

Decision and Reasons for Decision

Citation:	<i>A98 and Sunshine Coast Hospital and Health Service [2026] QICmr 8 (22 January 2026)</i>
Application Number:	318142
Applicant:	A98
Respondent:	Sunshine Coast Hospital and Health Service
Decision Date:	22 January 2026

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - request for deceased relative's medical records - applicant submits additional documents should exist - whether agency has conducted reasonable searches and inquiries - whether access to documents may be refused on the basis they are nonexistent or unlocatable - sections 47(3)(e) and 52(1) of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to Sunshine Coast Hospital and Health Service (**SCHHS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**)¹ for access to her late mother's medical records held by Sunshine Coast University Hospital (**Hospital**).²
2. SCHHS located 302 pages and decided to release them in full to the applicant.³
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of SCHHS's decision on the basis that she considered further documents exist that should have been located.⁴ During the review:
 - SCHHS conducted further searches and located a total of an additional 224 pages, agreeing to disclose them in full to the applicant⁵

¹ On 1 July 2025, key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act. As the applicant's application was made before this change, the RTI Act **as in force prior to 1 July 2025** remains 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 in this decision is to that Act **as in force prior to 1 July 2025**.

² Access application dated 16 November 2023.

³ Decision dated 1 July 2024. This is the *reviewable decision* for the purpose of this external review.

⁴ Email dated 23 July 2024.

⁵ SCHHS disclosed to the applicant 222 pages on 7 May 2025 and 2 pages on 5 December 2025. On 7 May 2025, SCHHS also provided the applicant with a fresh copy of the released documents with 10 blank pages, which had been omitted prior to the original release to the applicant, reinserted into the bundle of documents.

- OIC advised⁶ the applicant of the outcome of the searches and conveyed⁷ the preliminary view that all reasonable steps had been taken to identify and locate documents relevant to the access application and access to further documents could be refused on the basis they are nonexistent or unlocatable;⁸ and
 - the applicant made extensive submissions and remains concerned that further documents exist that should have been located by SCHHS.⁹
4. I have therefore considered the reasonableness of SCHHS's searches and made a finding about whether access to further documents may be refused on the basis they are nonexistent or unlocatable.¹⁰
 5. In making this decision, I have taken into account evidence, submissions, legislation and other material set out in these reasons (including footnotes). I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information and in doing so, have acted in accordance with section 58(1) of the HR Act.¹¹
 6. For the reasons explained below, I vary SCHHS's decision and find that access to further documents may be refused on the basis they are nonexistent or unlocatable.¹²

Relevant law

7. The RTI Act provides individuals with a general right to access documents held by a Queensland government agency.¹³ While the legislation is to be administered with a pro-disclosure bias,¹⁴ the right of access is subject to certain limitations, including grounds for refusing access.¹⁵
8. Relevantly, access to a document may be refused if it is nonexistent or unlocatable.¹⁶ A document will be nonexistent if there are reasonable grounds to be satisfied it does not exist.¹⁷ A document will be unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document, but it cannot be found.¹⁸
9. To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency's structure, its recordkeeping practices and procedures and the nature and age of requested documents.¹⁹ By considering relevant key factors, a decision-maker may conclude that a particular document was not created because, for example the agency's processes do not require creation of that specific document. In such instances, it is not

⁶ Letters/emails dated 14 November 2024, 2 May 2025, 8 August 2025, 18 September 2025 and 5 December 2025.

⁷ Letters/emails dated 14 November 2024, 8 August 2025, 18 September 2025 and 5 December 2025.

⁸ Under section 52(1) of the RTI Act.

⁹ Submissions dated 20 February 2025, 24 March 2025, 13 and 18 June 2025, 25 August 2025, 2 October 2025, and 11 and 14 January 2026. The applicant also raised matters which fall outside the Information Commissioner's jurisdiction, and she was informed of this by correspondence dated 11 March 2025 and 16 July 2025.

¹⁰ Sections 47(3)(e) and 52(1) of the RTI Act.

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

¹² Under sections 47(3)(e) and 52(1) of the RTI Act.

¹³ Section 23 of the RTI Act.

¹⁴ Section 44 of the RTI Act.

¹⁵ Section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: see section 47(2)(a) of the RTI Act.

¹⁶ Sections 47(3)(e) and 52 of the RTI Act.

¹⁷ Section 52(1)(a) of the RTI Act.

¹⁸ Section 52(1)(b) of the RTI Act.

¹⁹ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[38]. These factors were more recently considered in *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [15], *T12 and Queensland Police Service* [2024] QICmr 8 (20 February 2024) at [12], and *G43 and Office of the Director of Public Prosecutions* [2023] QICmr 50 (12 September 2023) at [19].

necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained.

10. Where searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.²⁰
11. On an external review, the agency or Minister who 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.²¹ However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation to locate all relevant documents.²² Suspicion and mere assertion will not satisfy this onus.²³

Searches, evidence and submissions

12. The applicant sought access to '*all medical records*' relating to her late mother held by the Hospital and specified numerous types of documents that her request included, but was not limited to.²⁴ As noted at paragraph 2, SCHHS located 302 pages and disclosed them in full to the applicant. In seeking an external review, the applicant submitted '*I didn't get all documents requested*'.²⁵
13. SCHHS provided OIC with a submission outlining the searches conducted during the processing of the access application, which revealed:²⁶
 - searches were conducted of the following information systems:
 - '*Integrated Electronic Medical Record (ieMR)*'
 - '*Auslab (Pathology)*'
 - '*SCHHS Xero (Medical Imaging)*'
 - '*Electronic Discharge Summary (EDS)*'
 - '*Fluency for transcription (Medical Typist Correspondence Letters)*'
 - '*Consumer Integrated Mental Health and Addiction (CIMHA)*'
 - searches used the applicant's late mother's name (and variations) and the date range between 1 July 2023 to 16 November 2023
 - targeted searches with two specific hospital staff, particularly for documents regarding specialist meetings, revealed that all information documented for the applicant's late mother would be held in either the ieMR or on MetaVision, which is the information database used by the Intensive Care Unit (ICU)
 - the relevant doctor within the ICU confirmed that MetaVision '*documentation had been printed and uploaded into the ieMR*' and '*all information he documented for this patient would be either in the ieMR or on [MetaVision]*'

²⁰ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 102 of the RTI Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb v Information Commissioner* [2021] QCATA 116 at [6] that the RTI Act '*does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents*' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

²¹ Section 87(1) of the RTI Act.

²² See *Mewburn and Department of Local Government, Community Recovery and Resilience* [2014] QICmr 43 (31 October 2014) at [13].

²³ See *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

²⁴ Access application dated 16 November 2023.

²⁵ External review application dated 23 July 2024.

²⁶ Submission dated 6 September 2024 following OIC's request dated 28 August 2024.

- the Hospital *'does not hold call logs, transcriptions and/or recordings from phone contact'*
 - the relevant social worker confirmed *'all information relevant to patient care is entered into the ieMR'*
 - in relation to how specialists' meetings are documented within the ICU, doctors write their notes in relation to patient care in the ieMR and the *'meeting notes will have their own label/ heading in the progress notes section'*
 - all medical staff mentioned in the access application had documented their interactions and assessments in the ieMR; and
 - as the ieMR is the main source of information for all clinical documentation, it is likely the information sought will be within those records.
14. After SCHHS's above submissions were conveyed to the applicant,²⁷ she maintained that further documents were missing and provided OIC with a table including references to specific documents that she submitted had not been included in the released documents.²⁸ SCHHS then conducted²⁹ additional searches of MetaVision, network drives and electronic files and made enquiries with the relevant social worker who undertook further searches for any transcripts of meetings, internal memos, and emails in relation to the applicant's late mother and her family.³⁰ These further searches resulted in SCHHS locating an additional 222 pages, which SCHHS agreed to disclose to the applicant in full.³¹ SCHHS explained that some of the additional documents located had been incorrectly attached to Nambour General Hospital encounters and were therefore not generating in the Hospital ieMR report for the applicant's late mother.³²
15. After considering the outcome of the searches and SCHHS's responses to her concerns,³³ the applicant submitted that further documents should exist:³⁴
- *'fluid balance and observation charts for [a specified] date range remain absent'*
 - the *'medical file still lacks proper documentation of this major deterioration event'*, as only a single brief note regarding intubation is present and there *'is no record of procedural forms, clinical assessments, clinical deterioration forms/investigations, incident forms, or treatment plans'*
 - *'there is no CT of the brain (or report) in the file that documents these findings'*
 - while *'there is a summary of the fistula ultrasound conducted by the Sonographer, ... this cannot be described as a prelim report done by a Registrar, therefore this document is also missing'*; and
 - she has been advised by the Queensland Ambulance Service that ambulance transfer records are *'handed over to the hospital upon transfer'* and she would have to seek this information from SCHHS, however despite requesting this documentation, *'the information is missing from the file.'*
16. After conducting³⁵ additional enquiries with Medical Records staff and staff from the Hospital ward regarding the applicant's concerns, SCHHS submitted:³⁶

²⁷ Email dated 14 November 2024.

²⁸ Submission dated 20 February 2025.

²⁹ Following OIC providing a copy of the table to SCHHS by letter dated 27 March 2025, after obtaining the applicant's consent to disclosure on 24 March 2025.

³⁰ Submission dated 17 April 2025 and attached search certification and records forms completed by relevant SCHHS staff.

³¹ SCHHS confirmed by email dated 7 May 2025 that the additional 222 pages had been provided to the applicant.

³² Submission dated 17 April 2025. SCHHS also explained that requests had been made for documents to be attached to the correct encounter/hospital in ieMR.

³³ Which were conveyed to the applicant by letter dated 2 May 2025.

³⁴ Submission dated 13 and 18 June 2025.

³⁵ Following a request from OIC dated 16 July 2025.

³⁶ Letter dated 28 July 2025.

SCHHS has confirmed that all documents relevant to the access application and in relation to this patient's encounter have been provided. The staff from the ward have confirmed that they do not hold any transfer documentation in their department.

17. After considering SCHHS's further explanation,³⁷ the applicant submitted the documents she seeks are 'documents that would be expected to exist, supported by NSQHS [National Safety and Quality Health Service] standards, therapeutic guidelines, clinical governance protocols and applicable HHS policy frameworks' and due to 'the gross filing errors already identified' in this matter, there 'is a reasonable basis for expecting the documents to be found outside of ordinary filing or search parameters a document search from the backup system should be required'.³⁸

18. Regarding backup systems, SCHHS submitted:³⁹

... our Information Technology (IT) Department ... have confirmed that there are backup systems in place in the case of system outages or interruptions that impact standard business operations. These backup systems contain information that has already been entered into the relevant information systems. Whilst Sunshine Coast Health have backup systems, there is no documentation/notation in the medical record to indicate there were any outages/interruptions within [the period of] admission, therefore, I do not find it is warranted to perform this search as there will not be any additional information within the backup system.

19. In relation to the applicant's ongoing concerns relating to missing documents, SCHHS further submitted:⁴⁰

The 'Observations and Fluid Balance Discharge' sheets ... are documents downloaded from the MetaVision information system. As previously explained, the Intensive Care Unit (ICU) have their own information system that all patient information and observations are entered into while the patient is being treated in their department. When patients are not admitted to the ICU, patient information and observations are entered into the Integrated Electronic Medical Record (ieMR). The observations documented within the ICU 'Observations and Fluid Balance Discharge' sheets, can be found in various locations throughout the ieMR. Through a quick search of the ieMR I have identified the following as a start:

- Heart Rate (HR) observations, fluid assessment's, blood pressure, temperatures, respiratory rates, oxygen levels can be listed in the progress notes
- Oxygen levels can also be found under the 'Respiratory' heading
- Temperatures and blood pressures can also be found under 'Vital Signs' heading
- There are references to Glucose levels under 'Diabetes-Endocrine', 'Vital Signs' and 'Chemical Pathology'

Although the observations are not documented in the same format, it would appear the medical staff were still documenting and performing the observations they deemed relevant for the treatment of the patient at the time.

20. SCHHS's above submissions were conveyed to the applicant along with OIC's preliminary view that all reasonable steps had been taken to locate the documents she seeks and access to any further documents can be refused on the ground they are nonexistent or unlocatable.⁴¹ In response, the applicant maintained her position that the documents she continues to seek should exist and that further and better searches, including of SCHHS's backup system, should be undertaken.⁴²

³⁷ Which was conveyed to the applicant by letter dated 8 August 2025. In this correspondence, OIC also identified information within the released documents which appeared to contain the information the applicant believed was missing.

³⁸ Submission dated 25 August 2025.

³⁹ Submission dated 16 September 2025 following a request from OIC dated 4 September 2025.

⁴⁰ Submission dated 16 September 2025.

⁴¹ By email dated 18 September 2025 with further clarification provided by email dated 25 September 2025, following a request dated 23 September 2025.

⁴² Submission dated 2 October 2025.

21. OIC sought clarification from SCHHS regarding whether information responding to the applicant's remaining specific concerns was contained within the located documents and whether backup system searches could be conducted.⁴³ In response, SCHHS located a preliminary report, comprising 2 pages, for the 'VI left arm arteriovenous fistula', which it agreed to disclose in full to the applicant,⁴⁴ and provided the following clarification regarding the applicant's specific ongoing concerns:⁴⁵
- ICU enters all patient information and observations within the ICU's information management system MetaVision and once a patient is transferred or discharged from the ICU, *'summary documentation extracted from MetaVision is uploaded into the Integrated Electronic Medical Record (ieMR)'*
 - *'once patients are no longer in ICU the observations are not documented in the same format as ICU's 'Observations and Fluid Balance Discharge' forms, they are locatable throughout the ieMR'*
 - enquiries with the ICU Medical Director confirmed that the *'intubation process has not been documented in the medical records either in Metavision or in ieMR'*, that there *'would not be any further information regarding intubation elsewhere'* and that the absence of intubation information in MetaVision *'appears to be an oversight from the medical team during a busy shift'*
 - *'CTB' 'refers to CT of the Brain, however the report the clinician has referenced is titled in the medical records as CT+C Head (the +C refers to 'with contrast')'*
 - regarding the 'VI left arm arteriovenous fistula - Prelim reg report' mentioned in a progress note, the report had not been finalised at the time the progress note was prepared, rather it *'was only in a preliminary status awaiting sign off'* by the vascular surgeon and while the author of the progress note *'has referred to a "Prelim reg report" assuming the author of the provisional report was a radiology registrar (as would be usual in most medical imaging) ... for vascular imaging, the provisional report is written by the vascular sonographer, and the finalised report is provided by a vascular surgeon and not a radiologist [and] the Radiologists comments are in this case the comments by the reporting vascular surgeon.'*
22. Additionally, SCHHS submitted that additional information would not be held in any of SCHHS's backup systems:⁴⁶

DHSS [Digital Health Systems Support] have advised that in the event of system outages or interruptions, Sunshine Coast Health uses a 'Downtime Viewer' (DTV). The DTV retains clinical information of patients who have presented to our Health Service within the last 7 days. The DTV is not a 'back up system' in the sense of it being a replica of the ieMR, it is a system that allows treating clinicians to view pertinent clinical information to ensure continuity of care until the outage/interruption has been rectified. As the patient has not been seen in the Health Service within the last 7 days, there is no information available from this system.

DHSS advised there is a statewide backup 'Disaster Recovery' domain which is only accessible in the event of a significant incident impacting the production domain (ieMR). If a significant incident occurs deeming the ieMR unusable, the Disaster Recovery domain is deployed. The Disaster Recovery domain is a real time, complete replica of the information on the ieMR (the production domain), therefore confirming no further information would be locatable on this domain. Further to this, it was confirmed that the Disaster Recovery backup does not allow for individual patient information to be extracted.

I have confirmed this to be the same with ICU's information system MetaVision.

⁴³ Email dated 15 October 2025.

⁴⁴ By email dated 5 December 2025, SCHHS confirmed that the 2 pages had been disclosed to the applicant.

⁴⁵ Submission dated 26 November 2025.

⁴⁶ Submission dated 26 November 2025.

23. SCHHS's above submissions were conveyed to the applicant along with OIC's preliminary view that all reasonable steps had been taken to locate the documents she seeks and access to any further documents can be refused on the ground they are nonexistent or unlocatable.⁴⁷ However, the applicant maintains:⁴⁸
- SCHHS holds '*documents it has repeatedly asserted to [her] do not exist*' which she has received in response to an access application she made to the Office of the Health Ombudsman (OHO)
 - the documents received from OHO were '*held under a different patient name to the medical file*'. While the other patient file had the same first and last name, the middle name was different and not a name that her late mother had used with the Hospital or SCHHS
 - the disclosure of the documents by OHO which were located under another patient name raises '*concerns about the reliability of representations previously made regarding the appropriateness of searches undertaken, and whether assertions relied upon during the review process remain sound*'; and
 - that '*an independent forensic data audit of the patient record*' should be conducted.
24. The applicant declined to provide OIC with further details or copies of the documents disclosed to her by OHO which she contends SCHHS has not located in response to her access application, stating her reference to documents apparently provided by SCHHS to OHO '*was made simply to let you know about them, so that all relevant information is available and taken into account*' and '*I do not seek to rely on such material in this review*'.⁴⁹

Findings

25. As demonstrated by the information set out in paragraphs 12 to 24, as a result of further searches and inquiries undertaken on external review, SCHHS was able to locate additional information relevant to the care of the applicant's late mother.
26. Having examined the information before me, including the outcome of SCHHS's further searches and inquiries with relevant officers and submissions regarding the backup systems, I am satisfied that SCHHS has now taken all reasonable steps to locate relevant documents and that access to further documents, may be refused on the basis that such documents are nonexistent or unlocatable. While I accept that the applicant has ongoing concerns that additional documents exist on another patient file with an alternate middle name, I note that SCHHS located and disclosed to the applicant documents located within the other patient file, being an EEG report and progress notes.⁵⁰ Further, as the applicant has declined to provide additional details about or copies of the documents disclosed to her by OHO from the other patient file, there is insufficient evidence before me upon which I could reasonably require SCHHS to conduct further searches.
27. I acknowledge the documents located by SCHHS have not met the applicant's expectations regarding documents that she submits should have been created regarding her late mother's care. However, the test I am required to apply in this case is whether *all reasonable steps* have been taken by SCHHS to locate the documents sought. All *reasonable steps* is not the same as all *possible steps* and a finding can be made that

⁴⁷ By email dated 5 December 2025.

⁴⁸ Submission dated 11 January 2026.

⁴⁹ Submission dated 14 January 2026, following a request from OIC dated 13 January 2026.

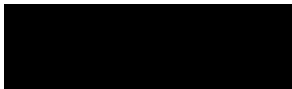
⁵⁰ Located at pages 1-2 and 5-6 of the 222 additional pages disclosed to the applicant in May 2025.

all reasonable steps have been taken *'even if, at least in theory, further and better searches might possibly disclose additional documents.'*⁵¹

28. Based on the information before me, including the located documents, SCHHS's search records and submissions, I am satisfied that SCHHS has conducted searches in locations where it would be reasonable to expect documents relevant to the application to be found. I also consider that inquiries with relevant departments and staff within the Hospital were appropriate avenues to pursue in the circumstances of this case, as those departments and staff were directly involved in the care of the applicant's late mother. While I acknowledge that it took several rounds of searches and inquiries by SCHHS to locate relevant documents, in the circumstances of this case I find that there are no further reasonable searches that SCHHS could undertake.
29. For the reasons set out above, I find that SCHHS has taken all reasonable steps to locate documents relevant to the scope of the access application, and access may be refused to any further documents on the basis they are nonexistent or unlocatable.⁵²

DECISION

30. For the reasons set out above, I vary the reviewable decision⁵³ and find that SCHHS has taken all reasonable steps in searching for the further documents and access to any additional documents may be refused pursuant to sections 47(3)(e) and 52(1) of the RTI Act on the basis that they do not exist or are unlocatable.
31. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.



K McGuire
Acting Manager, Right to Information

Date: 22 January 2026

⁵¹ *Webb v Information Commissioner* [2021] QCATA 116.

⁵² Under section 47(3)(e) and 52(1) of the RTI Act. In the circumstances of this case, I do not consider SCHHS was required to undertake a backup system search under section 52(2) of the RTI Act.

⁵³ Under section 110(1)(b) of the RTI Act.