



Decision and Reasons for Decision

Citation:	<i>A48 and Queensland Police Service [2025] QICmr 46 (21 July 2025)</i>
Application Number:	318209
Applicant:	A48
Respondent:	Queensland Police Service
Decision Date:	21 July 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - SUBSTANTIAL AND UNREASONABLE DIVERSION OF RESOURCES - request for documents relating to the applicant's interactions with the agency in connection with her property, complaints and animals - over 700 minutes of audio and video recordings identified as responsive to application - whether dealing with the application would substantially and unreasonably divert agency's resources - section 41 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Background

1. The applicant applied¹ to the Queensland Police Service (**QPS**) under the *Right to Information Act 2009* (Qld) (**RTI Act**)² for access to all information in connection with incidents relating to her, her address and other addresses, including phone calls and body camera footage, over a period of approximately one year.
2. Following receipt of the application, QPS engaged with the applicant to clarify certain aspects of her request and revise the scope of the application.³ However, ultimately, QPS did not make a decision within the time allowed under the RTI Act and was therefore deemed to have made a decision refusing access to the requested documents under section 46(1) of the RTI Act.⁴ The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of the deemed decision.
3. On external review, QPS submitted⁶ that processing the access application would be a substantial and unreasonable diversion of resources relying primarily on the quantity of located audio and video footage (over 700 minutes). QPS proposed the scope of the request be narrowed to written documents to enable it to be processed. The applicant declined to reduce the scope of her application.⁷

¹ Access application dated 26 April 2024.

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the RTI Act. References to the RTI Act in this decision are to the RTI Act **as in force prior to 1 July 2025**. This is in accordance with Chapter 7 Part 9 of the RTI Act, comprising transitional provisions requiring that access applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.

³ A revised scope was agreed upon with the applicant on 24 July 2024.

⁴ Advised to the applicant by deemed decision notice dated 30 August 2024.

⁵ External review application dated 30 August 2024.

⁶ Submissions to OIC dated 13 February 2025.

⁷ Submissions to OIC dated 9 May 2025.

4. In reaching my decision in this matter, I have taken into account evidence, submissions, legislation and other material as set out in these reasons (including footnotes).⁸ 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, I have acted in accordance with section 58(1) of the HR Act.
5. For the reasons set out below, I set aside QPS's deemed decision. In substitution, I find the work involved in dealing with the application would, if carried out be a substantial and unreasonable diversion of QPS's resources and accordingly, I refuse to deal with the application.⁹

Relevant law

6. An agency is required to deal with an access application unless doing so would, on balance, be contrary to the public interest.¹⁰ Section 41(1) of the RTI Act permits an agency to refuse to deal with an application if the agency considers the work involved in dealing with the application 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.
7. The phrase '*substantially and unreasonably*' is not defined in the RTI Act, nor in the *Acts Interpretation Act 1954* (Qld) (**AI Act**). It is therefore appropriate to consider the ordinary meaning of these words.¹¹ The dictionary definitions¹² of those terms relevantly provide:
 - '*substantial*' means '*of ample or considerable amount, quantity, size, etc.*'
 - '*unreasonable*' means '*exceeding the bounds of reason; immoderate; exorbitant.*'
8. In deciding whether dealing with an application would substantially and unreasonably divert an agency's resources from the performance of its functions, a decision-maker must not have regard to any reasons the applicant gives for applying for access or any belief they may hold about the applicant's reasons for applying for access.¹³ The decision-maker must have regard to the resources that would be used for:¹⁴
 - identifying, locating or collating the documents, or
 - deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations, or
 - making copies or editing copies of any documents, or
 - notifying any final decision on the application.
9. Assessing whether the work involved in processing a given application would, if carried out, substantially and unreasonably divert resources is a question of fact to be assessed in each individual case, taking into account a given agency's operations and resources.¹⁵
10. An agency may only refuse to deal with an application under section 41 of the RTI Act if a procedural prerequisite has been met – giving the applicant an opportunity to narrow the scope of the application, so as to re-frame it into a form that can be processed.¹⁶ The applicant is to be given the benefit of any information an agency may be able to supply to help with this narrowing process, as far as is reasonably practicable.

⁸ Including the applicant's external review application dated 30 August 2024 and email dated 5 March 2025.

⁹ Under section 41(1)(a) of the RTI Act.

¹⁰ Section 39(1) of the RTI Act.

¹¹ Section 14B of the AI Act.

¹² Macquarie Dictionary Online accessed at www.macquariedictionary.com.au and Collins Dictionary, 3rd Australian Edition respectively.

¹³ Section 41(3) of the RTI Act.

¹⁴ Section 41(2) of the RTI Act. The word 'or' as it appears in this provision indicates that a finding of a substantial and unreasonable diversion of resources can be made on the basis of one or some of the subsections alone rather than having a cumulative effect.

¹⁵ *Davies and Department of Prime Minister and Cabinet* [2013] AICmr 10 (22 February 2013) at [28].

¹⁶ Section 42(1) of the RTI Act.

11. For an external review, the RTI Act does not expressly address the procedure to be followed by the Information Commissioner before deciding to refuse to deal with an application on the ground that doing so would substantially and unreasonably divert an agency's resources from the performance of its functions. The Information Commissioner, or their delegate, has the power to decide any matter in relation to an application that could have been decided by the agency; and is required to identify opportunities for early resolution and to promote settlement of external review applications. The procedure to be taken is, subject to the RTI Act, at the discretion of the Information Commissioner.¹⁷

Evidence and submissions

12. The revised scope of the access application is relevant for the purpose of this review. QPS set it out as follows in the notice of deemed decision issued to the applicant:¹⁸

Revised scope as at 24 July 2024:

1. All call logs and notes regarding my calls [from two mobile numbers] from and to police (Policesquad [Stock Squad], police link, ... police, police BN) ...
 - o - Call logs are not kept at stations – they do not exist
 - o - searches can be undertaken for calls from the nominated numbers to Policelink only. - you are saying police stations do not record calls? - then can I ask to send the internal memos of these calls made?
2. All Body cam footage relating to my name and my address (as well visits to [the applicant's address] regarding my complaint)
 - o - Searches cannot be undertaken for body cam footage in relation to your name
 - o - Searches can be undertaken for Body Worn Camera footage in relation to incidents recorded on the QPRIME computer database in relation to matters involving you and officers from ... Station and ... Stock Squad. - Yes Please
3. All Body cam footage pertaining to my name and the delivery of my summons I lodged to 4 people ([four named individuals])
 - o - Insufficient information to conduct searches
 - o - please provide information to identify the incident for which police delivered summonses lodged by you – what type of matter/when/etc -
 - o ALL Incidents relating to the damage and attacks to me and my animals and the killing of our purebred stallion ...:
 1. Summons served to [named individual] on or around the 13 th November 2023
 - o 2. Summons served to [named individual] on the 19/04/24
 - o 3. Summons served to [named individual] on the 24/04/24
 - o 4. Summons served to [named individual] - I do not know the date (please check with ... Police who was to serve it to him) - I know it was very recently!
 - 4. All (sic) list of people who have been interviewed so far regarding the killing and poisoning of our horses by ... Stock Squad/... police

The QPRIME computer database is able to be searched for this incident as the information provided is able to identify the correct report- Nil further required from you. - Ok thank you
5. All internal notes of those interviews mentioned at point 4. Able to be searched in QPRIME as advised at point 4 – Nil further required from you. – Ok thank you

13. On external review, QPS identified 40 pages and 27 body worn camera (BWC) recordings in response to the above scope.¹⁹ QPS submitted²⁰ to OIC that processing these documents would be a substantial and unreasonable diversion of its resources primarily because the BWC recordings amounted to approximately 708 minutes of combined audio and video footage. QPS estimated the time to review and edit the recordings to be approximately 177 hours.²¹ QPS suggested that the applicant could remove the ground for refusal by limiting the scope of her request to the 40 pages of

¹⁷ Sections 90(1), 95(1)(a) and 105(1) of the RTI Act.

¹⁸ Deemed decision notice dated 30 August 2024. The scope includes clarification sought by QPS and the applicant's responses to various items.

¹⁹ Provided to OIC on 13 November 2024.

²⁰ Submission dated 13 February 2025.

²¹ Based on the estimate of 15 minutes for each minute of footage.

documents, ie. excluding the BWC recordings from the scope of her request. OIC consulted the applicant as follows about potentially narrowing the scope of her application:²²

QPS has indicated that limiting the scope of your request to the 40 pages (i.e., excluding the BWC recordings) would remove the ground for refusal. I understand that you are specifically interested in BWC recordings and that the option of pursuing only the 40 pages may not be your preference. However, even if the scope of those was narrowed to a copy of one officer's interaction with you at your premises^[23], on each occasion, this would still take QPS about 85 hours to assess/edit the BWC recordings. I consider that this still represents a substantial and unreasonable diversion of QPS resources.

Noting the number of BWC recordings located and the fact that many of them are over 30 mins in length, you may wish to consider dividing your request into multiple consecutive applications and/or seeking inspection access to the BWC recordings.

To assist you in considering your position and determining your next step, [OIC's letter included a] table which describes the BWC recordings located by QPS regarding interactions with you, including the duration of each recording.

14. The applicant did not agree to further narrow the scope and submitted as follows (her emphasis):²⁴

*... I would also like to make it explicitly clear that I am **not willing to narrow the scope of my request any further**, as it was already reviewed and refined in consultation with [a QPS RTI officer] in **July 2024**. Any further suggestion to limit or reduce the scope is unwarranted and unnecessary.*

... [on 30 August 2024] I had a phone conversation with [the QPS RTI officer who] stated that the requested documents were "almost ready." If the information was nearly finalized in August, it is unjustifiable that it remains unavailable. Any current claims regarding additional time requirements are therefore misleading and incorrect.

... Finally, I must reiterate that the volume of information requested is not excessive, as has been incorrectly suggested. It has been clearly established that the scope is reasonable and manageable. Under the Right to Information Act, I am entitled to receive the requested information in full, and I expect this to be honoured accordingly.

15. The review and refining referred to by the applicant relates to QPS's attempts to clarify the scope of the application so that the application complied with section 24(2)(b) of the RTI Act.²⁵
16. Noting the above, I consider the applicant was afforded an opportunity to narrow the scope of her access application, to re-frame it into a form that QPS could process during the external review. In giving this opportunity, I consider that OIC has met the procedural requirement that would ordinarily have applied to QPS, under section 42 of the RTI Act.

Findings

17. I accept QPS's submission that the BWC recordings comprise over 700 minutes of combined audio and video footage. The nature of the recordings is such that they contain information about, and discussions with, other individuals that were involved in the subject incidents, and/or QPS investigations of complaints and alleged criminal activity. I consider it is reasonable to expect that thorough examination of the footage would be

²² At page 3 of OIC's letter dated 22 April 2025.

²³ When QPS attends an incident, each present officer will activate their BWC recording device and as such, there can be multiple versions of the same incident recorded by different officers.

²⁴ Submissions to OIC dated 9 May 2025.

²⁵ Section 24(2)(b) provides that an access application must 'give sufficient information concerning the document to enable a responsible officer of the agency ... to identify the document...'. The application became compliant with the application requirements on 23 July 2024.

required to identify, and then redact, information that would be contrary to the public interest to disclose, eg. because it comprises sensitive personal and private information of other individuals.

18. I acknowledge that the public interest favours disclosure of the applicant's personal information that is held by QPS to her.²⁶ However, public interest factors also operate to favour nondisclosure of third party personal information, and I consider these factors would be relevant for QPS to consider when examining the recordings.²⁷ Also, given the information appears in a sensitive QPS complaint/investigation context, it is not unreasonable to expect that additional nondisclosure factors and/or grounds for refusing access regarding prejudice to law enforcement processes, would arise for consideration when examining the BWC recordings.²⁸
19. I consider that QPS's estimate of 177 hours, ie. approximately 25 business days, for assessing/editing the recordings, is reasonable, and arguably conservative, given the particular nature of the information, the sensitive complaint context in which it appears and potential application of grounds for refusing access, as alluded to in the preceding paragraph. This does not include the time already taken by QPS to conduct the searches, nor the additional time which would be required to assess/edit the 40 pages and prepare a written decision.²⁹
20. The estimated time of approximately 25 business days to deal with the recordings alone represents the entire processing time usually allowed under the RTI Act for processing an application.³⁰ I am satisfied that this estimate of time is sufficient to support a finding that dealing with the application would *substantially* divert QPS's resources.
21. I am further satisfied the work involved in dealing with the complete application would have a manifestly excessive impact on QPS Right to Information and Privacy Unit's finite resources and its ability to perform its functions, including dealing with the hundreds of other access applications that QPS receives each year.³¹ Given the significant volume of information access requests that QPS receives, and its other administrative functions³² I consider it would exceed the bounds of reason to expect QPS to spend 25 business days processing one application. I am therefore satisfied that processing this application would also be an *unreasonable* diversion of QPS's resources.
22. For these reasons, I am satisfied that the work involved in dealing with the access application would, if carried out, substantially and unreasonably divert QPS's resources from their use in other QPS functions.³³ Accordingly, I refuse to deal with the access application under section 41(1)(a) of the RTI Act.

DECISION

23. For the reasons set out above, I set aside QPS's deemed decision. In substitution, I find that dealing with the access application would substantially and unreasonably divert QPS's resources from their use in the performance of QPS's functions, and therefore,

²⁶ Schedule 4, part 2, item 7 of the RTI Act.

²⁷ Schedule 4, part 3, item 3 and part 4, section 6(1) of the RTI Act.

²⁸ For example, schedule 4, part 3, items 13 and 16, and schedule 3, sections 10(1)(a) and (f) of the RTI Act.

²⁹ Though I note that these components of dealing with the application would, standing alone, be manageable. I also note that QPS had indicated it would be willing to process the application had it been limited to the 40 pages, but this proposal was not acceptable to the applicant.

³⁰ Section 18 of the RTI Act provides that the *processing period* for an application is 25 business days from the day the application is received. Whilst this period can be extended in certain circumstances, it is relevant to have regard to it when considering whether the time involved in processing a single access application will have a substantial impact on an agency's resources.

³¹ For the 2022-2023 financial year, QPS received a total of 1410 compliant RTI Act access applications and 1843 compliant *Information Privacy Act 2009* (Qld) access and amendment applications. See the *Right to Information Act 2009 and Information Privacy Act 2009 Annual Report 2022-23* at page 8, accessed at [Annual Reports | Right to Information and Information Privacy](#).

³² Including responding to administrative access requests and subpoenas.

³³ In reaching this decision, and in accordance with section 41(3) of the RTI Act, I have not had regard to the applicant's reasons for seeking access.

section 41(1)(a) of the RTI Act applies to the access application. I refuse to deal with it on that basis.

24. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Katie Shepherd
Assistant Information Commissioner

Date: 21 July 2025