



## Decision and Reasons for Decision

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Citation:	<b><i>G58 and Department of Justice [2025] QICmr 56 (27 August 2025)</i></b>
Application Number:	<b>318437</b>
Applicant:	<b>G58</b>
Respondent:	<b>Department of Justice</b>
Decision Date:	<b>27 August 2025</b>
Catchwords:	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - PREVIOUS APPLICATION FOR SAME DOCUMENTS - request for records pertaining to a community sporting association and a sporting club - applicant had made an earlier application for same documents - agency previously refused partial access to the documents - whether reasonable basis for reapplying - refusal to deal - section 43(3)(b)(iii) of the <i>Right to Information Act 2009</i> (Qld)</b>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Office of Fair Trading, within the Department of Justice (the **Department**),<sup>2</sup> under the *Right to Information Act 2009* (Qld) (**RTI Act**)<sup>3</sup> for access to various documents relating to a community sporting association and a sporting club.
2. The Department granted partial access to some of the located documents<sup>4</sup> and decided to refuse to deal with part of the application seeking other documents<sup>5</sup> on the basis the applicant had previously applied to the Department to access those documents (**Previous Application Documents**).<sup>6</sup>
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review.<sup>7</sup> Following OIC issuing a preliminary view,<sup>8</sup> the applicant confirmed<sup>9</sup> he was only seeking access to the Previous Application Documents. Accordingly, the issue for

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<sup>1</sup> Application dated 25 October 2024 and made valid on 5 November 2024.

<sup>2</sup> The administrative unit of Queensland Government with responsibility for the Office of Fair Trading is the Department of Justice and therefore, that is the respondent agency for the purpose of this decision.

<sup>3</sup> On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) came into force, effecting changes to the RTI Act. As the access application was made before those changes, the [RTI Act](#) as in force prior to 1 July 2025 remains applicable in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act. Accordingly, references in this decision are to the RTI Act as in force prior to 1 July 2025.

<sup>4</sup> Access to certain information in 26 pages was refused on the basis it was exempt or contrary to public interest to disclose.

<sup>5</sup> The remaining 5 pages.

<sup>6</sup> Decision dated 21 January 2025.

<sup>7</sup> External review application received on 30 January 2025.

<sup>8</sup> Dated 27 June 2025.

<sup>9</sup> Submission dated 27 June 2025.

determination is whether part of the access application seeking the Previous Application Documents is subject to section 43 of the RTI Act.

4. In making this decision, I have taken into account evidence, submissions, legislation and other material set out in these reasons (including footnotes).<sup>10</sup> I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information and in doing so, have acted in accordance with section 58(1) of the HR Act.<sup>11</sup>
5. For the reasons set out below, I affirm the Department's decision under section 43 of the RTI Act refusing to deal with the access application to the extent it requested the Previous Application Documents.

### Relevant law

6. The RTI Act provides a general right of access to documents of an agency,<sup>12</sup> however, this right is subject to limitations, including grounds for refusing to deal with an application.<sup>13</sup> Relevantly, an agency may refuse to deal with an application where a previous application has been made for the same documents.<sup>14</sup>
7. Section 43 of the RTI Act will apply where:
  - (a) an applicant has made a *first application*;<sup>15</sup> and
  - (b) the applicant makes a *later application* for access to one 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.<sup>16</sup>
8. Where the above threshold requirements are met, an agency may refuse to deal with the later application to the extent it is for access to documents sought under the first application, *provided* further applicable requirements in sections 43(3)-(6) of the RTI Act are also satisfied.

### Discussion and findings

9. In summary, I have found that the requirements of section 43 of the RTI Act are met in this case, and that the Department was, therefore, entitled to rely on that provision to refuse to deal with the earlier application to the extent it requested the Previous Application Documents. My reasons are set out below.

### *First application*

10. By application lodged on 20 November 2023 – the **First Application** – the applicant requested '*A full copy of a complaint made to the Office of Fair Trading against the [club], now the [association] or its committee*' for the period 1 January 2020 to 31 December 2020.

<sup>10</sup> During the review the applicant provided OIC with extensive submissions, some of which raised issues beyond the jurisdiction of the Information Commissioner under the RTI Act. To the extent the submissions are relevant to the issue for determination in this review I have referred to them in these reasons.

<sup>11</sup> OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

<sup>12</sup> Section 23(1)(a) of the RTI Act. What comprises a 'document of an agency' is defined in section 12 of the RTI Act

<sup>13</sup> Part 4 of the RTI Act.

<sup>14</sup> Section 43 of the RTI Act.

<sup>15</sup> Section 43(1)(a) of the RTI Act, subject to section 43(2) of the RTI Act.

<sup>16</sup> Section 43(1)(b) of the RTI Act.

11. The Department decided<sup>17</sup> to release some documents and refuse access to other documents (including parts of the Previous Application Documents) on the basis that disclosure of the information would on balance, be contrary to the public interest (the **First Decision**).<sup>18</sup>
12. I am satisfied the First Decision meets the requirement in section 43(3)(b)(iii) of the RTI Act as the agency decided documents were subject to a refusal of access ground in section 47 of the RTI Act.

### **Later application**

13. The applicant then made the **Later Application** again capturing the Previous Application Documents in the following terms:<sup>19</sup>

*...the unredacted versions of essential documents, **specifically pages 8-12 of the released information** from RTI application number 240222...*

*This request includes:*

1. *The complete unredacted letter sent to [named person] on 20 March 2020.*
2. *The attached letters from [named person] and [named person] dated 19 March 2020.*
3. *The list of carbon copy (CC) recipients of the 20 March 2020 letter.*

[emphasis added]

14. As is evident from the preceding paragraph, the terms of the Later Application expressly sought access to '*unredacted versions ... specifically pages 8-12 ... of the released information from RTI application number 240222*', that is, the Previous Application Documents. I am therefore satisfied that the Later Application requested access to the same documents as requested in the First Application.

### **Reasonable basis for reapplying**

15. In the First Decision, the decision maker set out the applicant's review rights, namely, by way of internal review to the Department, or external review to OIC. There is no evidence available to me that the applicant elected to pursue either of those review options either within the statutory timeframe, or outside of it.
16. In his Later Application the applicant sought to justify his repeat application for the Previous Application Documents on the basis that the documents would reveal that certain individuals involved in the local community sporting association had engaged in, amongst other things, fraudulent conduct as follows:<sup>20</sup>

*These documents are critical for verifying the legitimacy of actions taken by [the association's] 2020 committee, which allegedly contributed to the freezing of the [club's] bank account. This action has caused significant disruption to community operations and raised serious concerns about governance failures and potential fraudulent conduct.*

17. In his application to OIC, the applicant outlined the Previous Application Documents were:<sup>21</sup>

*... critical to understanding governance failures and potential fraudulent activity within [the association's] 2020 committee. The refusal to disclose unredacted documents obstructs*

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<sup>17</sup> Decision dated 11 January 2024.

<sup>18</sup> Department reference number 240222.

<sup>19</sup> I have extracted the terms of the application to the extent relevant to the issues for determination in this matter.

<sup>20</sup> Email to Department 14 January 2025.

<sup>21</sup> External review application dated 30 January 2025.

*transparency and prevents [the association's] members from exercising their rights under the Associations Incorporation Act 1981 to hold leadership accountable. The current [association] committee, which includes members from 2020, has refused to provide meeting minutes and financial records, preventing members from calling a Special General Meeting (SGM) to address alleged misconduct. Additionally, the correspondence is directly linked to potential banking fraud involving [the association's] financial activities at [financial institution]. Identifying the individuals responsible is critical to ensuring accountability. The public interest in exposing fraudulent conduct far outweighs any privacy concerns cited in the refusal decision.*

18. On external review, the applicant also submitted<sup>22</sup> he should be granted access to the Previous Application Documents, because, in summary, *'new factual and legal developments now materially change the public interest and relevance'*. The applicant submitted that there has been a 'Change in Legal Standing' and that *'Since the previous application, the [association] has been formally incorporated on 19 November 2020 and accepted by the Office of Fair Trading...'*<sup>23</sup>
19. In determining whether section 43 of the RTI Act applies, the legislation does not require me to examine the originally refused information, nor to undertake merits review of the First Decision.<sup>24</sup> The issue to determine is whether the applicant has established a reasonable basis for reapplying.<sup>25</sup> To the extent the applicant's submissions seek to raise public interest factors favouring disclosure which he says *'materially change'* where the balance of the public interest lies, I have considered whether those submissions establish, on their face, a reasonable basis for again applying to access the same documents.
20. It is clear the applicant disagrees with the redactions to the Previous Application Documents however, as noted above, he elected not to ventilate those concerns about the First Decision through the formal review processes that were available to him in early 2024. Also, as the First Application was made in November 2023 and the First Decision in January 2024, incorporation of the association in 2020 clearly predated the first RTI process and I am therefore, unable to see why it could not have been raised by the applicant, had he sought review of the First Decision in early 2024.
21. The applicant's submissions allege fraud and other types of misconduct have occurred within the community sporting association. I acknowledge the applicant holds significant concerns about the previous management and administration of the association. The public interest factors in the RTI Act that seek to achieve transparency and accountability are, however, concerned with the operations and decision making of *government agencies*, not incorporated associations.<sup>26</sup>
22. As already noted,<sup>27</sup> the information to which access was refused in the Previous Application Documents included the personal information of other individuals. The character of that information has not changed since the First Application. I am, accordingly, not satisfied that the applicant's submissions demonstrate that the surrounding circumstances have changed so materially as to justify a different conclusion

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<sup>22</sup> Submission dated 27 June 2025.

<sup>23</sup> Ibid.

<sup>24</sup> However, in conveying a preliminary view to the applicant on 27 June 2025, I did set out, in an effort to address the applicant's concerns and seek his views on informally resolving the matter, that I had examined the Department's redactions and, in my view, the redacted information comprised the personal information of other individuals and that this type of information would generally be, on balance, contrary to the public interest to disclose under the RTI Act.

<sup>25</sup> While section 43(1)(b) of the RTI Act refers to the basis being established *'on the face'* of the application, I have taken into account the information advanced by the applicant in the Later Application, his correspondence with the Department, and in his external review application and submissions to OIC, in accordance with the approach taken in *H19 and Queensland Police Service* [2024] QICmr 32 (29 July 2024) at [28].

<sup>26</sup> For example, schedule 4, part 2, items 1, 3, 4, 5, 6 and 11 of the RTI Act.

<sup>27</sup> See footnote 24.

when balancing the public interest factors that apply to personal information of other individuals.

23. Based on the information available to me, I am not satisfied that the applicant has established a reasonable basis for again seeking access to the Previous Application Documents and, therefore, I find that section 43(3)(b)(iii) of the RTI Act applies to that part of the Later Application.

## **DECISION**

24. I affirm<sup>28</sup> the Department's decision to refuse to deal with the Later Application, to the extent it requested the Previous Application Documents, under section 43 of the RTI Act.
25. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



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**Katie Shepherd**  
**Assistant Information Commissioner**

**Date: 27 August 2025**

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<sup>28</sup> Section 110(1)(a) of the RTI Act.