications could be the subject of external review. For completeness, I also note qualifications to the application of section 43, set out in section 43(2) – neither is relevant in this case.

¹² Dated 23 May 2025.

¹³ The scope of this First Application sought access to a broader range of documents than the Later Application, but included a specific request for the same exam documents as those requested in the Later Application.

¹⁴ Dated 30 June 2025.

¹⁵ Application dated 2 July 2025.

10. The applicant has then made the Later Application to QCS, for some of the same documents as requested under the First Application – indeed, the applicant notes in that Later Application that it is a ‘renewed RTI request’.¹⁶
11. To avoid the application of section 43 of the RTI Act, a repeat application of the kind embodied in the Later Application must disclose, on its face, a reasonable basis for again applying for the same documents. The applicant in the Later Application states that:

In response to my earlier RTI application, I was supplied with only a front cover page. That page contained a signature falsely attributed to me and no exam content. I did not sign this document. Supplying such a page does not satisfy my lawful request for access to... [relevant exam documents requested in the First Application].

12. I wrote¹⁷ to the applicant to explain the nature of section 43 of the RTI Act, and my preliminary view that QCS’ decision relying on that provision was justified. I noted that the Later Application comprised an application for the same documents as were the subject of the First Application, and otherwise addressed the requirements of section 43 as canvassed in paragraphs 0 to 8 above.
13. As regards the applicant’s basis for making the Later Application, I stated:

...the Later Application does not disclose on its face any reasonable basis for again seeking access to the same documents.

... while the Later Application dated 3 September 2025 does explain why you are making the application, the explanation only raises issues that stand to be assessed and resolved in OIC external review 318758, regarding the First Application. This is not, in my preliminary view, a reasonable basis for again applying for the same documents.

Accordingly, QCS may, in my preliminary view, refuse to deal with the Later Application.

14. The applicant did not accept my preliminary view. By emails dated 14 and 16 October 2025, the applicant raised concerns with QCS’ decision on the First Application.¹⁸ The applicant further submitted:

Under section 31 of the Human Rights Act 2019 (Qld), I am entitled to a fair and public hearing by an independent body. Given the contradictions already established, I request that:

- *Review 318983 [ie, the review the subject of this decision] remain open until the identified procedural irregularities are addressed; and*
- *The Office provide a written explanation detailing how QCS’s conduct satisfies section 43 of the RTI Act in the circumstances described.*

15. While I have carefully considered the applicant’s submissions, they contain nothing to cause me to revisit the preliminary view summarised in paragraphs 12 and 13 above. Concerns with QCS’ decision on the First Application are not relevant to the issues to be

¹⁶ Email to QCS dated 3 September 2025. The Later Application included a request for specific information redacted from a document partly released to the applicant by QCS in its decision on the First Application. The reviewable decision contains a statement on the first page suggesting QCS understood the relevant part of the Later Application to comprise a request for other procedural information. Having regard both to the terms of the Later Application (including that part as quoted in paragraph 11 of these reasons), and the information to which QCS refused access in its decision on the First Application, I am satisfied this aspect of the Later Application was, as I have stated, a request for information redacted by QCS in determining the First Application (and may therefore be subject to the application of section 43 of the RTI Act).

¹⁷ Letter dated 14 October 2025.

¹⁸ Which decision, as noted, is currently the subject of OIC external review 318758. In her 14 October 2025 email, the applicant requested OIC ‘assess whether QCS’s redactions were lawfully applied under the RTI Act’. I replied to her by email dated 16 October 2025, explaining that as the reviewable decision in this case was a refusal to deal with the Later Application, rather than a decision refusing access to information, questions of access to or redactions of information did not fall to be considered in this review. The applicant nevertheless requested the review continue: applicant’s email dated 16 October 2025.

- determined in this review; they can and will be addressed by an OIC decision maker in the external review of that decision,¹⁹ which is currently progressing.
16. As for the applicant's submissions concerning the HR Act, it is not clear to me that OIC comprises a 'court or tribunal' subject to the particular provision cited by the applicant.²⁰ In any event, I do not think it necessary to further address the issue. OIC's approach to HR Act obligations – as endorsed by the Queensland Civil and Administrative Tribunal – is explained in paragraph 5 above: in summary, observance of requirements of relevant provisions of the RTI Act gives effect to the HR Act obligations.
 17. Further and in any event, the applicant has been afforded a 'fair hearing'²¹ in this matter.²² The access to information issue underpinning both the First and Later Applications, meanwhile, will be properly determined in the external review concerning the First Application.²³ In the event that review is, like this one, determined by way of decision under section 110 of the RTI Act, that decision will then be published.²⁴
 18. Turning to the applicant's request for a '*written explanation detailing how QCS's conduct satisfies section 43 of the RTI Act*', such explanation was conveyed both in the reviewable decision, and my letter dated 14 October 2025.
 19. Importantly, the applicant has put nothing before me suggesting the Later Application does not comprise a repeat of the First Application – indeed, as noted above, the Later Application expressly notes that it is a 'renewed' iteration of the First Application.
 20. The applicant did, in her replies to my preliminary view, make submissions justifying the making of the Later Application, and raising issues with QCS' decision on the First Application. I take these to comprise a submission that similar concerns set out by her on the face of the Later Application²⁵ establish a reasonable basis for making that application.
 21. For reasons explained in my 14 October 2025 letter, I am not satisfied that the Later Application discloses, on its face, a reasonable basis for the making of that application. Whether or not QCS' decision to refuse access to information requested in the First Application was justified—the essence of the applicant's reasons for making the Later Application—is a matter which will be determined in review 318758, relating to that First Application. I do not consider this to be a reasonable basis for the making of the Later Application.
 22. In the circumstances, I am satisfied the relevant requirements of sections 43(1) and 43(3)(c)(i) of the RTI Act are met in relation to the Later Application. QCS may therefore refuse to deal with that application, under section 43 of the RTI Act.

¹⁹ That is, review no. 318758.

²⁰ Which provision, section 31, relevantly provides that a '*person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing*', going on to require that '[a]ll judgments or decisions made by a court or tribunal in a proceeding must be publicly available.' OIC is plainly not a 'court' for the purposes of this provision: schedule 1 of the HR Act, definition of 'court'. Whether an external review is a 'civil proceeding' and/or OIC a 'tribunal' is less clear, neither concept being defined in the HR Act (or the *Acts Interpretation Act 1954* (Qld) – while the *Civil Proceedings Act 2011* (Qld) regulates 'civil proceedings', I cannot see that it definitively defines the concept).

²¹ As required under section 31 of the HR Act.

²² As noted in paragraph 12, I conveyed a preliminary view to the applicant, informing her of the relevant issues under consideration in this review and affording her the opportunity to make submissions in reply.

²³ External review no. 318758.

²⁴ As will this one, as required under section 31 of the HR Act, and mandated by section 110(4) of the RTI Act. For completeness, I note that the procedure to be followed on an external review is within the discretion of the Information Commissioner: section 95(1)(a) of the RTI Act. External reviews are only required to be conducted in public where the Information Commissioner proposes to allow a participant to make oral submissions, or to take evidence on oath or affirmation (section 97(1) of the RTI Act). Neither has occurred in this review, noting, further, that it is not necessary for the Information Commissioner to give a participant an opportunity to appear before the commissioner: section 97(2)(b) of the RTI Act.

²⁵ Which I have set out at paragraph 11 above.

DECISION

23. For the reasons set out above, I affirm the reviewable decision²⁶ and find that QCS is entitled to refuse to deal with the Later Application that is the subject of this external review, in accordance with section 43(3)(c)(i) of the RTI Act.
24. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Jim Forbes
Assistant Information Commissioner

Date: 14 November 2025

²⁶ Under section 110(1)(a) of the RTI Act.