



Decision and Reasons for Decision

Citation:	<i>L35 and Department of Housing and Public Works [2025] QICmr 42 (25 June 2025)</i>
Application Number:	318570
Applicant:	L35
Respondent:	Department of Housing and Public Works
Decision Date:	25 June 2025
Catchwords:	ADMINISTRATIVE LAW - INFORMATION PRIVACY ACT - noncompliance with application requirement – section 53 of the <i>Information Privacy Act 2009</i> (Qld) – whether the agency was entitled to decide an application does not comply with all relevant application requirements – requirement to provide evidence of identity

REASONS FOR DECISION

Summary

1. The applicant applied to the Department of Housing and Public Works (**Department**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to certain documents.¹
2. The Department refused to deal with the Access Application under section 53(6) of the IP Act,² on the basis the mandatory identification requirements³ necessary for a valid access application had not been met.
3. The applicant applied to the Office of the Information Commissioner for external review of the Department's decision.⁴
4. I affirm the Department's decision. The Department was entitled to refuse to deal with the Access Application, under section 53 of the IP Act.

Relevant law

5. In making an access application, an applicant must provide evidence of identity either with the application or within 10 business days after making the application.⁵ Evidence of identity means a document verifying the person's identity and relevantly includes a passport, copy of a certificate or extract from a register of births, driver licence, or a statutory declaration from an individual who has known the person for at least 1 year.⁶

¹ The '**Access Application**', dated 12 March 2025.

² Decision dated 1 April 2025 – the decision under review in this matter.

³ Section 43(3)(a) of the IP Act, and section 3 of the *Information Privacy Regulation 2009* (Qld) (**IP Regulation**).

⁴ The Department's decision being a reviewable decision: definition of 'reviewable decision' in schedule 5 of the IP Act.

⁵ Section 43(3)(a) of the IP Act.

⁶ Section 3(1) of the IP Regulation.

6. If a person purports to make an access application and the application does not comply with all relevant application requirements, the agency must:⁷
 - make reasonable efforts to contact the person within 15 days after the purported application is received
 - inform the person how the application does not comply with the relevant application requirements; and
 - give the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements.
7. 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 prescribed written notice of the decision.⁸

Findings

8. The Department followed the steps prescribed in sections 53(2) and (3) of the IP Act as outlined in paragraph 6 above.⁹ The applicant having not provided identification as required, the Department gave the applicant prescribed written notice of its decision to refuse to deal with his Access Application under section 53(6) of the IP Act.¹⁰
9. By letter dated 6 June 2025, I wrote to the applicant, explaining that, in my preliminary view, the Department's decision appeared justified (footnotes omitted):

...the Department decided to refuse to deal with your access application on the grounds your application was non-compliant with an application requirement.

Under the IP Act, an applicant must provide evidence of their identity within 10 business days of making an application. There is nothing before me to indicate that you complied with this requirement. Accordingly, it is my preliminary assessment that your access application is non-compliant. This means the Department may refuse to deal with your application.

10. The applicant replied to my preliminary view by email dated 7 June 2025. This email did not engage with my preliminary view, but simply stated 'See online publication,' following which comment was set out what appears to be a screenshot from a website concerning alleged corruption. Importantly, the applicant's email contained nothing contesting my preliminary view that the applicant had not complied with the mandatory identity requirement imposed by section 43(3)(a) of the IP Act in making the Access Application.
11. Accordingly, I can identify nothing in the information before me to cause me to revisit the preliminary view quoted in paragraph 9 above. I therefore adopt that view as final for the purposes of this decision. As the applicant did not comply with the requirements of section 43(3)(a) of the IP Act, the Department was entitled to refuse to deal with the Access Application, under section 53 of the IP Act.

⁷ Section 53(2) and (3) of the IP Act.

⁸ Section 53(6) of the IP Act.

⁹ See the Department's email to the applicant dated 18 March 2025 notifying of noncompliance under section 43(3)(a) of the IP Act and requesting evidence of identity compliant with the requirements of the IP Regulation.

¹⁰le, the decision under review.

DECISION

12. For the reasons set out above, I affirm the decision under review and find that the Department was entitled to refuse to deal with the Access Application under section 53 of the IP Act, on the basis that the application does not comply with all relevant application requirements.
13. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.
14. In making this decision, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.¹¹ 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 *Right to Information Act 2009* (Qld).¹² I have acted in this way in reaching my decision, in accordance with section 58(1) of the HR Act.

Jim Forbes
Assistant Information Commissioner

Date: 25 June 2025

¹¹ Section 21(2) of the HR Act.

¹² *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. The Information Commissioner's approach to the HR Act set out in this paragraph has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw 'no reason to differ' from our position [23].