



Decision and Reasons for Decision

Citation:	<i>V14 and Gold Coast Hospital and Health Service [2021] QICmr 60 (12 November 2021)</i>
Application Number:	316169
Applicant:	V14
Respondent:	Gold Coast Hospital and Health Service
Decision Date:	12 November 2021
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - AMENDMENT OF PERSONAL INFORMATION - insufficient specific information provided regarding amendments sought - whether application complies with all relevant requirements - section 44 and section 53 of the <i>Information Privacy Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to the Gold Coast Hospital and Health Service (**Hospital**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for amendment of his medical records.¹ The Hospital contacted the applicant to advise that his amendment application did not comply with all application requirements.² The applicant provided additional information in support of his amendment application.³
2. Notwithstanding the additional information provided by the applicant, the Hospital decided⁴ that the application did not comply with all relevant application requirements and refused to deal with the application.
3. The applicant applied for internal review of the Hospital's decision⁵ and the Hospital affirmed its original decision.⁶
4. The applicant applied for external review, stating the Hospital's '*reasoning is clearly false as they have stated I have not provided examples of what I am requesting be changed ... they can simply scroll down to the third section of my application and see it's clearly all stated there with names, dates, times, locations, specifics of inaccurate and false information...*'.⁷

¹ Application dated 26 April 2021.

² Email to applicant dated 28 April 2021.

³ By email dated 4 May 2021.

⁴ Decision notice dated 19 May 2021.

⁵ Internal review application dated 19 May 2021.

⁶ The Hospital issued a decision dated 21 June 2021 however, the internal review decision was technically a deemed affirmation of the original decision.

⁷ Application for external review dated 22 June 2021.

5. For the reasons set out below, I affirm the Hospital's decision to refuse to deal with the amendment application⁸ on the basis that it does not comply with all relevant application requirements.⁹

Reviewable decision, background and evidence considered

6. The Hospital purported to issue a considered internal review decision on 21 June 2021, however, the Hospital had not notified the applicant of its decision within 20 business days after the internal review application was made on 19 May 2021. The Hospital is therefore taken to have made a decision affirming the original decision.¹⁰ This is the decision under review.
7. Before accepting the external review application, the Office of the Information Commissioner (**OIC**) wrote to the applicant and requested that, when writing to OIC, he provide any relevant information in the body of his emails or attach a .pdf or word format document rather than providing hyperlinks or links to documents saved to Google drive. He was also asked to clearly mark correspondence relating to a current external review with the relevant reference number. The applicant failed to comply with these requests.
8. Upon accepting the application for external review, given the volume of correspondence already received, the applicant was directed¹¹ not to provide any further information in support of his application until such time as he was invited to do so. The applicant failed to comply with this direction.
9. A preliminary view was conveyed to the applicant explaining that his application did not meet the relevant application requirements¹² and he was invited to provide submissions in response. To the extent the applicant's correspondence to OIC clearly identified the reference number for this external review and addressed the issue of compliance with application requirements, his submissions have been considered and addressed in this decision.
10. Significant procedural steps relating to the external review are set out in the Appendix. The evidence, legislation and other material I have considered in reaching this decision are set out in these reasons (including footnotes and Appendix).
11. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the freedom to impart information¹³ and reputation.¹⁴ 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,¹⁵ as I have done in making this decision.¹⁶ I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation,¹⁷ '*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*'.¹⁸

⁸ Under section 53(6) of the IP Act.

⁹ Section 44(4) of the IP Act.

¹⁰ Section 97(2) of the IP Act.

¹¹ Under section 108(2) of the IP Act.

¹² On 10 September 2021.

¹³ Section 21(2) of the HR Act.

¹⁴ Section 25 of the HR Act.

¹⁵ *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].

¹⁶ In accordance with section 58(1) of the HR Act.

¹⁷ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹⁸ *XYZ* at [573].

Issue for determination

12. The issue for determination is whether the agency was entitled to refuse to deal with applicant's amendment application under section 53(6) of the IP Act, on the basis that it did not comply with the relevant application requirements set out in section 44(4) of the IP Act.
13. The applicant has significant concerns about the actions of a number of agencies and, throughout the external review process, has provided voluminous submissions explaining these issues which are largely irrelevant to the issue for consideration in this review. The applicant was provided with clear directions on how he must make submissions in this review. I have addressed the applicant's submissions in this decision to the extent they are relevant to the issue in this review.

Relevant law

14. Under the IP Act, an individual has a right to amend documents of an agency to the extent they contain the individual's personal information, if the information is inaccurate, incomplete, out of date or misleading.¹⁹
15. An individual who has had access to a document of an agency may apply to the agency for amendment of any part of the individual's personal information contained in the document that the individual claims is inaccurate, incomplete, out of date or misleading.²⁰
16. Under section 44(4) of the IP Act, an amendment application must:
 - (a) be in the approved form; and
 - (b) provide sufficient information concerning the document to enable a responsible officer of the agency to identify the document; and
 - (c) state an address to which notices under the IP Act may be sent to the applicant; and
 - (d) state the information the applicant claims is inaccurate, incomplete, out of date or misleading; and
 - (e) state the way in which the applicant claims the information to be inaccurate, incomplete, out of date or misleading and the grounds for the applicant's claim; and
 - (f) if the applicant claims the information to be inaccurate or misleading—state the amendments the applicant claims are necessary for the information to be accurate or not misleading; and
 - (g) if the applicant claims the information to be incomplete or out of date—state the other information the applicant claims is necessary to complete the information or to bring it up to date.
17. An agency may refuse to deal with an application that does not comply with all relevant application requirements.²¹ The agency must make reasonable efforts to contact the applicant within 15 business days of receiving the purported application and inform the person how the application does not comply with a relevant application requirement,²² and must not refuse to deal with an application because it does not comply with all relevant application requirements without first giving the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements.²³ Relevantly in this case, *relevant application requirement* includes a matter set out in section 44(4) of the IP Act.²⁴

¹⁹ Section 41(1)(a) of the IP Act.

²⁰ Section 44(1) of the IP Act.

²¹ Section 53(6) of the IP Act.

²² Section 53(2) of the IP Act.

²³ Section 53(3) of the IP Act.

²⁴ Section 53(7)(b) of the IP Act.

Applicant's submissions

18. The applicant applied for external review, submitting:²⁵

Please see attached refusal to amend my records which are extensively falsified.

Their reasoning is clearly false as they have stated I have not provided examples of what I am requesting be changed and reasoning.

Even if they wanted to ignore the context of it all, which they have stated they don't, they can simply scroll down to the third section of my application and see it's clearly all stated there with names, dates, times, locations, specifics of inaccurate and false information and at no stage did they call or write to me to verify anything or obtain evidence of my claims, of which I have, therefore this only leaves 2 following reasons.

1. They are not changing the records as a result of blindly accepting the doctors and case managers notes etc which is a big mistake.

2. They are purposefully enabling falsified records to remain to obstruct justice and protect criminals. Big mistake.

19. In response to the preliminary view that his application does not comply with the relevant application requirements,²⁶ the applicant submitted:²⁷

1. I initially sent these issues to you for External Review to outline the well established facts that my allegations are true, accurate and correct. I was telling you not asking you so I believe this is where the misunderstanding is. You, of course, are tasked in your obligatory role to assess where to apply the laws you are bound by and apply them appropriately to provide your legislated public service of which I am entitled to and of which if denied is a Human Rights Violation.

2. You, as with each department staff complained about by me with requested amendment notices, have falsely alleged that I have not carried out the stated guidelines and that I have no basis or substance for my claims. For you to come to that conclusion and make those allegations you would need to investigate and analyse the evidence provided which is what for the most part is being refused therefore you have no substance, evidence or legal collateral to come to the conclusions you have and you have all merely attempted to complicate simple matters with anecdotal, arbitrary and illogical cherry picking to worm your ways out of completing your obliged tasks.

3. I thank you, as with the others, for acknowledging that you have all of the evidence and applications I provided to you. Also that the other parties do too.

4. I note you state that I sent the medical records but they are not in order. This is irrelevant as I'm simply confirming what records they are, that they have them in the correct order as they are in their files, and that I cannot physically send them in order as the functions in my devices do not have that ability.

5. We are talking about their ENTIRE set of records in each department being 100% false except a few minor details such as names and dates or reports from me etc. This is not a question! The files and video evidence literally show undeniably that what they state happened or was said was NOT fact and DID NOT happen anything like what they allege. Therefore, they allege falsely something happened with no substance for it and a mountains of undeniable verifiable evidence against it which is completely criminally unlawful THEN when I have complained and submitted amendment applications as my records must be Accurate and Up to Date BY LAW they, and you, falsely allege you can't work out what i'm referring to, although

²⁵ Application for external review dated 22 June 2021.

²⁶ OIC's preliminary view dated 10 September 2021.

²⁷ Submissions received on 10 September 2021.

contrarily acknowledge you have it, to reject it and not do any of the PRIMARY function you are employed for with unsubstantiated allegations against me which are further criminally unlawful in Government letters on my records again. To use a simple analogy, if I walked in a room and politely said hello to someone and it was filmed then a QLD Health, QPS or CSYW staff member stated I walked into the room and punch someone in the face, on my legally binding records, then mandatory reported it knowing such a serious matter must be and then obtained orders to detain and convict me etc that is all obviously and evidently blatantly unlawful and a set of serious criminal acts against me. If I then submit the video evidence of that I simply walked into the room and politely said hello and requested you amend the records based upon facts and then they, or you, allege that is unsubstantiated or not correct in procedure to claim it didn't happen is totally insane at the least however is evidently and verifiably blatantly unlawful and criminal too particularly in your roles.

Findings

20. I am satisfied²⁸ that the applicant has had access to the documents he seeks to amend²⁹ and complied with application requirements set out at section 44(4)(a) to (c) of the IP Act. I also note that the Hospital complied with the relevant procedural steps prior to refusing to deal with the application, by emailing the applicant to inform him how his application did not comply with relevant application requirements,³⁰ and giving the applicant the opportunity to remedy these issues.³¹
21. The applicant attached a 60-page statement to the amendment application, detailing various complaints against the Hospital including allegations of violations of his human rights, and requesting 47 numbered amendments. The requested amendments generally appear to refer to information including dates, times, ID numbers, and records of various interactions between the applicant and other individuals.³² The applicant also attached 174 pages of medical records to his amendment application, which were numbered but not provided in accordance with the page numbering.³³
22. Once the pages are re-ordered using the page numbers, I acknowledge that this information appears to correlate with identifying details such as dates, times, and document ID numbers referred to in the applicant's list of requested amendments. I also acknowledge that the applicant's amendment requests, in some instances, state the information he claims to be either inaccurate, incomplete, out of date or misleading, and the way in which the information is inaccurate, incomplete, out of date or misleading, complying with these requirements as required by section 44(4)(d) and (e) of the IP Act. For example, I am able to deduce (from the date, time and document ID number) that amendment 1 relates to the first page of the applicant's medical records and, as he states, "*No listed reasoning*" it seems that he claims this information is incomplete. Similarly, I am able to deduce that amendment 2 relates to the background, medication and assessment information appearing on the second page of the applicant's medical records and the applicant states this information is false.
23. However, in both these cases, the amendment application does not include the information required to make the record accurate, not misleading, complete or bring the information up to date as required by section 44(4)(f) and (g) of the IP Act. At amendment 1, the applicant does not specify any information that would make the record

²⁸ As the applicant attached a copy of these documents to his amendment application dated 4 May 2021.

²⁹ As set out in section 44(1) of the IP Act.

³⁰ By email dated 28 April 2021, which was sent within 15 business days of receiving the amendment application on 26 April 2021, as required by section 53(2) of the IP Act.

³¹ As required by section 53(3) of the IP Act.

³² The other individuals named in the applicant's correspondence appear to be family members, Hospital staff members, and other private healthcare providers.

³³ The applicant noted in submissions received 10 September 2021 that he '*cannot physically send them in order as the functions in [his] devices do not have that ability.*'

complete, and at amendment 2, the applicant asks a question about the information contained in the assessment section but does not set out the information required to make the assessment section correct.

24. In other instances, the applicant does not identify the information he claims to be inaccurate, incomplete, out of date or misleading. For example, amendment 47 refers to a record dated 22 April 2021 with a time stamp of 11:15. A document ID is not provided.³⁴ The applicant states:

I have just been informed in my fortnightly meeting with (a doctor) that Child Protection Services contacted MHS to obtain information about me. I was not notified about this and do not consent to this information being disseminated in its current falsified form as it is clearly detrimental in all matters and people are forming opinion based upon it from trusted members of the community.

25. This amendment request is framed as a complaint about the contact between the Hospital and another government agency. The applicant refers to the sharing of falsified information, and people forming opinions based on this information. However, the applicant has not stated *what* shared information he claims to be inaccurate, incomplete, out of date or misleading, and on that basis, this amendment request does not comply with section 44(4)(d) of the IP Act. Further, and although he explains that he objects to it having been shared with another agency, the applicant has also failed to comply with section 44(4)(e) to (g) of the IP Act because the requested amendment does not state the way in which this shared information is inaccurate, incomplete, out of date or misleading and the grounds for his claim, or state the amendment or information required to make it not so.
26. There are also instances where the applicant has identified the information he claims to be inaccurate, incomplete, out of date or misleading, as required by section 44(4)(d) of the IP Act, but I am not able to identify the way in which the applicant claims the information is inaccurate, incomplete, out of date or misleading, as required by section 44(4)(e) of the IP Act. At amendment 2, the applicant states a medication dose and frequency which accords with the relevant record.³⁵ At amendment 7, the applicant notes that it is recorded that a case review was booked, which again appears to be consistent with the record.³⁶ A further example of this is at amendment 27.³⁷ The applicant notes '*MEDICATION CEASED*' which appears to correspond with the record. Additional examples of this appear at amendments 39 and 40.³⁸ The amendment application states that the applicant's emails were '*uploaded to the system*' which is consistent with the records at these pages. Again, at amendment 46, the application states that the reasoning for the applicant's emails was acknowledged which matches the record.³⁹

27. Many of the applicant's amendment requests also include questions. For example:

2. ...

What was done at this or any other stage to address this disagreement or to check any facts?

...

6... *What Psychotherapy could any of you possibly provide based upon false statements and belief of me with a long-standing verifiable record of malpractice. Provide evidence?*

³⁴ It is unclear to me whether the applicant has had access to this record as set out in section 44(1) of the IP Act, as it is not included in the attachment to his application. In any event, it is unnecessary for me to determine this issue, as I have made determinations regarding the validity of this amendment on the grounds set out in this decision.

³⁵ Page 2 of the medical records.

³⁶ At page 6 of the medical records.

³⁷ Relating to page 78 of the medical record.

³⁸ Corresponding to pages 108-111 and 113-115 of the medical records.

³⁹ Page 149 of the medical records.

...
12... States that my judgement was impaired so how? How was my judgement impaired?
Because they have fixated false beliefs? Evidence?
...

28. These amendment requests misapprehend the scope of the amendment provisions. The IP Act requires that the *applicant* identify the information that should be included to make the records complete, accurate, up to date and not misleading.⁴⁰ It is not incumbent upon the Hospital to insert answers to the applicant's questions or provide further explanations in its records, in order to make the information complete, accurate, up to date and not misleading. To the extent that the application asks questions instead of including the necessary information, these parts of the application do not comply with the amendment application requirements at sections 44(4)(f) and (g) of the IP Act.
29. In conclusion, having considered all 47 requested amendments,⁴¹ I am satisfied that the application for amendment does not comply with sections 44(4)(f) and (g) of the IP Act, as the application does not make clear the specific amendments or additional information which the applicant considers would need to be included to make the information accurate, not misleading, complete or up to date. I also consider that many of the specific amendment requests fail to comply with section 44(4)(d) and/or (e) of the IP Act which requires the applicant to state the information and the way in which that information is inaccurate, incomplete, out of date or misleading and the grounds for the claim.
30. I am also satisfied that the Hospital complied with the relevant procedural steps prior to refusing to deal with the application and consulted with the applicant to provide him with an opportunity to make the application in a compliant form.⁴²

DECISION

31. I affirm the Hospital's decision to refuse to deal with the applicant's amendment application⁴³ on the basis that the application does not comply with all relevant application requirements.⁴⁴
32. I have made this decision under section 123(1)(a) of the IP Act, as a delegate of the Information Commissioner under section 139 of the IP Act.

Shiv Martin
Assistant Information Commissioner

Date: 12 November 2021

⁴⁰ As required by section 44(4)(f) and (g) of the IP Act.

⁴¹ As set out in the original amendment application emailed to the Hospital on 26 April 2021 and the submission following consultation, which was emailed to the Hospital on 4 May 2021.

⁴² As required by section 53(2) and (3) of the IP Act.

⁴³ Section 53(6) of the IP Act.

⁴⁴ Section 44(4)(d)-(g) of the IP Act.

APPENDIX

Significant procedural steps

Date	Event
22 June 2021	External review application received.
29 June 2021	Initial procedural documents requested from agency.
30 June 2021	Agency provided procedural documents.
4, 5, 6, 8, 9 and 22 July 2021	Correspondence received from applicant regarding the external review application.
29 July 2021	OIC advised agency the external review had been accepted. OIC advised applicant the external review had been accepted and directed (under 108(2) of the IP Act) that no further information was to be provided by applicant until invited to do so.
27 August 2021	OIC provided the applicant with an update via telephone.
10 September 2021	Preliminary view issued to applicant and the applicant was invited to provide submissions in response, in accordance with directions under 108(2) of the IP Act.
10 September 2021	Submissions received from applicant.
27 September 2021	OIC advised applicant the external review would proceed to a formal decision.