



Decision and Reasons for Decision

Citation:	<i>A16 and Department of Justice [2025] QICmr 95 (12 December 2025)</i>
Application Number:	318956
Applicant:	A16
Respondent:	Department of Justice
Decision Date:	12 December 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - RIGHT TO INFORMATION - REFUSAL TO DEAL - APPLICATION REQUIREMENTS - whether the application gives sufficient information concerning the documents sought - whether the agency is entitled to refuse to deal with the application under section 33 of the <i>Right to Information Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - RELEVANT DECISION - decision setting aside and directing agency to consider whether access is to be given to subject documents - section 110(1)(d) and 110A of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to the Department of Justice (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for documents relating to herself and a book.²
2. The Department decided³ the application did not comply with the requirement to provide 'sufficient information' about the requested documents.⁴
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision.⁵
4. For the reasons set out below, I set aside the decision under review.⁶ The applicant has complied with all requirements of section 24 of the RTI Act, including providing sufficient information about the requested documents.

¹ On 26 August 2025.

² The 'access application'.

³ Dated 29 September 2025 (the 'reviewable decision'), decision made under section 33(6) of the RTI Act. See also section 85 and schedule 4A(1)(b) of the RTI Act.

⁴ The requirements of a compliant access application are set out in section 24(2) of the RTI Act, one of which is relevant in this case, that the application 'give sufficient information concerning the document to enable the agency or Minister to identify the document': section 24(2)(b) of the RTI Act.

⁵ On 30 September 2025.

⁶ Under section 110(1)(d) of the RTI Act.

5. Under section 110A(2) of the RTI Act, I give notice directing the Department to decide whether access is to be given to the Subject Documents, as if the ground for making the decision under review did not apply in relation to the Subject Documents, consistently with the conditions for a notice of this kind prescribed in sections 110A(3)-(4) of the RTI Act.
6. In making this decision I have had regard to the *Human Rights Act 2019 (Qld) (HR Act)*, particularly the applicant's right to seek and receive information.⁷ I consider that in observing and applying the law prescribed in the RTI Act and IP Act, an RTI decision-maker will be '*respecting and acting compatibly with*' this right and others prescribed in the HR Act,⁸ and that I have done so in making this decision, as required under section 58(1) of the HR Act. In this regard, I note Bell J's observations on the interaction between the Victorian analogues of Queensland's RTI Act and HR Act:⁹ '*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 1982.*'¹⁰

Relevant law

7. Section 24 of the RTI Act specifies the requirements for a valid access application. One requirement is that an application must '*give sufficient information concerning the document to enable the agency ...to identify the document*'.¹¹
8. If a person makes an access application and the agency takes the view the application does not comply with the application requirements in section 24 of the RTI Act, the agency must:¹²
 - (a) make reasonable efforts to contact the person within 15 days after the purported application is received
 - (b) inform the person how the application does not comply with the relevant application requirements; and
 - (c) give the person a reasonable opportunity to consult with a view to make the application in a form which complies with all relevant application requirements.
9. If, after giving the applicant a reasonable opportunity to consult, with a view to making the application in a form complying with all relevant application requirements, the agency then decides that the application does not comply with all such requirements, the agency must give the applicant written notice of its decision.¹³

Background

10. The access application seeks access to:¹⁴

All documents held by the Department of Justice and Attorney-General, including Crown Law, from 1 January 2025 to the present that:

⁷ See section 21 of the HR Act.

⁸ *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]. OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by Queensland Civil and Administrative Tribunal Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw '*no reason to differ*' from our position ([23]).

⁹ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹⁰ *XYZ* at [573].

¹¹ Section 24(2)(b) of the RTI Act.

¹² Section 33(2) and (3) of the RTI Act.

¹³ Section 33(6) of the RTI Act.

¹⁴ The wording of the access application has been edited lightly, in order to protect the applicant's privacy and avoid the unnecessary disclosure of personal information.

(a) reference [edited for privacy reasons] ... or any earlier known title or reference including the word ... [edited for privacy reasons] in connection with Amazon, Amazon.com.au, Kindle, or other book retailers/platforms;

(b) concern requests, recommendations, discussions, or actions to restrict, remove, geo-block, de-list, or otherwise limit availability of the book (whether in draft, proposed, or published form);

(c) record contacts with Amazon or other retailers about the book or the author;

(d) include legal, defamation, or risk assessments/briefing notes regarding the book's anticipated or actual publication and distribution.

Please ensure searches include Crown Law and all relevant ministerial briefing files.

11. The Department wrote to the applicant¹⁵ informing her how the access application, in its view, did not give sufficient information concerning the requested documents to enable them to be located by Departmental RTI officers and provided the applicant with a reasonable opportunity to consult in accordance with section 33(2) of the RTI Act.

12. The applicant replied to the Department's correspondence¹⁶ stating:

My application should include searches across:

- Crown Law
- Ministerial briefing files (Attorney-General's Office)
- Justice Policy and Reform
- Portfolio Governance and Executive Services
- Any other business areas likely to hold relevant documents

13. The Department remained of the view that the access application did not comply with all application requirements, and decided to refuse to deal with the application under section 33(6) of the RTI Act stating:¹⁷

You wrote to us on 4 September 2025 ... however you were still unclear as to where in DoJ you believed the documents were held, Any other business areas likely to hold relevant documents, and therefore did not provide sufficient information to enable us to identify the documents you were seeking to access.

Preliminary view

14. Following receipt of the applicant's external review application, OIC¹⁸ wrote to the Department by letter dated 16 October 2025 providing a preliminary view that the access application satisfied the requirements under section 24(2)(b) of the RTI Act and advised:¹⁹

There are sound practical reasons for an application clearly and unambiguously identifying documents; it sets the parameters for the Department's response and the direction of the Department's search efforts. However, difficulties in identifying what documents are sought must be distinguished from difficulties that may be encountered in processing an application.

Importantly, the requirement on an applicant to provide 'sufficient information' does not extend to knowing the details of an agency's record-keeping system and where records may be held. That obligation rests with the responsible officer of the agency.

¹⁵ Letter dated 2 September 2025.

¹⁶ By email dated 4 September 2025.

¹⁷ Letter dated 29 September 2025.

¹⁸ Acting under delegation, under section 145 of the RTI Act.

¹⁹ Footnotes omitted.

In this case, the terms of the application, as supplemented by the applicant's 4 September 2025 correspondence, clearly state the subject matter of requested documents, going on to nominate several divisions of the Department as areas where relevant documents may be located.

The mere reference by the applicant to 'any other business units likely to hold relevant documents' does not, of itself, the applicant's access application is so broad or ambiguous that it fails to satisfy section 24(2)(b) of the RTI Act – noting, again, that applicants are not obliged to have comprehensive knowledge as to where relevant documents may be located. The application contains sufficient information to permit the Department to identify documents and undertake searches; should the applicant subsequently consider the Department has failed to locate all relevant documents, she may then agitate that issue on review – that, however, is a separate, secondary question beyond the threshold question in issue in this review.

In summary, my preliminary view is that an application for documents:

- *concerning defined subject matter,*
- *for a specific, relatively limited time period; and*
- *which nominates potentially relevant Departmental divisions or units –*

is one which, reasonably construed, gives sufficient information as required under section 24(2)(b) of the RTI Act.

Accordingly, I do not consider the Department may refuse to deal with this application under section 33(6) of the RTI Act.

15. OIC then notified the Department about a possible direction under section 110A of the RTI Act, and invited its views on the matters set out in section 110A(1) of the RTI Act.

Department's submissions

16. The Department did not accept the preliminary view and maintained²⁰ the access application is noncompliant with section 24(2) of the RTI Act:

While I acknowledge an attempt at identifying the business areas likely to hold documents, the applicant made no attempt at providing any details of the subject matter of the documents she was seeking. As discussed in...[the OIC's] preliminary view there are sound practical reasons for clearly and unambiguously identifying the documents and the parameters DoJ's search efforts should take. It is our submission that the amended scope made no difference to the already ambiguous scope.

The identification of Crown Law, Justice Policy and Reform and Portfolio Governance and Executive Services as well as the Office of the Attorney-General, may appear to have provided enough scope to identify the documents however, these business areas include two DoJ Divisions along with an agency which is separate to DoJ (the Attorney-General), leaving only Crown Law. In addition to this and the main matter arising from [the OIC's] preliminary view, the Applicant has also included 'any other business areas likely to hold relevant documents' (relevant statement).

The Applicant's scope was written in such a manner as to include ambiguity. While not initially addressed in the decision letter of 29 September 2025 it is our submission that the inclusion of the Relevant Statement was done to ensure a "catch all" approach to the application.

²⁰ By letter dated 12 November 2025.

Further evidence of this includes the use of phrases such as ‘all relevant ministerial briefing file’, and ‘or any other known title.’ These continue to broaden the subject matter to the point that we are unable to clearly define the scope of her application. ...

As was the case in her initial application the Applicant continued to include terminology that kept the scope of her application so broad that we are unable to ascertain precisely where the documents may be held. It is our submission that the inclusion of the relevant statement is not a ‘mere reference’ but a deliberate obfuscation of the scope of her application. The outcome of which has provided no further clarification on where the Applicant believes the documents would be held.

Discussion and findings

17. Section 3(2) of the RTI Act states that the Act ‘*must be applied and interpreted to further the primary object*’.
18. Consistent with the object of the RTI Act, the obligation under section 24(2)(b) of the RTI Act requires an applicant to provide ‘sufficient information’ concerning a requested document so as to enable an agency or Minister to identify the document. Similarly, an agency or Minister should not expect an applicant will generally have detailed knowledge of the types of documents an agency or Minister holds or where a requested document may be held. An access application should be interpreted fairly by an agency or Minister, with an eye to what the applicant is trying to describe, regardless of the words or terms used. Taking an overly technical or legalistic approach to the terms of an access application should be avoided. As such, if an agency or Minister can fairly and reasonably understand what document an applicant is seeking and can search for that document, it should not insist on the precise or possible description of the document or its location before accepting the access application as complying with section 24(2) of the RTI Act.
19. Having reviewed the terms of the applicant’s request and further correspondence between the agency and OIC with the applicant, I am satisfied the access application meets the requirements of section 24(2)(b) of the RTI Act.
20. The access application, along with the applicant’s subsequent email²¹ sets out with sufficient specificity the subject matter of the requested documents, and several potentially relevant Departmental divisions or business units where any relevant documents may be located. I do not accept that the access application and this email, which includes some additional ‘catch-all’ wording, introduces ambiguity or scope such as to render the access application non-compliant.
21. I also note that the access application contains sufficient information to enable the Department to identify requested documents²² as acknowledged by the Department in its submissions²³ in which it advised that it had undertaken document searches in one of the business units nominated in the access application as a result of this external review.
22. The Department bears the onus of justifying the decision under review.²⁴ For the reasons explained above, I do not consider the Department has discharged that onus in this case. In these circumstances, I have decided to set aside the reviewable decision.

Section 110A of the RTI Act

²¹ Dated 4 September 2025.

²² Or, at least, where to conduct searches for same.

²³ To OIC dated 12 November 2025.

²⁴ Under section 87 of the RTI Act.

23. The next issue to be resolved is whether to set aside the reviewable decision under section 110(1)(c) or section 110(1)(d) of the RTI Act. The Right to Information Commissioner recently explained the distinction between each of these provisions, in the first OIC decision exercising the power conferred by the latter:²⁵
9. *Section 110(1)(c) of the RTI Act relevantly empowers the Information Commissioner (or delegate) to set aside the decision under review, and make a decision in substitution.*
 10. *Section 110(1)(d) also permits the Information Commissioner to set aside a reviewable decision, but rather than making a decision in substitution, to instead give a direction under, relevantly, section 110A of the RTI Act.*
 11. *Section 110A of the RTI Act, in turn, essentially comprises a remittal power. Section 110A authorises the Information Commissioner to give a notice to an agency, stating that a 'relevant decision' is set aside and directing the agency to decide whether access is to be given to the 'Subject Documents', i.e the documents the subject of – requested in – the relevant access application.*
24. In accordance with section 110A(1)(a) of the RTI Act, the remittal or referral power discussed above may be exercised where:
- (a) *the information commissioner would, other than for this section, have decided to set aside the relevant decision and make a decision in substitution for the relevant decision under section 110(1)(c); and*
 - (b) *the commissioner believes it would be more efficient and effective for the agency or Minister to consider whether access is to be given to the subject documents than for the commissioner to make a decision in substitution for the relevant decision under section 110(1)(c); and*
 - (c) *the commissioner believes that if the agency or Minister were to consider whether access is to be given to the subject documents, it is reasonably likely the agency or Minister would be able to make a decision that is consistent with the primary object of this Act.*
25. Prior to giving a notice under section 110A(2) of the RTI Act, that provision requires the Information Commissioner to consult with the agency concerned about the matters prescribed in section 110A(1)(a)-(c) of the RTI Act (set out in the preceding paragraph).

Consideration

26. The reviewable decision is a 'relevant decision' for the purposes of section 110A of the RTI Act. Further, as noted in paragraph 15, OIC staff consulted with the Department in a letter dated 16 October 2025. The Department offered no specific comment on any of these matters.
27. In the circumstances, I consider that the appropriate course of action is to make a decision under section 110(1)(d) of the RTI Act to set aside the reviewable decision,²⁶ and give notice to the Department directing it to decide whether access is to be given to the documents requested in the access application (the '**Subject Documents**').²⁷
28. In making this decision I am satisfied that each of the matters in section 110A(1)(a)-(c) of the RTI Act (see paragraph 24 above) are met. If not for section 110A of the RTI Act, I would²⁸ have made a decision under section 110(1)(c) setting aside the Department's

²⁵ B52 and Queensland Police Service [2025] QICmr 86 (18 November 2025) (Footnote omitted).

²⁶ Which is, as noted, a 'relevant decision' for the purposes of section 110A: section 110A(5) of the RTI Act.

²⁷ Defined in section 110A(5) of the RTI Act.

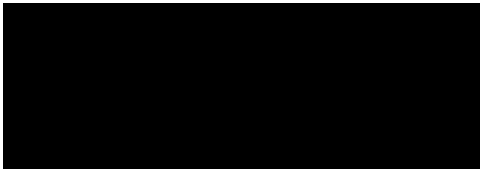
²⁸ For the reasons explained at paragraphs 17-22.

decision and substituting a decision that it was not entitled to refuse to deal with the access application.

29. I am also persuaded that the most efficient and effective course of action is for the Department to consider whether access is to be given to the documents requested in the access application. In this regard, I note that sections 110A(3) and (4) of the RTI Act set out the manner in which that consideration should proceed.
30. Finally, there is nothing before me to suggest that the Department would not be able to make a decision in relation to the requested documents consistent with the primary object of the RTI Act.²⁹

DECISION AND DIRECTION

31. For the reasons set out above, I set aside the reviewable decision.³⁰
32. Under section 110A(2) of the RTI Act, I give notice directing the Department to decide whether access is to be given to the Subject Documents, as if the ground for making the reviewable decision did not apply in relation to the Subject Documents, consistently with the conditions for a notice of this kind under sections 110A(3)-(4) of the RTI Act.



Joanne Kummrow
Information Commissioner

Date: 12 December 2025

²⁹ Relevantly, section 3(1)(a) of the RTI Act.

³⁰ Under section 110(1)(d) of the RTI Act.