



Decision and Reasons for Decision

Citation:	<i>B52 and Queensland Police Service [2025] QICmr 86 (18 November 2025)</i>
Application Number:	318854
Applicant:	B52
Respondent:	Queensland Police Service
Decision Date:	18 November 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - EXEMPT INFORMATION - application for documents relating to a complaint - whether an agency may refuse to deal with application - whether all documents to which the application relates comprise exempt information - section 40 and schedule 3, section 12 of the <i>Right to Information Act 2009 (Qld)</i> and section 65(1) of the <i>Public Interest Disclosure Act 2010 (Qld)</i> ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - RELEVANT DECISION - decision setting aside and directing agency to consider whether access is to be given to subject documents - section 110(1)(d) and 110A of the <i>Right to Information Act 2009 (Qld)</i>

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009 (Qld)* (**RTI Act**) to access an investigation report and related documents about a matter in which they were the complainant (**Subject Documents**).
2. By decision dated 15 August 2025,² QPS refused to deal with the access application³ on the basis that all requested documents comprise exempt information under schedule 3, section 12(1) of the RTI Act.⁴ QPS determined that as the information was not solely the applicant's personal information, the exception to the exemption did not apply.⁵
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of QPS's decision.⁶

¹ Application dated 14 July 2025.

² The decision under review.

³ Under section 40 of the RTI Act.

⁴ Specifically, as disclosure is prohibited by section 65(1) of the *Public Interest Disclosure Act 2010 (Qld)*.

⁵ Schedule 3, section 12(2) of the RTI Act.

⁶ External review application dated 19 August 2025. In considering this matter, I have had regard to the *Human Rights Act 2019 (Qld)* (**HR Act**), particularly the right to seek and receive information (section 21 of the HR Act). 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 RTI Act (*XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111], and *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23]).

4. OIC conveyed a preliminary view to QPS⁷ that some information in the Subject Documents contain only the personal information of the applicant and, as such, the exception in schedule 3, section 12(2) of the RTI Act applies. Consequently, the requirement for refusing to deal with the access application was not established, as the responsive documents are not **entirely** comprised of exempt information.
5. QPS did not contest OIC's preliminary view, and agreed to informally resolve the external review by '*reprocessing the application*'.⁸ The substantive issue in this review – whether QPS was entitled to refuse to deal with the access application – has therefore been resolved in the applicant's favour.
6. The applicant did not, however, agree to informally resolve the external review⁹ and requested that OIC finalise the review '*formally and for the OIC to exercise the powers conferred by sections 110(1)(d) and 110A of the RTI Act*'.¹⁰

Discussion

7. QPS bears the onus of justifying the decision under review.¹¹ As noted, however, it does not seek to justify that decision. In these circumstances, it is open to simply set aside the decision under review.
8. The key decision then to be made is whether to do so under section 110(1)(c) or 110(1)(d) of the RTI Act.
9. Section 110(1)(c) of the RTI Act relevantly empowers the Information Commissioner (or delegate) to set aside the decision under review, and make a decision in substitution.
10. Section 110(1)(d) also permits the Information Commissioner to set aside a reviewable decision, but rather than making a decision in substitution, to instead give a direction under, relevantly, section 110A of the RTI Act.
11. Section 110A of the RTI Act, in turn, essentially comprises a remittal power. Section 110A authorises the Information Commissioner to give a notice to an agency, stating that a 'relevant decision'¹² is set aside and directing the agency to decide whether access is to be given to the '**Subject Documents**', i.e the documents the subject of – requested in – the relevant access application.¹³
12. In accordance with section 110A(1)(a) of the RTI Act, this remittal or referral power may be exercised where:
 - (a) *the information commissioner would, other than for this section, have decided to set aside the relevant decision and make a decision in substitution for the relevant decision under section 110(1)(c); and*
 - (b) *the commissioner believes it would be more efficient and effective for the agency or Minister to consider whether access is to be given to the subject documents than for the commissioner to make a decision in substitution for the relevant decision under section 110(1)(c); and*
 - (c) *the commissioner believes that if the agency or Minister were to consider whether access is to be given to the subject documents, it is reasonably likely the agency or Minister would be able to make a decision that is consistent with the primary object of this Act.*

⁷ By letters dated 1 October 2025 and 22 October 2025.

⁸ Email received 5 November 2025.

⁹ Under section 90(4) of the RTI Act.

¹⁰ Email received 6 November 2025.

¹¹ Under section 87 of the RTI Act.

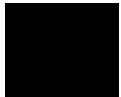
¹² Defined in section 110A(5) of the RTI Act, and of which the decision under review is one.

¹³ Section 110A(2) of the RTI Act. See section 110A(5) for the definition of 'subject documents'.

13. Prior to giving a notice under section 110A(2) of the RTI Act, that provision requires the Information Commissioner to consult with the agency concerned about the matters prescribed in section 110A(1)(a)-(c) of the RTI Act (set out in the preceding paragraph).
14. In this case, I consider that the appropriate course of action is to make a decision under section 110(1)(d) of the RTI Act: to set aside the decision under review,¹⁴ and give a notice to QPS directing it to decide whether access is to be given to the Subject Documents.
15. In reaching this conclusion, I record my satisfaction that each of the matters mentioned in section 110A(1)(a)-(c) of the RTI Act – stated in paragraph 11 above – are met in this case.
16. But for section 110A of the RTI Act, I would have¹⁵ made a decision under section 110(1)(c) of the RTI Act setting aside QPS's decision and substituting a decision that it was not entitled to refuse to deal with the access application.
17. I also believe that the most efficient and effective course of action is for QPS to consider whether access is to be given to the Subject Documents – ie, the documents requested in that application. In this regard, I note that section 110A(4) of the RTI Act provides a clear and unambiguous prescription for the manner in which that consideration should proceed.
18. Further, there is nothing at all before me to suggest that QPS would not be able to make a decision in relation to the requested Subject Documents consistent with the primary object of the RTI Act.
19. Finally, I note that QPS was consulted in relation to the matters prescribed in section 110A(1)(c) of the RTI Act and canvassed above by OIC letter dated 22 October 2025. QPS's reply dated 5 November 2025 expressed agreement to reprocess the application.¹⁶

DECISION AND DIRECTION

20. For the reasons set out above, I set aside the decision under review.¹⁷ Under section 110A(2) of the RTI Act, I give notice directing QPS to decide whether access is to be given to the Subject Documents as if the ground for making the decision under review did not apply in relation to the Subject Documents, consistently with the conditions for a notice of this kind prescribed in sections 110A(3)-(4) of the RTI Act.
21. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Stephanie Winson
Right to Information Commissioner

Date: 18 November 2025

¹⁴ Which is, as noted, a 'relevant decision' for the purposes of section 110A: section 110A(5) of the RTI Act.

¹⁵ In view of QPS not contesting OIC's preliminary view that the decision under review could not be sustained.

¹⁶ And nor did a further email from QPS dated 6 November 2025.

¹⁷ Under section 110(1)(d) of the RTI Act.