



Decision and Reasons for Decision

Citation: **K94 and Department of State Development, Infrastructure and Planning (Office of Industrial Relations) [2025] QICmr 92 (9 December 2025)**

Application Number: **318457**

Applicant: **K94**

Respondent: **Department of State Development, Infrastructure and Planning (Office of Industrial Relations)**

Decision Date: **9 December 2025**

Catchwords: **ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - application for documents about investigation of a complaint - whether information is irrelevant to the terms of the access application - section 73 of the *Right to Information Act 2009* (Qld)**

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - SUFFICIENCY OF SEARCH - whether agency has conducted reasonable searches - sections 47(3)(e) and 52(1) of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Department of State Development, Infrastructure and Planning (**Department**)² under the *Right to Information Act 2009* (Qld) (**RTI Act**)³ for access to a copy of Workplace Health and Safety Queensland's (**WHSQ**) enquiries into their complaint regarding a commercial generator and potential exposure to emissions.
2. The Department located 120 pages of information and determined to fully release to the applicant 47 pages, partially release 57 pages, including removal of contrary to the public interest information and removal of irrelevant information, and refuse access to 15 pages.

¹ On 29 October 2024, with the application properly accepted on 12 November 2024.

² Under Administrative Arrangements Order (No.3) 2024, the Department of State Development, Infrastructure and Planning is responsible for Work Health and Safety. This responsibility is managed by Workplace Health and Safety Queensland, an administrative unit within the Office of Industrial Relations, which is itself an administrative unit contained within the Department of State Development, Infrastructure and Planning. For consistency in this decision, the relevant respondent entity has been referred to throughout as 'the Department'.

³ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act and *Information Privacy Act 2009* (Qld) (**IP Act**). As the applicant's application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act, which require that applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**. These may be accessed at [Right to Information Act 2009 - Queensland Legislation - Queensland Government](#) and [Information Privacy Act 2009 - Queensland Legislation - Queensland Government](#), respectively.

3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review on 7 February 2025. They took issue with the extent of the documents disclosed, including the redactions applied, and submitted the Department should have located and disclosed more documents relating to WHSQ's investigation of their complaint.
4. During the external review process, the applicant indicated they were not interested in certain refused information, thereby reducing the scope of the issues for determination on external review.
5. I affirm the decision of the Department that certain information may be deleted for irrelevance.
6. In addition, for the reasons set out below, I am satisfied that the Department has taken all reasonable steps to locate responsive information.

Background

7. The applicant applied for access to information on 29 October 2024.
8. After supplying identification, the application became valid on 12 November 2024. The applicant then agreed to extensions of time for the Department to issue a decision.
9. On 24 January 2025 the Department issued a Notice of Decision to the applicant.

Reviewable decision

10. The decision under review is the Department's decision dated 24 January 2025.
11. Of the 120 pages of information, located in response to the access application, the Department decided to:
 - grant full access to 47 pages;
 - grant partial access to 57 pages subject to the removal of contrary to the public interest information under section 47(3)(b) of the RTI Act and deletion of irrelevant information under section 73 of the RTI Act (1 part page); and
 - refuse full access to 15 pages as they are comprised of contrary to the public interest information under section 47(3)(b) of the RTI Act.

Evidence considered

12. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes). I have taken account of the applicant's submissions to the extent they are relevant to the issues for determination in this review.
13. I have also had regard to the *Human Rights Act 2019 (Qld)* (**HR Act**), particularly the right to seek and receive information.⁴ 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 and the RTI Act.⁵ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations

⁴ Section 21(2) of the HR Act.

⁵ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573], endorsed in Queensland by *Deemal-Hall v Office of the Director of Prosecutions* [2024] QCATA 131.

made by Bell J on the interaction between equivalent pieces of Victorian legislation:⁶ ‘*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.*⁷

Information in issue

14. Section 108(3) of the RTI Act prevents me from providing information in this decision that is claimed to be contrary to the public interest information. As such, I describe the bulk of the information in issue, being the information subject to external review which was refused on the grounds that its disclosure would on balance be contrary to the public interest, in general terms, as falling into two categories. The first category is personal information, including names of individuals, mobile phone numbers, email addresses, signatures and job titles. The second category is financial information, such as requests for quotes and insurance details.
15. The information deleted by the Department on the basis it is irrelevant to the applicant’s access application, can be described as working notes made by the WHSQ investigator.

Submissions of the applicant

16. Under section 97(2)(b) of the RTI Act, the Information Commissioner must ensure that each participant in an external review has an opportunity to present the participant’s view by making written or oral submissions.
17. On 8 August 2025 a delegate of the Information Commissioner provided the applicant with a preliminary views letter⁸ regarding their assessment of:
 - the Department’s decision to refuse to release information (contrary to public interest information and irrelevant information); and
 - the sufficiency of the Department’s searches for responsive documents.
18. The delegate advised the applicant they were inclined to affirm the Department’s decision, with reference to the public interest balancing test, noting the weight they afforded to the following factors favouring non-disclosure in the public interest:
 - the right to privacy of individuals participating in the investigation,⁹ and in doing so,
 - the reasonable expectation that the future flow of information to WHSQ as a regulatory agency could be prejudiced;¹⁰ and that
 - disclosure of the financial information described above could reasonably be expected to prejudice the private, business, professional, commercial or financial affairs of the entity under investigation.¹¹
19. The delegate also offered the preliminary view to the applicant that they were satisfied the Department had taken all reasonable steps to locate responsive documents.

⁶ Freedom of Information Act 1982 (Vic) and the Charter of Human Rights and Responsibilities Act 2006 (Vic).

⁷ XYZ at [573].

⁸ In accordance with the obligation to promote settlement of the external review application under section 90(1) of the RTI Act, as a delegate of the Information Commissioner under section 145 of the RTI Act.

⁹ Schedule 4, part 3, item 3 of the RTI Act.

¹⁰ Schedule 4, part 3, item 13 of the RTI Act.

¹¹ Schedule 4, part 3, item 2 of the RTI Act.

20. The applicant was invited to make submissions if they disagreed with the delegate's preliminary views.

21. On 25 August 2025 the applicant made a submission confirming they disagreed with the preliminary views. They said:

I disagree with the review. The documentation I was provided was not professional or adequate. Please review again as I was just given a very shoddy collection of random documents and it was very unprofessional in my opinion. I do not need to know peoples name of (sic) financial information. I want the information pertaining to my complaint, the investigation and the formal outcome and the evidence behind that outcome.

22. The primary concern raised by the applicant, both in their initial external review application and on submission, was the absence of information they would have expected to see, including:

- data relied on to make the decision;
- notes showing how the investigator came to their decision;
- a copy of a notice issued to a third party;
- notes about verbal directions given during the investigation; and
- notes about matters particular to the applicant's complaint.

23. They also raised concern about duplicates, blank pages and the legibility of some documents.

24. With respect to the applicant's concern about the absence of information they would expect to see from the investigation of their complaint, I note they generally:

- seek answers to a series of questions outside the scope of an external review; and
- relate to the applicant's concerns about the extent of, and adequacy of the documentation, including evidence, generated by WHSQ during the investigation.

25. The OIC's jurisdiction under the RTI Act is confined to conducting a merits review of the agency's decision on access. It does not extend to consideration of the types of questions and concerns contained in the preceding paragraph. The applicant was provided this advice and referral information to other complaint entities.¹² However, as the applicant did not appear to accept this advice, I have interpreted their insistence that additional information should be released, as concern that the Department has failed to locate this information in its searches for responsive documents.

26. The applicant was also advised¹³ that the legibility of documents released was not an issue the OIC was able to consider on external review.

27. While the issue of the inclusion of duplicates and blank pages may have been dealt with by the original decision maker when negotiating the scope of the access application with the applicant, these matters are also not considered on external review.

Issues for determination

¹² By emails dated 27 June 2025 and 8 August 2025.

¹³ By emails dated 31 March 2025 and 26 June 2025.

28. Having regard to the applicant's submission confirming they did not require the personal nor financial categories of information refused as contrary to the public interest information; I consider the residual issues for determination are:

- whether access to information may be refused as irrelevant to the access application for the document; and
- whether the searches and enquiries the Department has conducted in an effort to locate all responsive documents have been reasonable in the circumstances.

Issue 1: Irrelevant information

Relevant Law

29. Section 73 of the RTI Act states that an agency may delete information from a document which it considers is not relevant to an access application and provide access to the remaining information. Section 73 of the RTI Act is '*not a ground for refusal of access, but a mechanism to allow irrelevant information to be deleted from documents which are identified for release to an applicant.*'¹⁴ In deciding whether information is relevant, an agency must consider whether the information has any bearing upon, or is pertinent to, the terms of the application.¹⁵

Discussion

30. The Department refused access to certain information on the basis it is irrelevant to the access application. This is because a certain document also contains information regarding other investigation matters unrelated to the matter concerning the applicant. Specifically, the investigator's notebook records references/notes to other investigations alongside the current matter.

Finding

31. I have considered the deleted information, and in my view, the Department has correctly identified information as irrelevant to the access application and removed it in accordance with section 73 of the RTI Act.

Issue 2: Sufficiency of searches

Relevant Law

32. The Information Commissioner's external review functions include reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.¹⁶ Generally, the agency that made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.¹⁷ However, where an external review involves the issue of missing documents (alleged or otherwise), the applicant has a practical onus to establish reasonable grounds to be satisfied that the agency has not discharged its obligation to locate all relevant documents.¹⁸ Suspicion and mere assertion as to the existence of documents will not suffice.¹⁹

¹⁴ *Wyeth and Queensland Police Service* [2015] QICmr 26 (18 September 2015) at [12].

¹⁵ *H97 and Department of Agriculture and Fisheries* [2021] QICmr 71 (22 December 2021) at [13].

¹⁶ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 102 RTI Act to require additional searches to be conducted during an external review.

¹⁷ Section 87(1) of the RTI Act.

¹⁸ Section 87(2) of the RTI Act.

¹⁹ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23].

33. If searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents.²⁰ The RTI Act does not prescribe criteria for what constitutes reasonable steps. What constitutes reasonable steps will vary from case to case as the search and enquiry process an agency will be required to undertake will depend on which of the key factors are most relevant in the circumstances.²¹
34. To be satisfied that documents are nonexistent,²² a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors:²³
 - the administrative arrangements of government;
 - the respondent agency's structure;
 - the respondent agency's functions and responsibilities;
 - the respondent agency's practices and procedures (including but not exclusive to its information management approach); and
 - other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates.

Discussion

35. The OIC asked the Department to provide evidence of the extent of their searches. In response, the Department provided search records and declarations from the relevant officers²⁴ and submitted that the following business units were requested to conduct searches:
 - Statewide Investigations Unit (**SWI**), Advisory and Assessment Services; and the
 - Workplace Health and Safety office.
36. Further, the following systems were searched by the Department:
 - Compliance Investigations System (**CISR**) database;
 - Outlook email client;
 - RaPID database; and
 - System folders and business unit spreadsheets (of the SWI unit).
37. I have considered:
 - the scope of the application;
 - the applicant's submissions on external review;
 - searches conducted by the Department;
 - documents located by the Department; and
 - the Department's submissions detailing the extent of searches undertaken.
38. On the material before me, the Department has undertaken searches of locations where it would be reasonable to expect responsive documents to be stored and has taken all

²⁰ *PDE and University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [48] and [49].

²¹ *Ibid*, at [40] and [53].

²² Section 52(1)(a) RTI Act.

²³ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19] and *Isles and Queensland Police Service* [2018] QICmr 27 (7 June 2018) at [15].

²⁴ Searches dated 22 November 2024, 3 July 2025 and 14 July 2025 were certified and provided to the OIC.

reasonable steps to identify and locate documents in those locations. In my view, there is a reasonable basis to consider further documents do not exist or cannot be located.²⁵

39. I acknowledge that the documents located as part of the Department's searches may not meet the applicant's expectations in terms of the volume and nature of documents generated by the Department. The OIC's external review jurisdiction, however, does not extend to determining whether the Department *should have* created further or more comprehensive records on a particular matter. Rather, the OIC's role is to assess whether the Department has taken all reasonable steps to locate documents responding to the terms and scope of the application.
40. While I recognise that these are genuinely held concerns of the applicant, and that they consider there is public interest value in their pursuit of information, I do not consider their submissions establish reasonable grounds to believe that further documents falling within the scope of the request exist.
41. In view of the searches undertaken to date, the scope of the application, examination of the material that was located, and the Department's explanations on external review regarding the sufficiency of their searches, I am unable to identify any further searches which it would be reasonable to ask them to undertake.

Finding

42. I am not satisfied that the onus has been established by the applicant in respect of the Department failing to discharge its obligation to locate all relevant documents. On the contrary, the evidence shows that the Department has taken reasonable steps to identify and locate the documents applied for by the applicant.

DECISION

43. I decide to affirm the reviewable decision²⁶ by finding that access to the information sought by the applicant may be deleted as it is irrelevant information under section 73 of the RTI Act.
44. In respect of the concerns raised by the applicant which question the sufficiency of the Department's searches, I find the searches and enquiries for responsive documents conducted by the Department were reasonable in the circumstances and that access to any additional responsive information may therefore be refused under sections 47(3)(e) and 52(1)(a) of the RTI Act on the ground that it does not exist or is unlocatable.
45. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Stephanie Davis
Assistant Information Commissioner

Date: 9 December 2025

²⁵ Section 52(1)(a) of the RTI Act.

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