



Decision and Reasons for Decision

Citation:	<i>A55 and Gold Coast Hospital and Health Service [2019] QICmr 51 (26 November 2019)</i>
Application Number:	314410, 314478, 314508 and 314566
Applicant:	A55
Respondent:	Gold Coast Hospital and Health Service
Decision Date:	26 November 2019
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL WITH APPLICATION - SUBSTANTIAL AND UNREASONABLE DIVERSION OF RESOURCES - documents relating to the applicant and their interactions with the agency - whether dealing with each access application would substantially and unreasonably divert agency resources from their use in performing its functions - sections 60 and 61 of the <i>Information Privacy Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied,¹ by separate access applications, to the Gold Coast Hospital and Health Service (**GCHHS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to various documents² relating to themselves and their interactions with GCHHS.
2. In relation to external reviews 314410, 314508 and 314566, GCHHS decided³ to refuse to deal with the applications on the basis that dealing with each of them would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions.
3. In relation to external review 314478, GCHHS decided⁴ to refuse to deal with the access application on the basis that the applicant had made a previous access application for the same documents and that GCHHS's decision on that access application was the subject of an external review by this Office (**OIC**), being external review 314410.

¹ Access applications dated 4 December 2018 (external review 314410), 21 January 2019 (external review 314478), 24 January 2019 and 18 February 2019 (external review 314508) and 27 February 2019 (external review 314566).

² The scope of each access application is set out in full at paragraphs 18 to 21 below.

³ Decisions dated 22 January 2019 (external review 314410), 15 March 2019 (external review 314508), and 10 April 2019 (external review 314566).

⁴ Decision dated 26 February 2019. Footnote 23 below sets out the portion of the access application which is not in issue in external review 314478.

4. The applicant applied to OIC for external review of each of GCHHS's decisions.⁵
5. On external review GCHHS submitted⁶ that, given the different time periods of the access applications the subject of external reviews 314410 and 314478, GCHHS should have refused to deal with the access application the subject of external review 314478 on the basis that dealing with it would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions.
6. For the reasons set out below, I:
 - affirm GCHHS's decisions in external reviews 314410, 314508 and 314566 refusing to deal with the access applications on the basis that dealing with each of the access applications would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions
 - vary GCHHS's decision in external review 314478 by finding that GCHHS was entitled to refuse to deal with the access application on the basis that dealing with the access application would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions; and
 - vary GCHHS's decisions and find that dealing with the applications collectively would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions.

Background

7. Significant procedural steps relating to these external reviews are set out in Appendix 1.

Reviewable decision

8. The decisions under review are GCHHS's decisions dated 22 January 2019⁷ (external review 314410), 27 February 2019⁸ (external review 314478), 15 March 2019⁹ (external review 314508) and 10 April 2019¹⁰ (external review 314566).

Evidence considered

9. Evidence, submissions, legislation and other material I have considered in reaching this decision are set out in these reasons (including footnotes and Appendices).
10. During the reviews the applicant provided extensive submissions. I have considered all of this material and have only extracted those parts which I consider to have relevance to the issues to be determined in these external reviews.

Issues in these reviews

11. The issues arising for determination in these external reviews are whether GCHHS:

⁵ External review applications dated 22 January 2019 (external review 314410), 27 February 2019 (external review 314478), 15 March 2019 (external review 314508), and 10 April 2019 (external review 314566).

⁶ Submission dated 3 April 2019.

⁷ Access application dated 4 December 2018.

⁸ Access application dated 21 January 2019.

⁹ Access application dated 24 January 2019.

¹⁰ Access application dated 27 February 2019.

- sufficiently complied with the requirement under section 61 of the IP Act to provide the applicant with an opportunity to narrow the scope of the access applications, so as to reframe them into a form able to be processed by GCHHS; and
- can refuse to deal with the access applications under section 61 of the IP Act on the basis that dealing with them would substantially and unreasonably divert GCHHS's resources from the performance of its usual functions under section 60 of the IP Act.

Relevant law

12. Parliament intends that an agency receiving an access application will deal with that application unless dealing with the application would, on balance, be contrary to the public interest.¹¹
13. Relevantly, section 60(1) of the IP Act permits an agency to refuse to deal with an access application, or if dealing with two or more applications by the same applicant, all of the applications, if the agency considers the work involved in dealing with the application, or applications, would, if carried out, substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions.
14. The term '*substantially and unreasonably*' is not defined in either the IP Act or the *Right to Information Act 2009* (Qld) (**RTI Act**). It is therefore appropriate to consider the ordinary meaning of these words. '*Substantial*' is relevantly defined as meaning '*considerable amount, quantity, size, etc.*'¹² and '*of a considerable size or value*'.¹³ '*Unreasonable*' is relevantly defined as meaning '*exceeding the bounds of reason; immoderate; exorbitant*'¹⁴ and '*immoderate; excessive*'.¹⁵
15. In deciding whether an agency may refuse to deal with an application, or applications, on the basis that doing so would substantially and unreasonably divert the resources of the agency from their use by the agency in the performance of its functions, I must have regard to the resources that would be used for:¹⁶
 - identifying, locating, or collating the documents
 - marking copies, or edited copies of any documents
 - deciding whether to give, refuse, or defer access to any documents, including resources that would be used to examine any documents or conducting third party consultations; and
 - notifying any final decision on the application.
16. The power to refuse to deal with an application under section 60 of the IP Act can only be exercised if the precondition set out by section 61 of the IP Act has been met. Section 61 sets out a number of procedural steps that an agency must take before deciding to refuse to deal with an application on this basis, being to:
 - give the applicant written notice¹⁷
 - give the applicant a reasonable opportunity to consult with the agency;¹⁸ and

¹¹ Section 58 of the IP Act.

¹² Macquarie Dictionary, Seventh Edition.

¹³ Collins English Dictionary, Twelfth Edition.

¹⁴ Macquarie Dictionary, Seventh Edition.

¹⁵ Collins English Dictionary, Twelfth Edition.

¹⁶ Section 60(2) of the IP Act.

¹⁷ Section 61(1)(a) of the IP Act.

¹⁸ Section 61(1)(b) of the IP Act.

- as far as reasonably practicable, give the applicant any information that would help the making of an application in a form that would remove the ground for refusal.¹⁹

17. The written notice must:²⁰

- state an intention to refuse to deal with the application
- advise that, for the prescribed consultation period²¹ for the notice, the applicant may consult with the agency with a view to making an application in a form that would remove the ground for refusal; and
- state the effect of sections 61(2) to (6) of the IP Act, which is as follows:
 - following any consultation, the applicant may give the agency written notice either confirming or narrowing the application
 - if the application is narrowed, section 60 applies in relation to the changed application, but the procedural requirements in section 61 do not apply to it
 - if the applicant fails to consult²² after being given the notice, the applicant is taken to have withdrawn the application at the end of the prescribed consultation period.

The access applications

18. In external review 314410, for the period 2011 to 3 December 2018, the applicant seeks access to:

- (a) *All emails about [the applicant] or referring to [the applicant];*
- (b) *All documents relied on by or viewed or sent by [named individual] in relation to [the applicant] and [the applicant's] complaints;*
- (c) *Review reports of [the applicant's] CT scan;*
- (d) *List of every employee who looked at [the applicant's] medical records and the date they accessed them; and*
- (e) *Communication between [named doctor] and the rheumatology department and between rheumatology and orthopedic department.*

19. In external review 314478, for the period 1 January 2012 to 21 January 2019, the applicant relevantly²³ seeks access to:

- (a) *All correspondence, documents and emails referring to [the applicant], sent to or from the following departments: MAU, Emergency, Mental Health, Rheumatology, Radiology and Orthopaedics, and including [named doctors];*
- (b) *All emails between [named doctor] and the Rheumatology Department, and [named doctor] and MAU nursing staff;*
- (c) *All communications and emails sent to and from the Physiotherapy Clinic from 1 January 2014 to 21 January 2019.*

¹⁹ Section 61(1)(c) of the IP Act.

²⁰ Section 61(1)(a) of the IP Act.

²¹ Under section 61(6) of the IP Act, the 'prescribed consultation period' for a written notice under section 61(1)(a) is ten business days after the date of the notice, or the longer period agreed by the agency and the applicant (whether before or after the end of the 10 business days).

²² Under section 61(5) of the RTI Act, failure to consult includes the applicant not giving written notice either confirming or narrowing the application under section 61(2) of the RTI Act.

²³ I note that GCHHS dealt with the applicant's request for access to 'All correspondence, documents and emails referring to [the applicant], [the applicant's] matters or complaints, sent to or from any Minister, Ministerial Department or Parliamentary Committee'. Accordingly, this portion of the access application is not in issue in external review 314478.

20. In external review 314508, for the period 1 January 2010 to 18 February 2019, the applicant seeks access to:
- (a) *All documents, records and communications including emails, relating to [the applicant's] treatment in the [named] clinic and [the applicant's] related rape and Patient Liaison Service complaints;*
 - (b) *All documents, records and communications, including emails, relating to [the applicant's] complaints about sexual assault by [named doctor] (including statements and reports by the nurse who was present and whom [the applicant] asked to report the incident), [the applicant's] complaints about the multiple rapes of [named individual] and subsequent pressing of policy changes against [named individual];*
 - (c) *All documents and communications relating to holding [the applicant] under a EAO and [the applicant's] related complaints;*
 - (d) *All documents and emails about [the applicant] or [the applicant's] matters which were drafted, influenced by or sent to or from [named individual] with corresponding page numbers;*
 - (e) *A log of who accessed [the applicant's] records and when;*
 - (f) *Details pertaining to a Letter sent 12/04/18 and included in 3737 IP release at pages 84-85;*
 - (g) *Documents substantiating claim of harassment referred in letter identified at [item (f)];*
 - (h) *All text messages and emails about [the applicant] authored by [named individuals];*
 - (i) *All text messages and emails about [the applicant] by any forensic medical officer or Southport Watch House nurse, and any records or documents created by such staff;*
 - (j) *All radiologist opinions regarding [the applicant's] ankle;*
 - (k) *All documents and emails to or from police, including the 'Fixated Persons Unit';*
 - (l) *All documents written, forwarded or received by individuals identified by letter of 24/04/2018 at 10.49am included in the documents released under 3737 IP; and*
 - (m) *All emails, documents and calendar entries relating to telephone consults and conferences with OHO about [the applicant], including the full names of officers involved.*

21. In external review 314566, for the period 1 January 2012 to 28 February 2019, the applicant seeks access to:

All emails to and from ED, MAU, ophthalmology, rheumatology, physiotherapy, mental health, radiology, orthopedics and [named clinic].

Findings

Requirement to consult

22. In relation to external reviews 314410, 314508 and 314566, I have read GCHHS's notices sent²⁴ to the applicant (separately, **Notice**, and collectively, **Notices**). The Notices stated an intention to refuse to deal with the access applications, and advised the applicant that they had until a specified date²⁵ to consult with a view to making their applications in a form that would remove this ground as a basis for refusing to deal with the applications. The Notices also stated that the applicant may give written notice confirming or narrowing the scope of the access applications and, if they did not respond, they would be taken to have withdrawn their applications. In light of the content of the Notices, I am satisfied that the Notices complied with the requirements of the IP Act.

²⁴ On 9 January 2019, 1 March 2019, and 3 April 2019 respectively.

²⁵ Being 23 January 2019, 15 March 2019, and 17 April 2019 respectively.

23. GCHHS's Notices explained to the applicant ways that the applicant could change their access applications to make them manageable, including:
- providing clarifying details for items considered too vague
 - significantly narrowing the date ranges in relation to all items/departments; and
 - removing items/departments from the access applications.
24. In addition, in relation to external review 314410:
- GCHHS's Notice included estimates of the approximate number of documents responsive to item (a) of the access application and estimated time to complete the work involved in processing item (a) alone; and
 - GCHHS provided the applicant with a table listing the departmental areas holding documents responsive to item (a).²⁶
25. On the basis of the above, I find that GCHHS, as far as was reasonably practicable, gave the applicant information that would help them to make an access application in a form that would remove the ground for refusal.
26. In response to the Notices, during the consultation periods the applicant sent multiple emails²⁷ to GCHHS which either did not narrow or refine the scope of the access applications in any substantive way, or sought to expand the scope of the access applications.
27. In relation to each of external reviews 314410, 314508 and 314566, I find that GCHHS complied with the requirement to give the applicant an opportunity to narrow the scope of the applications, so as to re-frame them into a form that it could process.
28. In relation to external review 314478, the applicant was not given an opportunity to narrow the scope of the access application so as to re-frame it in into a form that can be processed by GCHHS. I acknowledge that this is because GCHHS decided to refuse to deal with the access application under section 62 of the IP Act on the basis that the documents sought had previously been requested in the access application the subject of external review 314410.
29. In the circumstances of these matters, I do not consider it is necessary to provide the applicant with a further opportunity to consult in relation to external review 314478 when GCHHS had previously done so in relation to external reviews 314410, 314508 and 314566²⁸ and when I am satisfied that all the access applications together amount to a substantial diversion of GCHHS's resources as set out below.

Work required to process the access applications

30. In relation to external review 314410, GCHHS's Notice estimated that, following a preliminary search, it holds approximately 1272 emails, which equates to a minimum of 6360 pages, responsive to item (a) of the access application alone. GCHHS stated that

²⁶ By email to the applicant dated 15 January 2019.

²⁷ On 10 January 2019 at 3:02am and 15 January 2019 at 10:51am in relation to external review 314410, on 1 March 2019 at 8.56am, 10.15am and 3.44pm, 4 March 2019 at 10.21am, 6 March 2019 at 11.52am, 8 March 2019 at 5.13pm and 14 March 2019 at 2.07pm in relation to external review 314508 and on 3 April 2019 at 1.28pm, and 11.16pm, 4 April 2019 at 9.18am and 7 April 2019 at 4.32pm in relation to external review 314566.

²⁸ Particularly given I consider that the scope of the application the subject of 314478 is substantially encompassed by the applicant's request in relation to external review 314410.

this estimate is conservative as *'it does not include documents responsive to [item (a)] of the Application that are contained in the inboxes of approximately 18 individual Executives and employees of GCHHS.'*

31. GCHHS also estimated, on a conservative basis, that it would take approximately 469 hours, being 67 working days, to process and deal with the access application, calculated as follows:²⁹

- (a) *at least, approximately 30 hours to collate and copy all relevant documents, not including those archived;*
- (b) *at least, approximately 424 hours to review and process the documents before release (based on four minutes per page for at least 6,360 pages);*
- (c) *at least, approximately 15 hours to prepare documents necessary to undertake third party consultation; and*
- (d) *...at least 20 hours to draft the decision notice and prepare the responsive documents for release.*

32. In addition to the above, GCHHS submitted³⁰ that within the Information & Access Services unit, it had one staff member to process the applicant's access application.

33. In response to the Notice, the applicant submitted³¹ that *'[the] date range from 2011 to 2013 should contain very few documents...'* and advised *'I will not narrow the scope.'* While I note the applicant's submission in this regard, as GCHHS's preliminary searches identified that it holds approximately 1272 emails, equating to a minimum of 6360 pages, covering the whole date range sought, being a period of approximately 8 years from 2011 to 3 December 2018, I am satisfied that if there are *'very few documents'* in the 2011 to 2013 date range, this would not reduce the work involved in processing the access application.

34. In the applicant's external review application, the applicant stated:³²

Please note that no consultation was sought in good faith from GCHHS ...

... GCHHS claimed the workload to do my IP request was too great for their ONE IP OFFICER.

However, the IP officer being the only staff is irrelevant when GCHHS is using senior medical malpractice defence lawyers to prevent release of all my IP requests, and an IP officer is never allocated to my many IP applications...

35. The applicant also submits:³³

These are medical records and I am entitled to 20 hours search on each application. They have a term and GCHHS did not need to use lawyers to do my application.

36. The applicant's submission concerning the use of lawyers was put to GCHHS.³⁴ In response, GCHHS submitted:³⁵

- since the decision was made in relation to the applicant's access application, three staff members within the Legal Services unit had been given RTI/IP delegations

²⁹ At page 5 of GCHHS's Notice.

³⁰ As set out in GCHHS's Notice dated 9 January 2019.

³¹ Email dated 10 January 2019 at 3:02am.

³² Email dated 22 January 2019 at 5:26pm in relation to external review 314410.

³³ Submission to OIC dated 13 August 2019.

³⁴ During a conversation with an officer of OIC on 15 April 2019.

³⁵ During the conversation with an officer of OIC on 15 April 2019.

- the Legal Services unit staff do not process the access applications or undertake the administrative tasks, rather, they provide an oversight role for the staff member within the Information & Access Services unit; and
 - the staff member within the Information & Access Services unit has responsibility for the majority of the work involved in processing an access application, including conducting searches and preparing documents.
37. While I acknowledge the applicant's concerns about the reasons for GCHHS's decisions to refuse to deal with the access applications, there is no evidence before me to suggest that GCHHS has provided its submissions to OIC *'in bad faith'* or that GCHHS is *'concealing evidence of crimes'*. Further, it is unclear to me why the applicant states that they are *'entitled to 20 hours search on each application'*.
38. In relation to external reviews 314508 and 314566, the GCHHS's decisions stated:
- there *'is considerable overlap'* between the scope of these requests and the scope of the request in relation to external review 314410³⁶
 - while the applicant had narrowed the date ranges for some items sought in relation to external review 314508, *'the breadth of items remains extensive'*,³⁷ and
 - in relation to external review 314566, although the applicant submitted³⁸ that *'there may only be one or two emails over that period ... It is rare for doctors and nurses to privately email about a patient'* and that the applicant was only seeking emails, GCHHS reached the conclusion that *'it did not limit the scope of the Application...'*³⁹
39. I have carefully considered the scope of each of the applications as set out at paragraphs 18 to 21 above. In my view, the request at item (a) in relation to external review 314410 for *'all emails about me or referring to me'* would substantially encompass⁴⁰ the applicant's requests at:
- external review 314478: item (b) in full and items (a) and (c) to the extent the documents sought are emails
 - external review 314508: items (a), (b), (d), (h), (i), (k) and (m) to the extent the documents sought are emails; and
 - external review 314566: the entirety of the request,
- and therefore I have not taken these overlapping aspects of the applications into account when assessing whether processing the applications would amount to a substantial and unreasonable diversion of GCHHS's resources.
40. In relation to the remaining information sought in each of external reviews 314478, 314508 and 314566, OIC sought further submissions from GCHHS about its claims that processing each of the applications would substantially and unreasonably divert GCHHS's resources from their use in performance of its functions.⁴¹

³⁶ At page 4 of the decision dated 15 March 2019 in relation to external review 314508 and page 3 of the decision dated 10 April 2019 in relation to external review 314566.

³⁷ Page 2 of the reasons for the decision dated 15 March 2019.

³⁸ As set out in the applicant's email to GCHHS dated 4 April 2019.

³⁹ Page 3 of the reasons for the decision dated 10 April 2019.

⁴⁰ While I note that the date ranges for each application is slightly different, the date range sought in:

- external review 314478 is almost entirely covered by the date range sought in external review 314410
- external review 314508 is greater than that sought for external review 314410; and
- external review 314566 is almost entirely covered by the date range sought in external review 314410.

⁴¹ Excluding emails captured by item (a) of external review 314410 and, for the submissions regarding external reviews 314478 and 314508, emails captured by external review 314566.

41. In response, GCHHS has provided OIC with submissions⁴² about:
- the searches required to process the applications
 - the estimated length of processing time for each remaining search criteria in each review (which ranges from 4 weeks to 6 months depending on the searches required); and
 - the estimated number of pages that may be located as a result of those searches.
42. GCHHS attached to each submission a summary of that submission in table form. These are set out in Appendix 2.⁴³
43. GCHHS submitted in conclusion:⁴⁴

GCHHS estimates that there is minimal material responsive to the applicant's requests, despite the applicant's belief that correspondence about [their] treatment and complaints has occurred among staff and with external agencies. The applicant's requests span all aspects of [their] treatment and the complaints process. GCHHS submits that such broad ranging searches over a six-year period ... are an unreasonable diversion of GCHHS resources in circumstances where considerable material has already been provided to the applicant in the past.

Substantial

44. In relation to the question of whether the work involved in processing the access applications would be substantial, I may consider the applications separately or collectively. A general statement of principle which is applicable to the type of merits review conducted by the Information Commissioner is that *'the Information Commissioner must decide cases according to the material facts and circumstances which apply at the time the Information Commissioner comes to make the external review decision.'*⁴⁵ As there are four applications before me for consideration, it is open to me to consider the impact that processing the applications together would have on GCHHS.
45. I am satisfied that requiring GCHHS to commit at least 469 hours in relation to the access application the subject of external review 314410 and at least 72.5 hours in relation to each access application the subject of external reviews 314478, 314508 and 314566, or at least 686.5 hours for all four applications, would comprise a substantial, or 'considerable' and 'telling',⁴⁶ diversion of GCHHS's resources. There is nothing before me to cause me to doubt that estimate, and I accept it as accurate. Processing the applications would, on these figures, take GCHHS's sole Information & Access Services unit staff member 19 weeks - approximately four and a half months - of full time effort, diverting limited staffing resources, including the three staff members within the Legal Services unit who hold an RTI/IP delegation, from other RTI and IP access applications as well as from their other day to day work. This would place substantial strain on GCHHS's resources - a burden that, in the circumstances of these matters, I consider would also be unreasonable.

⁴² Separate letters to OIC dated 27 June 2019 in relation to each external review.

⁴³ As set out in Attachment A to the separate letters to OIC dated 27 June 2019 in relation to each external review.

⁴⁴ Separate letters to OIC dated 27 June 2019 in relation to each external review.

⁴⁵ *Palmer and Townsville City Council (Palmer)* [2019] QICmr 43 at [21]. See also *Beanland and Department of Justice and Attorney-General* (1995) 3 QAR 26 at [58] and *Woodyatt and Minister for Corrective Services* (1995) 2 QAR 383 at [35] which are discussed in *Palmer* at paragraphs [24]-[25].

⁴⁶ 'Substantial' is defined as meaning 'considerable amount, quantity, size, etc.' (Macquarie Dictionary, Seventh Edition) and 'of a considerable size or value' (Collins English Dictionary, Twelfth Edition).

Unreasonable

46. As for the question of “reasonableness”, there are a number of factors that may be relevant in determining reasonableness when assessing the potential resourcing burden imposed by an IP access application:⁴⁷
- (a) *whether the terms of the request offers a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought within a reasonable time and with the exercise of reasonable effort*
 - (b) *the public interest in disclosure of documents relating to the subject matter of the request*
 - (c) *whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications*
 - (d) *the agency’s estimate as to the number of documents affected by the request, and by extension the number of pages and the amount of officer time, and the salary cost*
 - (e) *the reasonableness or otherwise of the agency’s initial assessment and whether the applicant has taken a cooperative approach in redrawing the boundaries of the application*
 - (f) *the timelines binding on the agency*
 - (g) *the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and*
 - (h) *whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications to the agency.*
47. In this case, the size and scope of the access applications, separately or collectively⁴⁸, is alone sufficient to justify a finding that processing the access applications would be an exorbitant and excessive,⁴⁹ and therefore unreasonable, diversion of GCHHS’s resources.

DECISION

48. For the reasons set out above, I:
- affirm GCHHS’s decisions in external reviews 314410, 314508 and 314566 refusing to deal with the access applications on the basis that dealing with each of the access applications would substantially and unreasonably divert GCHHS’s resources from their use in the performance of its functions
 - vary GCHHS’s decision in external review 314478 by finding that GCHHS was entitled to refuse to deal with the access application on the basis that dealing with the access application would substantially and unreasonably divert GCHHS’s resources from their use in the performance of its functions; and

⁴⁷ *Marigliano and Tablelands Regional Council* [2018] QICmr 11 (15 March 2018), at [30] citing *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (29 October 2012) at [39], adapting the factors listed in *Cianfrano v Premier’s Department* [2006] NSWADT 137 at [62] to [63], the latter cited in *Zonneville v Department of Education and Communities* [2016] NSWCATAD 49 at [29]. The factors are not exhaustive.

⁴⁸ As previously noted at paragraph 44 above, I may look at the facts as they stand at the time of making my decision. At the time of making my decision there are four applications to be decided.

⁴⁹ ‘Unreasonable’ is relevantly defined as meaning ‘*exceeding the bounds of reason; immoderate; exorbitant*’ (Macquarie Dictionary, Seventh Edition) and ‘*immoderate; exorbitant*’ (Collins English Dictionary, Twelfth Edition).

- vary GCHHS's decisions and find that dealing with the applications collectively would substantially and unreasonably divert GCHHS's resources from their use in the performance of its functions.

49. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

Assistant Information Commissioner Corby

Date: 26 November 2019

APPENDIX 1**Significant procedural steps**

Date	Event
22 January 2019	OIC received the applicant's application for external review 314410.
23 January 2019	OIC received emailed submissions from the applicant.
24 January 2019	OIC notified GCHHS and the applicant that the application for external review 314410 had been received and requested procedural documents from GCHHS. OIC received the requested documents from GCHHS.
22 February 2019	OIC notified GCHHS and the applicant that the application for external review 314410 had been accepted.
27 February 2019	OIC received the applicant's application for external review 314478.
1 March 2019	OIC received three emailed submissions from the applicant.
6 March 2019	OIC notified GCHHS and the applicant that the application for external review 314478 had been received and requested procedural documents from GCHHS. OIC received the requested documents from GCHHS. OIC received emailed submissions from the applicant.
7 March 2019	OIC requested further procedural documents from GCHHS for external review 314410 and application for external review 314478. OIC received emailed submissions from the applicant.
11 March 2019	OIC received the requested further procedural documents from GCHHS for the application for external review 314478.
13 March 2019	OIC received the requested further procedural documents from GCHHS for external review 314410.
15 March 2019	OIC received the applicant's application for external review 314508. OIC received three emailed submissions from the applicant.
16 March 2019	OIC received emailed submissions from the applicant.
20 March 2019	OIC notified GCHHS and the applicant that the application for external review 314508 had been received and requested procedural documents from GCHHS.
21 March 2019	OIC received the requested procedural documents from GCHHS for the application for external review 314508.
22 March 2019	OIC received emailed submissions from the applicant. OIC notified GCHHS and the applicant that the application for external review 314478 had been accepted and requested a copy of the documents located from GCHHS.
26 March 2019	OIC received the requested copy of the documents located from GCHHS for external review 314478.
3 April 2019	OIC received a submission from GCHHS for external review 314478. OIC received emailed submissions from the applicant.
4 April 2019	OIC received two emailed submissions from the applicant.
10 April 2019	OIC received the applicant's application for external review 314566.

Date	Event
15 April 2019	OIC received emailed submissions from the applicant. OIC received an oral submission from GCHHS.
16 April 2019	OIC notified GCHHS and the applicant that the application for external review 314566 had been received and requested procedural documents from GCHHS. OIC conveyed a preliminary view to the applicant in external review 314410. OIC received an emailed submission from the applicant.
18 April 2019	OIC notified GCHHS and the applicant that the application for external review 314508 had been accepted and requested further procedural documents from GCHHS.
23 April 2019	OIC received the requested procedural documents from GCHHS for external review 314508 and application for external 314566.
26 April 2019	OIC received two emailed submissions from the applicant.
29 April 2019	OIC notified GCHHS and the applicant that the application for external review 314566 had been accepted.
20 May 2019	OIC received emailed submissions from the applicant.
30 May 2019	OIC requested a submission from GCHHS for each external review regarding whether dealing with each application would substantially and unreasonably divert GCHHS's resources from their use in performance of its functions.
18 June 2019	OIC received emailed submissions from the applicant.
27 June 2019	OIC received the requested submissions from GCHHS.
5 August 2019	OIC received emailed submissions from the applicant.
8 August 2019	OIC received emailed submissions from the applicant.
13 August 2019	OIC conveyed a preliminary view to the applicant. OIC received emailed submissions from the applicant.
26 August 2019	OIC received emailed submissions from the applicant.
27 August 2019	OIC received emailed submissions from the applicant.
28 August 2019	OIC received two emailed submissions from the applicant.
9 September 2019	OIC received emailed submissions from the applicant.
11 September 2019	OIC received emailed submissions from the applicant.
12 September 2019	OIC received emailed submissions from the applicant.
13 September 2019	OIC received emailed submissions from the applicant.
17 September 2019	OIC received emailed submissions from the applicant.
19 September 2019	OIC received emailed submissions from the applicant.
26 September 2019	OIC wrote to the applicant ⁵⁰ about their external reviews. OIC received emailed submissions from the applicant.

⁵⁰ Letter dated 25 September 2019.

APPENDIX 2

Overview of GCHHS Submissions – 314478 / 3744 IP

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>All correspondence and documents, excluding emails, referring to [the applicant] or [their] matters or complaints, sent to any Minister, Ministerial Department or Parliamentary Committee from 1 January 2012 to 21 January 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>0-50</i>	<i>3 months</i>	<i>Ministerial Departments</i>
<i>All emails referring to [the applicant] or [their] matters or complaints, sent to or from any Minister, Ministerial Department or Parliamentary Committee from 4 December 2018 to 21 January 2019.</i>	<i>Shared network drives, personal network drives, staff email accounts, generic email accounts.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>At least 1 but less than 50</i>	<i>4-5 weeks</i>	<i>Ministerial Departments</i>
<i>All correspondence and documents, excluding emails, referring to [the applicant], sent to or from the following departments: MAU, Emergency, Mental Health, Rheumatology, Radiology and Orthopaedics, and including Drs [named] from 1 January 2012 to 21 January 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files, patient medical records.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>Unable to estimate</i>	<i>6 months</i>	<i>Nil</i>
<i>All communications, excluding emails, sent to and from the</i>	<i>Shared network drives, personal network drives, hard-copy archived</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data</i>	<i>0-50</i>	<i>3 months</i>	<i>Nil</i>

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>Physiotherapy Clinic from 1 January 2014 to 21 January 2019.</i>	<i>correspondence files, patient medical records.</i>	<i>searches using designated search terms; physical inspection and copying of archived material.</i>			

Overview of GCHHS Submissions – 314508 / 3749 IP and 3779 IP

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>All documents, records and communications, excluding emails, relating to [the applicant's] treatment in the [named] clinic and [their] related rape and Patient Liaison Service complaints from 1 January 2010 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>0-50</i>	<i>3 months</i>	<i>Nil</i>
<i>All documents, records and communications, excluding emails, from 1 January 2010 to 18 February 2019 relating to [the applicant's] complaints about alleged sexual assault by Dr [named] (including statements and reports by a nurse who was present and whom [the applicant] asked to report the incident).</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>0-50</i>	<i>3 months</i>	<i>Nil</i>
<i>All documents, records and communications, excluding emails, from 1 January 2010 to 18 February 2019 relating to [the</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files, patient medical records.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data</i>	<i>0-50</i>	<i>3 Months</i>	<i>[Named individual]</i>

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
applicant's] <i>complaints about the alleged multiple rapes of [named individual].</i>		<i>searches using designated search terms; physical inspection and copying of archived material.</i>			
<i>All documents, records and communications, excluding emails, from 1 January 2010 to 18 February 2019 relating to subsequent pressing of policy changes against [named individual].</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>0-50</i>	<i>3 months</i>	<i>[Named individual]</i>
<i>All emails from 4 December 2018 to 18 February 2019 relating to the [four] matters ... above.</i>	<i>Shared network drives, personal network drives, generic email accounts, personal email accounts.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>Unable to estimate</i>	<i>3 months</i>	<i>[Named individual]</i>
<i>All documents and communications, excluding emails, relating to holding [the applicant] under an EAO and [their] related complaints from 1 January 2010 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files, patient medical records.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>0-50</i>	<i>3 months</i>	<i>Queensland Police Service</i>
<i>All documents, excluding emails, about [the applicant] that were drafted, influenced by or sent to or from [named individual] with corresponding page numbers from 1 January 2010 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>Unable to estimate</i>	<i>3 months</i>	<i>Nil</i>

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>All emails about [the applicant] or [their] matters that were drafted, influenced by or sent to or from [named individual] with corresponding page numbers from 4 December 2018 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, generic email accounts, personal email accounts.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>More than 1 but less than 50</i>	<i>4-5 weeks</i>	<i>Nil</i>
<i>A log of who has accessed [the applicant's] records from 1 January 2010 to 18 February 2019.</i>	<i>GCHHS and Queensland Health databases.</i>	<i>Contacting area responsible for the database and requesting an audit trail</i>	<i>50-100</i>	<i>4-5 weeks</i>	<i>Nil</i>
<i>Details pertaining to a letter sent 12/04/2018 and included in 3737 IP release at pages 84-85.</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
<i>Documents substantiating a claim of harassment referred to in the letter identified above at (j).</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
<i>All text messages about [the applicant] authored by [named individuals] from 1 January 2010 to 18 February 2019.</i>	<i>Work mobile telephones belonging to named individuals.</i>	<i>Requesting, obtaining and search devices; sending devices away for expert analysis.</i>	<i>0-50</i>	<i>6 months</i>	<i>Nil</i>
<i>All text messages about [the applicant] by any forensic medical officer or Southport Watchouse nurse, and any records or documents created by such staff from 1 January 2010 to 18 February 2019.</i>	<i>Work mobile telephones, shared network drives, personal network drives, hard-copy archived correspondence files, personal email accounts, generic email accounts.</i>	<i>Requesting, obtaining and search devices; sending devices away for expert analysis; contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>0-50</i>	<i>6 months</i>	<i>Nil</i>

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>All radiologist opinions regarding [the applicant's] ankle from 1 January 2010 to 18 February 2019.</i>	<i>Patient medical records, shared network drives, personal network drives, hard-copy archived correspondence files, personal email accounts, generic email accounts.</i>	<i>Contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>More than 1 but less than 50</i>	<i>3 months</i>	<i>Nil</i>
<i>All documents, excluding emails, to or from police, including the 'Fixated Persons Unit' from 1 January 2010 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>0-50</i>	<i>3 months</i>	<i>Queensland Police Service</i>
<i>All emails to or from police, including the 'Fixated Persons Unit' from 4 December 2018 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, generic email accounts, personal email accounts.</i>	<i>Contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>0-50</i>	<i>4-5 weeks</i>	<i>Queensland Police Service</i>
<i>All calendar entries and other documents, excluding emails, relating to telephone consults and conferences with OHO about [the applicant], including the full names of officers involved from 1 January 2010 to 18 February 2019.</i>	<i>Shared network drives, personal network drives, hard-copy archived correspondence files.</i>	<i>Contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms.</i>	<i>0-50</i>	<i>3 months</i>	<i>OHO</i>
<i>All emails relating to telephone consults and conferences with OHO about [the applicant], including the full names of officers</i>	<i>Shared network drives, personal network drives, generic email accounts, personal email accounts.</i>	<i>Contacting all relevant GCHHS departments and staff employed within the time-period specified; Queensland Health IT data</i>	<i>0-50</i>	<i>4-5 weeks</i>	<i>OHO</i>

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>involved from 4 December 2018 to 18 February 2019.</i>		<i>searches using designated search terms.</i>			

Overview of GCHHS Submissions – 314566 / 3784 IP

Relevant Documents	Location	Search Types	Estimated Pages	Estimated Processing Time	Third Party Consults
<i>All emails to and from ED, MAU, ophthalmology, rheumatology, physiotherapy, mental health, radiology, orthopaedics and [named clinic].</i>	<i>Shared network drives, personal network drives, generic email accounts, personal email accounts, hard-copy archived correspondence files.</i>	<i>Contacting all GCHHS departments and staff employed within the time-period specified; Queensland Health IT data searches using designated search terms; physical inspection and copying of archived material.</i>	<i>Unable to estimate</i>	<i>3 months</i>	<i>Nil</i>