



Decision and Reasons for Decision

Citation:	Q18 and Crime and Corruption Commission [2025] QICmr 105 (23 December 2025)
Application Number:	318372 and 318470
Applicant:	Q18
Respondent:	Crime and Corruption Commission
Decision Date:	23 December 2025
Catchwords:	<p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - JURISDICTION - DOCUMENT OF AN AGENCY - request for documents held on agency officers' personally owned devices - whether a 'document of an agency' under section 12 of the <i>Right to Information Act 2009</i> (Qld) - whether subject to the right of access in section 40(1) of the <i>Information Privacy Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL WITH APPLICATION - PREVIOUS APPLICATION FOR SAME DOCUMENTS - request for the same documents previously sought from the same agency - - whether the later application discloses any reasonable basis for again seeking access to the documents - whether section 43 of the <i>Right to Information Act 2009</i> (Qld) applies</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL WITH APPLICATION - PREVIOUS APPLICATION FOR SAME DOCUMENTS - FORMS OF ACCESS - information subject of earlier access application provided in Portable Document Format - whether copy of document in native format is a duplicate - whether applicant entitled to access document in native format - whether applicant entitled to access metadata - sections 48(1) and 83 of the <i>Information Privacy Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - DOCUMENTS NONEXISTENT OR UNLOCATABLE - whether agency has conducted reasonable searches - whether access to further documents may be refused on the basis they are nonexistent or unlocatable - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(e) and 52(1) of the <i>Right to Information Act 2009</i> (Qld)</p> <p>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - documents created by the Crime and Corruption Commission following a complaint - whether information was obtained, used or prepared for an investigation by a</p>

prescribed crime body in the performance of the prescribed functions of the prescribed crime body - whether information is exempt from disclosure under section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(a) and 48 and schedule 3, section 10(4) of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. This decision relates to two applications for documents made by the applicant to the Crime and Corruption Commission (**CCC**) under the *Information Privacy Act 2009* (Qld) (**IP Act**).¹
2. The first application² (the **November Application**) was for access to the following documents:

On 16 February 2024, the requester submitted a 280-page complaint and dozens of supporting documents using the sharing feature of one-drive provided by the Microsoft Outlook service. However, the previous RTI indicates that these documents are not stored in the CCC system, and I would like to know if they are stored on [a named CCC officer's] personal device. [The named CCC officer] is the person who reviewed my 2024 complaint, and I would like to know which documents she reviewed.

[Type of documents:] Documents and correspondence (emails, letters, memos, briefing notes, SMSs, messenger service messages) held by [a named CCC officer].

[Date range: 16 Feb 2024 – 5 Nov 2024]

3. CCC decided³ to refuse to deal with the November Application on the basis that:
 - to the extent the request was for documents held on a CCC officer's personal electronic devices, this request was out of scope of the IP Act⁴ because these are not 'documents of an agency',⁵ and
 - to the extent the applicant sought access to 'a 280-page complaint and dozens of supporting documents' he submitted to CCC on 16 February 2024, the applicant had previously applied for access to the same documents⁶ and had not disclosed a reasonable basis for again seeking access to these documents.⁷
4. The applicant applied⁸ to the Office of the Information Commissioner (**OIC**) for external review of CCC's internal review decision.⁹

¹ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**). As the applicant's application was made before this change, the IP Act and RTI Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 8, Part 3 of the IP Act and 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 IP Act and RTI Act in this decision are to those Acts **as in force prior to 1 July 2025**. These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> respectively.

² Dated 5 November 2024.

³ On internal review dated 5 December 2024.

⁴ Pursuant to section 52 of the IP Act.

⁵ As defined by section 12 of the RTI Act.

⁶ Application made to CCC on 13 August 2024 (CCC ref: AD-24-0807).

⁷ Pursuant to section 62 of the IP Act.

⁸ On 12 December 2024.

⁹ External review 318372.

5. The second application¹⁰ (the **December Application**) was for access to the following documents:

All records relating to [the applicant] and held by the officers named in section e, 'Where do you think the documents may be located'.

[Where you think the documents may be located:] Computer(s) and mobile devices used by [Five named CCC officers].

[Type of documents:] Records, including emails, letters, memos, briefing notes, SMSs, messenger service messages, in hard copy or soft copy format.

[Date range: Feb 2024 – Dec 2024]

[Any other details:] I have no personal relationship with any of the officers named above, so if they have records relating to [the applicant], it must be in connection with their duties or the work of their organisation.

6. CCC decided¹¹ to also refuse to deal with the December Application¹² on the basis that the applicant had previously applied for access to the same documents.¹³

7. The applicant applied¹⁴ to OIC for external review of CCC's decision with respect to the December Application.¹⁵

8. For the reasons set out below, I have decided to vary¹⁶ CCC's decisions and find that:

- to the extent the November and December Applications seek access to documents on personally owned devices held by the named CCC officers, these requests are outside the scope of the IP Act and there is no right of access under section 40(1)(a) of the IP Act.
- CCC was able to refuse to deal with the November and December Applications under section 62 of the IP Act to the extent that:
 - the November Application requests documents relating to the applicant's 16 February 2024 complaint stored in CCC's complaint management system up until 13 August 2024; and
 - the December Application requests documents relating to the applicant's alleged public interest disclosures and complaint CO-24-3116 stored in CCC's complaints management system up until 13 August 2024.
- access to any further documents requested by the November and December Applications that have not already been located can be refused under section 67(1) of the IP Act and section 47(3)(e) of the RTI Act on the basis that they are nonexistent or unlocatable; and
- access to the two located notes documents can be refused under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act on the basis that this information is exempt.

Background

9. The significant procedural steps taken during this review are set out in the Appendix.

10. As there is some overlap between the subject matter of reviews 318372 and 318470, OIC decided to deal with the matters together.

¹⁰ Dated 15 December 2024 and received by the CCC on 16 December 2024.

¹¹ On internal review dated 30 January 2025.

¹² Pursuant to section 62 of the IP Act.

¹³ Applications made to CCC on 30 April 2024 (CCC ref: AD-24-0454) and 13 August 2024 (CCC ref: AD-24-0807).

¹⁴ On 18 February 2025.

¹⁵ External review 318470.

¹⁶ Under section 123(1)(b) of the IP Act.

11. Prior to the November and December Applications, the applicant had made the following two other applications to CCC:
 - On 30 April 2024, the applicant applied for '*All records entered into the complaint management system adopted by the CCC since 2022 in relation to the PIDs submitted by [the applicant] in 2022 and 2024*' (**April Application**).¹⁷
 - On 13 August 2024, the applicant applied for '*All records entered into the complaint management system in the CCC in relation to CCC reference: CO-24-3116*' (**August Application**).¹⁸
12. For these previous applications, CCC decided¹⁹ to release documents to the applicant, subject to the refusal of certain information under the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**).
13. The applicant did not apply for external review of the previous applications.

Reviewable decision

14. The decisions under review are:
 - CCC's internal review decision dated 5 December 2024 with respect to the November Application (external review application number 318372); and
 - CCC's internal review decision dated 30 January 2025 with respect to the December Application (external review application number 318470).
15. Under section 118(1)(a) of the IP Act, the Information Commissioner has, in addition to any other power, the power to review any decision that has been made by an agency in relation to the relevant access application. This includes deciding threshold issues of jurisdiction, such as whether the access application falls within the scope of the IP Act.

Evidence considered

16. Evidence, submissions, legislation and other material considered in reaching this decision are referred to in these reasons (including footnotes and Appendix).
17. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**) particularly the right to seek, receive and impart information.²⁰ 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.²¹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.

¹⁷ CCC reference: AD-24-0454.

¹⁸ CCC reference: AD-24-0807.

¹⁹ Decisions dated 28 June 2024 for CCC reference AD-24-0454 and 1 October 2024 for CCC reference AD-24-0807.

²⁰ Section 21 of the HR Act.

²¹ *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].

Issues for determination

18. In this decision, I have considered:

- whether there is jurisdiction to deal with the November and December applications under the IP Act, to the extent they seek documents on CCC officers' personal devices;
- whether the November and December Applications are applications for the same documents previously requested by the applicant's April and August Applications;
- whether the applicant is entitled to a Microsoft Word (**MS Word**) copy of a Portable Document Format (**PDF**) document already provided to him for his April Application;
- to the extent the November and December Applications are not applications for the same documents previously requested, whether CCC may refuse access to further relevant documents on the basis they do not exist or cannot be located; and
- whether access to two documents located by CCC during this review can be refused on the basis that:
 - the documents fall outside the scope of the November and December Applications; or
 - they are exempt information.

Jurisdiction

Applicant's submissions

19. The applicant submits that CCC should search for documents on devices purchased and owned by CCC staff and devices provided or used by staff, in addition to shared devices used within the team. The applicant submits this is necessary because he believed certain documents ought to have been, and were not, located by CCC following its searches of its case management system for his April Application.²²

Relevant law

20. Section 40(1)(a) of the IP Act provides that a person has a right to be given access to documents of an agency, such as CCC, to the extent they contain the individual's personal information.
21. Section 52(1)(b) of the IP Act provides that an agency can decide that an access application is outside the scope of the IP Act if the document is not a document of an agency or Minister. In that case, the agency must give the applicant a written notice under section 52(2) of the IP Act.
22. 'Document of an agency' is defined in section 12 of the RTI Act as follows:

12 Meaning of document of an agency

In this Act, document, of an agency, means a document, other than a document to which this Act does not apply, in the possession, or under the control, of the agency whether brought into existence or received in the agency, and includes—

*(a) a document to which the agency is entitled to access; and
(b) a document in the possession, or under the control, of an officer of the agency in the officer's official capacity.*

²² Submission received 26 May 2025 for external review 318470.

23. A document is only regarded as being in the possession of an agency if the agency has a legal ability or capacity to produce the document.²³
24. If the requested document is not a document of an agency under section 12 of the RTI Act, the application does not fall within the scope of the IP Act and there is no jurisdiction to deal with it under the IP Act.

Findings

25. To the extent the November and December Applications seek access to documents on personally owned devices held by the named CCC officers, I am not satisfied these would be '*documents of an agency*' within the meaning of section 12 of the RTI Act. Accordingly, the request is outside the scope of the IP Act and there is no right of access under section 40(1)(a).²⁴
26. CCC has no automatic legal right of access under the IP Act to information stored on mobile or computer devices personally owned by CCC officers. Even if there were evidence that the named CCC officers conducted work relating to the applicant's requests on personally owned devices, such that CCC could potentially formulate and issue a lawful direction to the officer or officers in question to produce the information, this does not establish a right of access under the IP Act. The Information Commissioner has previously recognised that it was not the legislature's intention for an agency to have to take some additional step to put itself into a position where it has a legal entitlement to take possession of a document, to then respond to an access application under the IP Act.²⁵
27. Formulating a reasonable direction to a CCC officer and establishing its lawfulness would, in my view, comprise an '*additional step*'²⁶ of the kind the Information Commissioner has identified as insufficient to amount to a present legal entitlement to possession under the IP Act.

Previous applications for the same documents

Submissions

28. The applicant submits²⁷ the November Application is not a request for the same documents previously requested for the following reasons:
 - The previous access applications sought electronic documents held on CCC's complaint management systems, whereas the November Application sought documents held on a named CCC officer's personal electronic device, including her mobile phone.
 - Unlike his previous access applications, his November Application requested hard copy information, SMSs and messenger service messages.
 - The November Application also seeks documents created, held and communicated in the period after the previous access applications until 5 November 2024.

²³ *Carmody v Information Commissioner & Ors (No 4)* [2018] QCATA 17 at [66]-[67].

²⁴ Pursuant to section 52(1)(b)(i) of the IP Act.

²⁵ *Price and the Nominal Defendant* (1999) 5 QAR 80 at [27]; applied in *Nine Entertainment Co Pty Ltd and Department of Premier and Cabinet* [2023] QICmr 8 (28 February 2023) at [29]-[30].

²⁶ *Ibid.* [27].

²⁷ In his request for internal review dated 2 December 2024, external review application received 12 December 2024 and submission received 13 May 2025 for external review 318372.

- To the extent the November Application stated, '*I would like to know what documents she reviewed*', he was explaining his reasons for making the access request and clarifying the location and name of the person who might hold the information.
- None of the documents he submitted to CCC on 16 February had been released in his previous access application.

29. The applicant also submits²⁸ the December Application is not a request for the same documents previously requested for the following reasons:

- In response to his April and August Applications, CCC had not provided him with copies of documents he had submitted to CCC on 16 February 2024.
- He believes relevant documents exist outside CCC's COMPASS and Case Management System, and that these locations (including employees' personal electronic devices) should be searched for documents relevant to the December Application.

30. In his application for internal review of the December Application, the applicant stated:

What I am requesting is "the FULL PID" that I officially submitted to the CCC officially on 16 February 2024.

31. During the reviews, CCC maintained that the November and December Applications were properly decided. CCC submits that:²⁹

- The applicant is requesting documents he authored and submitted to CCC on 16 February and 16 July 2024, copies of which were provided to him on 5 July and 1 October 2024 in response to his April and August Applications.
- The applicant's internal review application for the December Application made clear that he was seeking access to the document he submitted to CCC on 16 February 2024, which CCC had already provided to him.
- The November Application seeks insight about the location of documents, or whether they were considered by the named CCC officer.
- While the December Application has identified a more particular location for the records, the scope of the application has not changed and CCC had already undertaken searches which would have identified records in this location, if they existed.
- It is outside the scope of the IP Act to request information about the location of documents.
- Any scoping differences due to requests for hard copy documents, information held on computers or mobile devices, or extended timeframes were '*inconsequential*'.

Relevant law

32. Section 62 of the IP Act will apply where:

- an applicant has made an application for access to documents (the **first application**); and
- the applicant makes a later application for access to one or more of the same documents sought under the first application, and the later application does not,

²⁸ In his request for internal review dated 7 January 2025, external review application received 18 February 2025 and submission received 26 May 2025 for external review 318470.

²⁹ Submissions received 12 May 2025 for external review 318470 and 21 August 2025 for external review 318372 and 318470.

on its face, disclose any reasonable basis for again seeking access to the document or documents.³⁰

33. Where the above threshold requirements are met, an agency may refuse to deal with the later application to the extent it is for access to documents sought under the first application, provided further applicable requirements in sections 62(3)-(6) of the IP Act are also satisfied.
34. The general rule is that access applications should not be interpreted narrowly or with the same degree of precision as a piece of legislation.³¹
35. It is possible for an applicant and agency to agree to narrow the scope of an access application.³² In that case, the reviewable decision on review will relate to the narrowed access application, rather than the original access application.³³

Findings

36. I have found that CCC was able to rely on section 62 of the IP Act to refuse to deal with the November and December Applications to the extent that:
 - the November Application requests documents relating to the applicant's 16 February 2024 complaint stored in CCC's complaint management system up until 13 August 2024; and
 - the December Application requests documents relating to the applicant's alleged public interest disclosures and complaint CO-24-3116 stored in CCC's complaints management system up until 13 August 2024.
37. The April and August Applications also sought these documents and the November and December Applications do not, on their face, disclose a reasonable basis for applying again for these documents.
38. However, I find that the November Application was not limited to the complaint documents the applicant submitted on 16 February and 16 July 2024. The November Application also requested documents held by the named CCC officer, including in hard-copy and on any CCC-issued device, relating to the applicant's 16 February 2024 complaint. This includes correspondence and briefing notes about the complaint. By comparison, the April and August Applications were limited to documents '*entered into the [CCC's] case management system*'.
39. I also find that the December Application was not merely a request for the document the applicant submitted on 16 February 2024. The December Application requested all records relating to the applicant and held by the named officers. This would include documents such as correspondence and briefing notes about the applicant. It would also include hard-copy documents or documents held on any CCC-issued devices held by the named officers.

³⁰ Section 62(1)(b) of the IP Act.

³¹ *Mewburn and Department of Natural resources and Mines* [2016] QICmr 31 (19 August 2016) (*Mewburn*) at [22]; *Fennelly and Redland City Council* (Unreported, Queensland Information Commissioner, 21 August 2012) at [21] and *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [35].

³² For example, under section 61 of the IP Act in response to a notice of intention to refuse to deal with an application because of the effect on the agency or Minister's functions.

³³ *Simpson MP and Department of Transport and Main Roads* (Unreported, Queensland Information Commissioner, 29 July 2011) at [12]; *Mewburn* at [23].

40. I consider the November and December Applications are requests for new documents to the extent they seek documents post-dating the April and August Applications (i.e. after 13 August 2024).
41. I acknowledge that the wording of the applicant's December internal review application may have caused some confusion for CCC about what the applicant was seeking. However, I do not consider the applicant indicated his intention to narrow the December Application in that correspondence. While the applicant did say in his internal review application for the December Application³⁴ '*[w]hat I am requesting is "the FULL PID" that I officially submitted...*', he went on to indicate his interest in draft and final documents prepared by CCC staff and communications between a manager and senior review officer.
42. Accordingly, I find that CCC was not entitled to refuse to deal with the November and December Applications to the extent they requested the following documents:
 - hard-copy documents held by the named officers.
 - documents held by the named officers outside of CCC's complaint management system.
 - for the November Application, documents within the date range 14 August to 5 November 2024; and
 - for the December application, documents within the date range 14 August to 15 December 2024.

Form of access

Submissions

43. On internal review, CCC found:³⁵

The applicant's statement that the 280-page complaint document is not saved on the CCC's Case Management System is nonsensical as this document was previously released to him in full on 1 October 2024 in relation to his access application received on 13 August 2024 (AD-24-0807).

44. During these reviews, the applicant maintained that the MS Word version of the document he submitted to CCC on 16 February 2024 was missing from the documents located by CCC for his previous access applications and his November and December Applications. CCC have clarified during the reviews that this document was disclosed to the applicant on 5 July 2024, in response to his April Application.³⁶
45. The applicant initially submitted that the document he received from CCC was not a copy of the MS Word document he submitted on 16 February 2024 because there was a difference in page numbering. Given this submission, OIC compared the MS Word version³⁷ against the document CCC disclosed on 5 July 2024 and confirmed to the applicant that they were, in fact, duplicates.³⁸

³⁴ Dated 7 January 2025.

³⁵ Internal review decision on the November Application dated 5 December 2024.

³⁶ Submission received 30 June 2025 for external reviews 318372 and 318470.

³⁷ Provided by CCC to OIC on 31 October 2025, upon OIC's request.

³⁸ On 5 November 2025.

46. The applicant maintains that he is entitled to receive a copy of the document he submitted to CCC on 16 February 2024 in its native MS Word format. He has made the following submissions:³⁹

- Under section 68 of the IP Act, he is entitled to be given access to a document in the form requested (here, the original MS Word file), unless giving access in that form would involve an unreasonable diversion of agency resources, be detrimental to the preservation of the document, or infringe copyright or other specified matters.
- Providing the MS Word file would involve no meaningful additional administrative burden.
- The native MS Word file contains valuable metadata not captured in the PDF, and as such the PDF that has had its metadata stripped cannot properly be regarded as a true 'duplicate' of the original MS Word file for the purposes of his access rights.
- CCC has not identified any specific security risk, any specific redactions or any statutory reason that would justify refusing access to the original MS Word document in addition to the PDF already released.

Relevant law

47. I consider it likely the applicant intended to reference section 83(3) of the IP Act, which provides: 'Subject to this section and sections 88 to 92, if an applicant has requested access in a particular form, access must be given in that form.'⁴⁰

48. Subsection 83(1) lists the 'forms' an applicant can nominate for receiving access to a document.

(1) *Access to a document may be given to a person in 1 or more of the following forms—*

- (a) a reasonable opportunity to inspect the document;*
- (b) providing a copy of the document;*
- (c) if the document is an article or material from which sounds or visual images are capable of being reproduced—making arrangements for the person to hear the sounds or view the images;*
- (d) if the document is one—*
 - (i) by which words are recorded in a way in which they are capable of being reproduced in the form of sound; or*
 - (ii) in which words are contained in the form of shorthand writing or in codified form;*
 - providing a written transcript of the words recorded or contained in the document;*
- (e) if—*
 - (i) the application relates to information that is not contained in a written document in the possession, or under the control, of the agency; and*
 - (ii) the agency could create a written document containing the information using equipment that is usually available to it for retrieving or collating stored information;*
 - providing a written document created using the equipment.*

Findings

49. To the extent the IP Act entitles an applicant to nominate the particular 'form' in which they would like to access requested documents, this refers only to the 'forms' listed in subsection 83(1) of the IP Act.

³⁹ Submission received on 1 December 2025 for external reviews 318372 and 318470.

⁴⁰ The referenced section 68 of the IP Act sets out the requirement for an agency or Minister to give a prescribed written notice of a decision to an access applicant.

50. I do not consider the IP Act entitles the applicant to a copy of a document in its native format in circumstances where a PDF copy has already been supplied. The PDF version of the document relays the same information and embodies the same communication as the native MS Word document.
51. Section 48(1) of the IP Act provides that an access application for a document is taken not to include an application for metadata unless this is specified in the application. I am satisfied that the November and December Applications do not refer to or request metadata about documents. On this basis, any metadata about the MS Word document submitted by the applicant on 16 February 2024 is not relevant to the scope of the November or December Applications and CCC is not required to provide this information.⁴¹
52. I am satisfied that the document submitted on 16 February 2024 was the subject of the earlier April Application and the applicant's November and December Applications did not disclose a reasonable basis for again seeking access to this document. To the extent the November and December Applications sought another copy of this document, I am satisfied CCC was entitled to refuse to deal with this request under section 62(3) of the IP Act.

Sufficiency of searches

Submissions

53. During the reviews, the applicant raised concerns about the sufficiency of searches conducted by CCC in response to his November and December Applications. He submits⁴² the following specific documents should exist and have not been located by CCC in response to any of his access applications:
 - the MS Word document he submitted to CCC on 16 February 2024
 - documents he submitted to CCC via Microsoft OneDrive on 16 February 2024
 - a document he submitted to CCC on 16 July 2024; and
 - a '278 page' document CCC mentioned in an email to him on 25 June 2024.
54. CCC submitted that searches for the April and August Applications would have covered the documents requested in the November and December Applications, and so any further searches would not locate new documents.⁴³ CCC explained that searches for the April and August Applications were conducted of the two record-keeping applications CCC utilises when considering a corruption complaint, which are:
 - Content Manager – CCC's electronic document and records management system;⁴⁴ and
 - 'COMPASS' (which stands for 'Complaints and Operations Management, processing and Statistical System') – CCC's confidential complaint management system.
55. CCC submits that:⁴⁵

⁴¹ See *Gapsa and Department of Transport and Main Roads* (Unreported, Queensland Information Commissioner, 12 April 2013) at [31].

⁴² Submissions received 13 May 2025 in external review 318372 and 26 May 2025 in external review 318470.

⁴³ Submission received 21 August 2025.

⁴⁴ In its search records received by OIC on 30 June 2025, CCC have also referred to this system as 'eDRMS'.

⁴⁵ Internal review decision dated 30 January 2025 for the December Application and submissions received 30 January 2025 for external review 318372 and 30 June and 21 August 2025 for external reviews 318372 and 318470.

- in accordance with CCC policy and record keeping legislation, CCC officers use CCC computers and mobile devices to conduct their work;
- CCC officers save all information, including documents and emails, in CCC's Case Management System;
- no separate record-keeping mechanisms exist; and
- searches for the April and August Applications were for all records, including hard copy documents.

56. CCC also confirmed during the reviews that, while one of the named CCC officers did hold a CCC-issued mobile device during the relevant period, they confirmed that they do not use the device. The other named CCC officers did not have CCC-issued mobile devices during the relevant period.⁴⁶ CCC also explained that any CCC officer using their personal mobile device for work purposes is required to make a record in CCC's Case Management System.⁴⁷

57. OIC conveyed a preliminary view to CCC that searches of CCC-issued mobile phones would be a reasonable step to locate documents requested by the December Application.⁴⁸ OIC also conveyed a preliminary view to CCC that, as the November and December Applications were broader than being mere applications for the same documents sought in the April and August Applications, CCC had not established that the following documents were nonexistent or unlocatable:⁴⁹

- for the November Application, hard-copy or electronic records held by the named individual relating to the applicant's complaint within the date range 13 August to 5 November 2024; and
- for the December Application, hard-copy or electronic records related to the applicant and stored within the locations the named individuals would ordinarily work from, within the date range 13 August to 16 December 2024.

58. While CCC did not accept OIC's view, it conducted the following additional searches during the reviews:

- searches of CCC's Content Manager/eDRMS system for documents between 13 August to 16 December 2024
- searches of CCC's COMPASS system for documents between 13 August to 16 December 2024
- searches for hard-copy records between 13 August to 16 December 2024
- searches of CCC-issued devices held by the named CCC officers; and
- enquiries with the named CCC officers (with the exception of one officer, who was no longer with CCC) about any hard-copy documents.

59. These searches located nine additional documents comprising:

- duplicates of information already released to the applicant on 1 October 2024;
- four documents comprising email correspondence between the applicant and CCC, which CCC released to the applicant;⁵⁰ and

⁴⁶ Submissions received 12 May 2025 for external review 318470 and 30 June and 21 August 2025 for external reviews 318372 and 318470.

⁴⁷ Submissions received 13 May 2025 for external review 318470.

⁴⁸ Preliminary view dated 29 April 2025, for external review 318470.

⁴⁹ Preliminary view dated 10 September 2025 for external reviews 318372 and 318470.

⁵⁰ On 12 November 2025.

- two additional notes documents located on an individual's CCC-issued device.

60. While I do not consider CCC was required to do so for the reasons set out in paragraphs [25] to [27] of this decision, during these reviews CCC did make enquiries with the named officers about any documents held on their personally owned devices (with the exception of one officer who had ceased employment with CCC). Those enquiries did not locate any relevant documents.

61. CCC also explained that the absence of any hard copy records is consistent with its recordkeeping procedure which, relevantly, states:

1.2 Filing and printing The majority of CCC-generated electronic records do not need to be printed. Exceptions to this rule may include legal document, or officially signed records which will need to be stored and managed centrally in hard copy.

· Any information received or generated by the CCC in an electronic, physical, or technologydependent format, which is deemed to be a corporate record, must be captured into eDRMS. Electronic records such as emails and other technology-generated records do not need to be printed and placed on hard copy files, as long as the electronic records are stored in appropriate containers and remain inviolate by means of eDRMS recordkeeping functionality. No loose records should be stored outside of their hard copy files except for records deemed too cumbersome to place on file, such as briefs of evidence, or large batches of documents too large for standard files.

...

2.2 Hard copy files

If an officer has possession of an official hard copy file, it is the officer's responsibility to ensure that:

· the physical file is assigned to the officer in eDRMS. If a security breach warning appears when assigning the file, the officer should take steps to seek approval to have the security amended by way of business owner approval via the Service Now portal. Access amendments have to be approved at the director/manager/team coordinator level in eDRMS for the access change to take place. This request could also require review by the Information Management Officer or Records Manager.

...

With regards to the management of hard copy files, it is extremely important that the electronic location exactly matches its physical location to prevent information loss. Assigning the file correctly will prevent information from being lost. Regular census audits will take place to control and report on the location of hard copy files as part of the recordkeeping audit regime.

62. CCC submits that it has no reason to believe any officer involved in the relevant matters had not complied with CCC's policies and procedures regarding hard copy records and, in any event, its recordkeeping procedure did not require the creation of hard copy records in this instance.

63. With respect to the specific documents the applicant asserts are missing, CCC has provided the following submissions:⁵¹

- With respect to documents the applicant submitted via a OneDrive folder on 16 February 2024, the assessing officer confirmed that they '*did not use the applicant's OneDrive folder to assess the matter and did not download or save any of the documents contained in the OneDrive link at any time*'.
- '*The records in the OneDrive folder were not reviewed as part of the assessment of the Applicant's complaint matter because it was considered to be voluminous. The applicant was informed that he must submit a more concise summary of his concerns*

⁵¹ Submissions dated 12 May for external review 318470 and 21 August and 15 October 2025 for external reviews 318372 and 318470.

for consideration by the CCC' The records in the OneDrive folder were not downloaded by the CCC and saved to the CCC's records management system'.

- The MS Word document the applicant sent to CCC on 16 February 2024 was released to him on 5 July 2024 in PDF format, in response to his April Application.
- The document the applicant provided to CCC on 16 July 2024 was released to him on 1 October 2024 in response to his August Application.
- CCC's reference to a '278 page' document was to a document referred to in the 10-page summary document the applicant sent to CCC on 16 February 2024, in which a table of contents showed the conclusion appearing at page 278. CCC submits '*[i]t would have been more precise for the CCC officer to have stated 'at least 278 pages', as they did not access this document and therefore did not know how many pages it was in total*'.

64. On 5 November 2025, OIC conveyed the above explanations to the applicant, along with a preliminary view that CCC has taken all reasonable steps to locate relevant documents, and that any further documents not already located can be refused on the basis that they are non-existent or unlocatable.

65. The applicant did not accept OIC's preliminary view and provided further submissions.⁵² The applicant submits that errors CCC made when describing documents to him demonstrate that its search and verification process is 'systemically flawed' and a failure to discharge statutory duties to take all reasonable steps to locate and identify documents under the IP Act. The applicant says this has eroded his trust in CCC's assertions. The applicant has also provided OIC with a screenshot image, which he submits is from the 'OneDrive access logs' for the folder he shared exclusively with CCC on 16 February 2024. The image shows the '*date modified*' for multiple folders was updated several weeks after 16 February 2024.

66. The applicant submits:

'This could only occur if a user with access to that link (in practical terms, a CCC officer) accessed the folder and performed actions that triggered those modification timestamps. Typical actions that can cause this include syncing, copying, moving, or bulk-downloading files/folders.

Given that:

- *the link was provided solely to the CCC;*
- *the modification events occurred well after my submission date of 16 February 2024; and*
- *there is no other plausible user who could have caused these modifications,*

the digital log objectively contradicts the CCC's assertion that it "did not download" and "did not review" the OneDrive materials. At the very least, this objective evidence indicates that:

1. *a CCC-related user accessed and manipulated the OneDrive contents on 4 April 2024; and*
2. *the CCC's account of its handling of the OneDrive evidence is incomplete and inaccurate.*

67. The applicant submits that, in those circumstances, '*the CCC's narrative about the handling of the OneDrive Materials is demonstrably unreliable*'. He has requested that the Information Commissioner:

- direct CCC to undertake specific forensic searches to confirm whether, and who, accessed the OneDrive folders; and
- require named CCC officers to provide a statutory declaration responding to specific questions about the OneDrive files.

⁵² On 1 December 2025 for external reviews 318372 and 318470.

Relevant law

68. Under the IP Act, an individual has a right to be given access to documents of an agency to the extent the documents contain the individual's personal information. However, this right is subject to limitations, including grounds for refusal of access.⁵³
69. Relevantly, access to a document may be refused if the document is nonexistent or unlocatable.⁵⁴
70. A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.⁵⁵ To be satisfied documents are nonexistent, a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors, including:⁵⁶
 - the administrative arrangements of government
 - the agency's structure
 - the agency's functions and responsibilities
 - the agency's practices and procedures (including, but not limited to, its information management approach); and
 - other factors reasonably inferred from the information supplied by the applicant (including the nature and age of the requested documents).
71. It may not be necessary for searches to be conducted when proper consideration is given to relevant factors. Rather, it is sufficient that the relevant circumstances to account for the nonexistent document are adequately explained by the agency.
72. Searches may also be relied on to satisfy the decision-maker that a document does not exist. In that case, the agency must have taken all reasonable steps to locate the documents.⁵⁷ What constitutes reasonable steps will vary from case to case.
73. A document is unlocatable if a decision-maker is satisfied that the requested document has been or should be in the agency's possession, and the agency has taken all reasonable steps to find the document and it cannot be located.⁵⁸ To determine if documents are unlocatable, regard should again be had to the circumstances of the case and the key factors.⁵⁹
74. Generally, the agency that 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.⁶⁰ However, where an external review involves the issue of missing documents, as is the case here, the applicant has a practical onus to

⁵³ Section 67 of the IP Act provides that an agency may refuse access to information in the same way and to the same extent as under section 47 of the RTI Act.

⁵⁴ Section 47(3)(e) and 52 of the RTI Act.

⁵⁵ Section 52(1)(a) of the RTI Act.

⁵⁶ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (**Pryor**) 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]. Refer also to *Van Veendendaal and Queensland Police Service* [2017] QICmr 36 (28 August 2017) at [23] and *Y20 and Department of Education* [2021] QICmr 20 (11 May 2020) at [45].

⁵⁷ As set out at *PDE* at [49].

⁵⁸ Section 52(1)(b) of the RTI Act.

⁵⁹ *Pryor* at [20]-[21].

⁶⁰ Section 100(1) of the IP Act.

establish reasonable grounds to believe that the agency has not discharged its obligation to locate all relevant documents. Suspicion and mere assertion will not satisfy this onus.⁶¹

75. Relevantly, the decision-maker (on external review, the Information Commissioner or her delegate) must be satisfied that the document is nonexistent or unlocatable. The issue is not determined by whether an applicant or agency is satisfied that the document is nonexistent or unlocatable.
76. 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.⁶² The Information Commissioner also has power under section 115 of the IP Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb v Information Commissioner*⁶³ that the equivalent provision in 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.

Findings

77. Having considered CCC's searches and enquiries and the submissions received from the applicant and CCC, there is nothing before me to suggest that CCC is in possession of any further information relevant to the November and December Applications. I consider CCC has conducted appropriately targeted searches of locations where it would be reasonable to expect the requested documents to be stored within CCC's record keeping systems, including on CCC-issued devices held by the named officers.
78. The documents the applicant submitted to CCC on 16 February and 16 July 2024 are not missing and have already been released to the applicant in response to his April and August Applications.⁶⁴
79. CCC has also provided an adequate explanation to account for the non-existence of a further '278 page' document.
80. With respect to the OneDrive records, it does not follow that the fact of the 'date modified' field having been updated means CCC have provided OIC with misleading information. The updating of the 'date modified' field is not necessarily inconsistent with CCC's explanations that the CCC officer did not review the documents as part of their assessment and that they did not download or save the documents.
81. In any event, I am satisfied CCC have taken all reasonable steps to search for the requested documents. CCC took all reasonable steps to search the locations where documents requested by the November and December Applications would reasonably be expected to be located. I am unable to identify any further steps that would be reasonable to request CCC to undertake to locate relevant records.
82. In these reviews, CCC provided search records to OIC regarding the searches it conducted for the April and August Applications. OIC then requested that CCC conduct

⁶¹ *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]; *B50 and Department of Justice and Attorney-General* [2024] QICmr 33 (7 August 2024) at [18].

⁶² Section 137(2) of the IP Act.

⁶³ [2021] QCATA 116 at [6].

⁶⁴ The document the applicant submitted to CCC on 16 February 2024 is discussed at paragraphs [43]-[52] of these reasons.

further searches and CCC provided details to OIC about those further searches. There is nothing before me which calls into question the efficacy of those searches or accuracy of CCC's submissions regarding those searches. I therefore accept CCC's evidence in relation to its search efforts and enquiries. In those circumstances, I consider there is no reason for the Information Commissioner to issue a direction to CCC or any of its officers pursuant to section 108 of the IP Act concerning information relating to the November or December Applications.

83. I do not agree with the applicant's submission that the requested further forensic searches would be reasonable in all the circumstances.⁶⁵ In this respect, I note the Information Commissioner has confirmed the relevant question is whether the agency has taken all *reasonable* steps to identify and locate documents, and not all *possible* steps.⁶⁶
84. Accordingly, I am satisfied that:
 - CCC has taken all reasonable steps to locate documents relevant to the November and December Applications; and
 - access to any further documents relevant to the November and December Applications may be refused on the basis that they are nonexistent or unlocatable.⁶⁷

Refused Information

Submissions

85. During the reviews, as discussed in paragraph [59], CCC located two further documents comprising notes created by a CCC officer.
86. CCC submits that these notes are '*out of scope, since they have not been since destroyed as ephemeral records*'.⁶⁸ In the alternative, CCC submits that the notes would be exempt from production under schedule 3, section 10(4) of the RTI Act.⁶⁹
87. OIC conveyed a preliminary view to the applicant during the reviews that these documents are exempt.⁷⁰ While the applicant did not accept this view⁷¹ he did not provide any submissions on this issue.

Relevant law

88. As set out in paragraph [22], section 12 of the RTI Act defines a '*document of an agency*' for the purposes of access applications under the IP Act. Schedule 1 of the RTI Act sets out a list of documents to which the IP Act and RTI Acts do not apply.
89. Access under the IP Act may be refused to documents to the extent they comprise exempt information.⁷² Relevantly, information is exempt if it consists of information

⁶⁵ Submission received 1 December 2025.

⁶⁶ *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

⁶⁷ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

⁶⁸ Submission received 15 October 2025 for external reviews 318372 and 318470.

⁶⁹ Citing *Y71 and Crime and Corruption Commission* [2025] QICmr 49 (28 July 2025).

⁷⁰ On 5 November 2025.

⁷¹ Email dated 11 December 2025.

⁷² Section 47(3)(a) of the RTI Act.

obtained, used or prepared for an investigation by a prescribed crime body in the performance of its prescribed functions (including, for CCC, its corruption functions).⁷³

90. An exception to this exemption will apply where:

- the information consists of information about the applicant; and
- the investigation has been finalised.⁷⁴

Findings

91. Having reviewed the two notes documents, I consider they fall within the scope of the November Application.

92. While CCC submits that the notes are '*ephemeral records*', I consider they would still be documents of an agency under the IP Act, even if they are subject to different retention requirements. The notes are not of the kinds mentioned in schedule 1 of the RTI Act to which the IP and RTI Acts do not apply.

93. In any event, however, access to the notes can be refused on the basis that they are exempt. The notes consist of information obtained, used or prepared for an investigation by a prescribed crime body (CCC)⁷⁵ in the performance of its corruption functions. While the IP Act limits what I can say about these documents,⁷⁶ I consider that they were used or prepared for CCC for its investigation into the applicant's complaints about corrupt conduct. Accordingly, I find that the notes are exempt under schedule 3, section 10(4) of the RTI Act.

94. While the applicant was involved in the relevant events and made the disclosure to CCC, the notes are not about him in the sense contemplated by the exception to this exemption. Rather, the notes are about the individual or individuals who were the subject of the allegations and relevant investigation.⁷⁷ I do not consider this exception applies to the notes.

Other matters raised by the applicant

95. During the reviews, the applicant has asserted that, by not downloading and reviewing evidence he submitted, CCC has:

- breached its statutory duty under the *Public Records Act 2002* (Qld) to maintain full and accurate records; and
- breached the *Crime and Corruption Act 2001* (Qld).⁷⁸

96. It is not within the Information Commissioner's jurisdiction to investigate the conduct of other government agencies.⁷⁹

⁷³ Section 48 and schedule 3, section 10(4) of the RTI Act. '*Prescribed functions*' for CCC is defined at schedule 3, section 10(9) of the RTI Act.

⁷⁴ Schedule 3, section 10(6) of the RTI Act.

⁷⁵ Schedule 3, section 10(9) of the RTI Act.

⁷⁶ Section 121(3) of the IP Act.

⁷⁷ *GM31AM and Queensland Police Service [2015] QICmr 6 (25 March 2015) at [28]-[30], applying G8KPL2 and Department of Health 7 (Unreported, Queensland Information Commissioner, 31 January 2011).*

⁷⁸ Submission received 1 December 2025 for external reviews 318372 and 318470.

⁷⁹ On 9 December 2025, OIC informed the applicant by email that, if he had concerns about the conduct of CCC or its employees, he could make a complaint to the Queensland Ombudsman, CCC or the Parliamentary Crime and Corruption Committee.

97. The applicant also submits that, if CCC accessed the documents he submitted by OneDrive but then denied this to OIC, they may have committed an offence of providing misleading information to OIC.⁸⁰ For the reasons I have set out in paragraph [80] of these reasons, there is nothing before me to support the applicant's assertion that CCC's submissions were misleading.
98. For completeness, I also note that the Information Commissioner has reporting obligations under section 126 of the IP Act if she is of the opinion that there is evidence on review of disciplinary matters. There is nothing before the Information Commissioner in these reviews that enlivens this obligation.
99. Finally, in his external review application for the December Application,⁸¹ the applicant submitted that '*[t]he CCC failed to properly consider relevant public interest factors such as transparency and accountability*'. While I acknowledge there may be public interest factors favouring disclosure of the located documents, there is no scope for me to consider public interest arguments in circumstances where I consider the two located documents are exempt. This is because Parliament has determined that disclosure of the kinds of information listed in schedule 3 of the RTI Act (i.e. exempt information) is, in all cases, contrary to the public interest.

DECISION

100. For the reasons set out above, I vary the reviewable decisions⁸² and find that:

- to the extent the November and December Applications seek access to documents on personally owned devices held by the named CCC officers, these requests are outside the scope of the IP Act and there is no right of access under section 40(1)(a) of the IP Act.
- CCC was able to refuse to deal with the November and December Applications under section 62 of the IP Act to the extent that:
 - the November Application requests documents relating to the applicant's 16 February 2024 complaint stored in CCC's complaint management system up until 13 August 2024; and
 - the December Application requests documents relating to the applicant's alleged public interest disclosures and complaint CO-24-3116 stored in CCC's complaints management system up until 13 August 2024.
- access to any further documents requested by the November and December Applications that have not already been located can be refused under section 67(1) of the IP Act and section 47(3)(e) of the RTI Act on the basis that they are nonexistent or unlocatable; and
- access to the two located notes documents can be refused under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act on the basis that this information is exempt.

101. I have made this decision under section 123 of the IP Act as a delegate of the Information Commissioner, under section 139 of the IP Act.

⁸⁰ Submission received 1 December 2025 for external reviews 318372 and 318470.

⁸¹ Dated 18 February 2025.

⁸² Under section 123(1)(b) of the IP Act.

[REDACTED]

Stephanie Davis
Assistant Information Commissioner
Date: 23 December 2025

APPENDIX

Significant procedural steps

Date	Event
12 December 2024	OIC received external review application from the applicant and gave it reference number 318372. OIC requested preliminary documents from CCC.
18 December 2024	OIC received the requested documents from CCC.
17 January 2025	OIC advised the applicant and CCC that application for external review had been accepted and requested further information about the previously released documents.
30 January 2025	OIC received the requested document from CCC.
18 February 2025	OIC received external review application from the applicant and gave it reference number 318470. OIC requested preliminary documents from CCC.
19 February 2025	OIC received the requested documents from CCC for external review 318470.
29 April 2025	OIC conveyed preliminary view to CCC for external review 318470.
30 April 2025	OIC conveyed a preliminary view to the applicant for external review 318372.
12 May 2025	OIC received response from CCC contesting the preliminary view, for external review 318470.
13 May 2025	OIC received a submission from the applicant for external review 318372. OIC conveyed preliminary view to applicant for external review 318470.
15 May 2025	OIC requested further information from CCC for external review 318470.
14 May 2025	OIC requested further search information from CCC addressing the applicant's submission for external review 318372.
26 May 2025	OIC received a submission from the applicant contesting the preliminary view for external review 318470.
27 May 2025	OIC requested further information from CCC addressing the applicant's submission for external review 318470.
28 May 2025	OIC received an extension request from CCC for both reviews.
5 June 2025	OIC granted CCC an extension until 1 July 2025 to provide submissions for both reviews.
30 June 2025	OIC received a submission from CCC for both reviews.
24 July 2025	OIC conveyed a preliminary view to CCC and requested further information from CCC for both reviews.
4 August 2025	OIC received an extension request from CCC.

Date	Event
5 August 2025	OIC granted CCC an extension until 21 August 2025.
21 August 2025	OIC received a submission from CCC for both reviews.
25 September 2025	OIC requested further information from CCC for both reviews.
9 October 2025	OIC received an extension request from CCC for both reviews.
13 October 2025	CCC requested, and OIC granted, an extension of time until close of business.
15 October 2025	OIC received submission from CCC for both reviews.
28 October 2025	OIC conveyed a preliminary view to CCC with respect to two located notes.
30 October 2025	OIC requested further information from CCC for both reviews.
31 October 2025	OIC received the requested further information from CCC.
5 November 2025	OIC asked CCC to disclose four further located documents to the applicant. OIC conveyed a preliminary view to the applicant for both reviews.
8 November 2025	OIC received extension request from applicant.
11 November 2025	OIC granted applicant an extension of time to respond to preliminary view until 3 December 2025.
12 November 2025	CCC released four further located documents to the applicant.
1 December 2025	OIC received response contesting preliminary view and submissions from applicant for both reviews.
9 December 2025	OIC wrote to applicant to confirm submissions did not change view and that OIC would proceed to issue a formal decision to finalise the reviews.