



Decision and Reasons for Decision

Citation:	<i>M52 and Department of State Development, Infrastructure and Planning [2026] QICmr 112 (29 June 2026)</i>
Application Number:	318583
Applicant:	M52
Respondent:	Department of State Development, Infrastructure and Planning (Office of Industrial Relations)
Decision Date:	29 June 2026
Catchwords:	ADMINISTRATIVE LAW – RIGHT TO INFORMATION – request for all information relating to applicant’s workers compensation case – scope initially interpreted as limited to documents on claim file – further searches undertaken on review – 2000 additional documents located – substantial and unreasonable diversion of resources – section 41 of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. I vary¹ the reviewable decision² of Department of State Development, Infrastructure and Planning (Office of Industrial Relations) (**OIR**) and find that dealing with the application to the extent it seeks access to the Additional Documents³ would be a substantial and unreasonable diversion of OIR resources and I therefore refuse to deal with the application under section 41 of the RTI Act.
2. As set out in my reasons below, OIR has indicated the applicant may wish to submit further targeted RTI requests to capture the Additional Documents, however further applications would be subject to OIR resourcing and could not be processed concurrently.⁴
3. My reasons for the decision follow.



Katie Shepherd
Assistant Information Commissioner

Date: 29 June 2026

¹ Under section 110(1)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**) and as a delegate of the Information Commissioner under section 145 of the RTI Act.

² As defined in paragraph 6 of these reasons.

³ As defined at paragraph 9 of these reasons.

⁴ Submission to OIC dated 2 June 2026.

REASONS FOR DECISION

Summary

4. The applicant applied⁵ to OIR under the RTI Act⁶ for access to a broad range of information relating to a workplace incident and associated workers' compensation claim, as follows:

... all documents (electronic or physical) that OIR holds related to me and my workers' compensation case, involving incident at [the relevant mine] ... which were not provided in any earlier release. Specifically, I am seeking:

1. Correspondence and Communication

Emails, letters, notes, phone logs, meeting minutes, or any other records referencing:

- Self-Insurer [for the relevant mine] or its legal representatives*
- Any insurance entity ...*
- Any external agency or individual regarding my matter*
- Internal OIR communications, instructions, or memos that mention my name or my compensation case or Industrial Magistrates Cases*

2. Further Records or Attachments

- Reports, assessments, or file notes that were not previously disclosed.*
- References to policies, guidelines, or internal procedures concerning my situation.*

3. Documents Created or Located After My Last Request

- Any material generated or discovered since the date of my last RTI/FOI release from OIR.*

4. Exclusion of Previously Released Material

- Please exclude documents already given to me in an earlier OIR release.*
- If a document has new notes or additions not included in the version I originally received, I ask that you consider releasing the updated portions.⁷*

5. OIR located two compensation claim files⁸ with Workers' Compensation Regulatory Services (**WCRS**) and advised the applicant that access to the files was available administratively.⁹ In response, the applicant advised OIR that:

I am happy for WCRS to also consider providing the requested information via administrative access if they are able to do so efficiently and in full.

⁵ Access application dated 21 March 2025 and made compliant on 15 April 2025 following payment of the application fee.

⁶ 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 and *Information Privacy Act 2009* (Qld) (**IP Act**). As the application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable in accordance with transitional provisions in chapter 7, part 9 of the RTI Act and chapter 8, part 3 of the IP Act requiring applications on foot before 1 July 2025 to be dealt with as if the IPOLA Act had not been enacted. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts, which may be accessed at <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013>> and <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014>> respectively.

⁷ The date range applicable was from 17 December 2022 to the date of the compliant application.

⁸ Comprising approximately 2,500 documents.

⁹ Email dated 13 May 2025.

However, I request that my RTI application submitted on 21 March 2025 continue to be processed formally under the Right to Information Act 2009 (Qld) to ensure my statutory rights are preserved. This includes formal decision-making, timeframes, and access to review if necessary.

6. The applicant obtained a copy of her claim files through WCRS and OIR proceeded to make a decision under the RTI Act¹⁰ to refuse access to all documents on the claim files under section 47(3)(f) of the RTI Act on the basis that other access to the files was available under section 53 of the RTI Act.
7. The applicant applied¹¹ to the Office of the Information Commissioner (**OIC**) for external review of OIR's decision. On review, OIC conveyed a view to the applicant¹² that in relation to the redactions that had been applied to the administrative access documents, there was no further information to be disclosed to her under the RTI Act. The applicant responded to the preliminary view indicating acceptance of the view on redactions¹³ and confirming that she wished the review to proceed in relation to the investigation of OIR's searches.
8. During the review, it became clear, following engagement with the applicant and OIR,¹⁴ that the applicant was seeking access to a much broader scope of documents beyond her claim files, whereas OIR had interpreted the application as being limited to a request solely for information on the claim files. The full scope of what the applicant was seeking was not fully appreciated until OIC received submissions from the applicant which confirmed she sought '*communications between OIR staff and me, internal OIR communications about my matter, and communications between OIR officers concerning my claims, reviews, complaints and requests for information*'.¹⁵
9. Once there was mutual understanding between the applicant and agency as to interpretation of the scope, OIC asked OIR to undertake further searches for information responsive to the broader scope of the access application. As a result of those further searches, OIR identified more than 2000 documents¹⁶ (**Additional Documents**) and submitted that this did not represent the full extent of responsive documents because some searches remained outstanding.
10. The issue for determination is whether dealing with the application, to the extent it seeks access to the Additional Documents would be a substantial and unreasonable diversion of OIR resources under section 41 of the RTI Act.
11. In reaching my decision, I have taken into account evidence, submissions, legislation and other material as referred to in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019 (Qld)* (**HR Act**), particularly the right to seek

¹⁰ Decision dated 22 April 2025. This is the reviewable decision.

¹¹ External review application dated 23 April 2025.

¹² Dated 1 April 2026.

¹³ Confirmed by email dated 7 May 2026.

¹⁴ Including correspondence with OIR on 11 April and 28 April 2026 and with the applicant on 29 April and 7 May 2026.

¹⁵ Submissions dated 6 April 2026.

¹⁶ OIR submitted on 2 June 2026 that the final count may be closer to 3000 documents.

and receive information¹⁷ and in doing so, have acted in accordance with section 58(1) of the HR Act.¹⁸

Relevant law

12. An agency is required to deal with an access application unless doing so would, on balance, be contrary to the public interest.¹⁹ 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. Before refusing to deal with an application on this basis, section 42 of the RTI Act requires an applicant to be given an opportunity to narrow the scope so as to re-frame it into a form that can be processed.²⁰
13. 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.²¹ The dictionary definitions²² of those terms relevantly provide:
 - '*substantial*' means '*of ample or considerable amount, quantity, size, etc.*'
 - '*unreasonable*' means '*exceeding the bounds of reason; immoderate; exorbitant.*'
14. 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.²³ The decision-maker must have regard to the resources that would be used for:²⁴
 - 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.
15. 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

¹⁷ Section 21 of the HR Act.

¹⁸ 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].

¹⁹ Section 39(1) of the RTI Act.

²⁰ Section 42(1) of the RTI Act.

²¹ Section 14B of the AI Act.

²² *Macquarie Dictionary* (online at 25 June 2026) '*substantial*' (def 2); *Macquarie Dictionary* (online at 25 June 2026) '*unreasonable*' (def 5).

²³ Section 41(3) of the RTI Act.

²⁴ 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.

be assessed in each individual case, taking into account a given agency's operations and resources.²⁵

16. The question of whether the impact on an agency's resources would be 'substantial' is a question of fact. In previous decisions, the Information Commissioner has held that relevant factors to consider include:²⁶
- the agency's resources and size²⁷
 - the other functions of the agency;²⁸ and
 - whether and to what extent processing the application will take longer than the legislated processing period of 25 business days.²⁹
17. In determining whether the work involved in dealing with an application is unreasonable, it is not necessary to show that the extent of the unreasonableness is overwhelming.³⁰ Rather, it is necessary to weigh up the considerations for and against, and form a balanced judgement of reasonableness, based on objective evidence.³¹ Factors that have been taken into account in considering this question include:³²
- whether the terms of the request offer a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought
 - the public interest in disclosure of documents
 - whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications
 - the agency's estimate of the number of documents affected by the request, and by extension the number of pages and the amount of officer time
 - the reasonableness or otherwise of the agency's initial assessment and whether the applicant has taken a cooperative approach in rescoping the application
 - the timelines binding on the agency
 - the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and
 - whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications.

²⁵ *Davies and Department of Prime Minister and Cabinet* [2013] AICmr 10 (22 February 2013) at [28].

²⁶ This is not an exhaustive list.

²⁷ *Middleton and Building Services Authority* (Unreported, Queensland Information Commissioner, 24 December 2010) at [34]–[37].

²⁸ *60CDYY and Department of Education and Training* [2017] QICmr 52A (7 November 2017) at [18].

²⁹ *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [40].

³⁰ *F60XCX and Department of the Premier and Cabinet* [2016] QICmr 41 (13 October 2016) at [90].

³¹ *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) at [42], adopting *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (**Smeaton**) at [30].

³² *Smeaton* at [39].

18. 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. However, 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.³³

Submissions

19. On external review, OIR submitted³⁴ that processing the Additional Documents would be a substantial and unreasonable diversion of resources, noting:

To identify and locate the documents multiple search requests have been sent to;

*Workers' Compensation Regulatory Services (WCRS),
WCRS Policy unit
Ethical Standards
WCRS OED which includes Ministerial Office
Information Communication and Technology Services (ICTS)
OIR Human Resources (HR)*

This has resulted in approximately 18 search requests based on the 16 people listed [by the applicant] This includes the respective business units shared inbox.

The search requests have seen significant impact on other areas of the agency who are conducting these searches. This includes WCRS seeking an extension of time to complete the searches. Despite the extension, 3 are still outstanding.

ICTS have also been impacted as search requests of computers on former staff and those on leave have been issued. We are still waiting for these documents for 3 staff. Once returned, other officers will need to identify responsive documents.

...

To date we have received 13 returned searches which has resulted in approximately 2000 pages of information. (This does not include attachments within the emails). I estimate this would take approximately 50 hours to process (based on 2000 pages only).

Currently the downloading, initial collation of documents and brief review has taken approximately 25 hours due to file sizes, length of file path names et cetera.

Of the outstanding 6 searches, 3 are staff who have left or on leave; requests have been made to ICTS. I guesstimate another 1000 pages of emails (not including attachments); I estimate that would take approximately 25 hours to process (not including any attachments).

Currently OIR is approaching 700 RTI applications for this financial year. I have approximately 20 other RTI matters afoot and with 18 searches for this external review

³³ Sections 90(1), 95(1)(a) and 105(1) of the RTI Act.

³⁴ Submission dated 2 June 2026.

that substantially increases my workload. The RTI business unit would not be able to take me offline to manage this one review. The time taken thus far has impacted the management of my other RTI applications. The impact would be too substantial on our team of 4 decision makers. Currently we have approximately 350 RTI applications afoot.

Additionally, if we were to proceed with this review I would still have to thoroughly review these documents, download and collate the remaining documents from the outstanding 6 staff, remove any duplicates and irrelevant information/documents, mark-up and complete third-party consultations. There would be approximately 5 consultations that I have noted so far; I estimate the consults would take approximately 25 hours.

20. OIR also advised that:

Additionally, for the agency to cross-check what has and has not been previously released in prior application requests has shown to be problematic in the preliminary searches conducted to date. Staff are advising that there are most likely documents in the new searches that have been released but it is not feasible to review the information already released which is quite voluminous. Prior applications from [this applicant] include 11 access applications, 6 external reviews, 1 internal review and numerous Administrative Access releases.

21. OIR also indicated in its submissions that it would be open to receiving 'separate targeted RTI requests' but that these would 'have to be managed in line with the RTI team handling our other requests' and 'could not be completed simultaneously'.³⁵

22. The applicant made submissions³⁶ in response to OIC's preliminary view contesting OIR's view on the anticipated impact on its resourcing. Notably, the applicant raised the following key points in their submission:

1. The additional documents were only located because OIR's earlier searches were inadequate

- *I submit that it is not reasonable for OIR to rely on the volume of documents now located as a basis to refuse further access, without first considering a practical staged or narrowed disclosure process within this review.*

2. A blanket refusal is not the only available or reasonable course

- *There are practical alternatives which could reduce the burden on OIR while preserving my right to access information. For example, OIR could be required to process the additional documents in stages, by officer, date range, subject matter, document type, or agreed priority categories. OIR could also be asked to identify document groups or indexes so that I can narrow the material in an informed way.*

3. The nature of the information sought is significant

- *The significance of the records should be weighed against OIR's resource submission. A resource estimate should not automatically defeat access to*

³⁵ Submission dated 2 June 2026.

³⁶ Submission dated 12 June 2026.

documents about a person's own claims and regulatory dealings, particularly where the agency has already located responsive material.

4. OIR's estimate should be tested more closely

- *OIR has estimated approximately 50 hours to process the 2000 pages, plus time already taken and possible third party consultation. I do not accept that this estimate, without more, justifies refusing access to all of the additional documents.*
- *The preliminary view does not appear to consider whether all 2000 pages require the same level of review, whether duplicates could be removed efficiently, whether irrelevant material could be excluded at a preliminary stage, whether documents could be processed in batches, or whether I could assist to narrow the documents once OIR identifies the categories of material located.*

5. The proposed pathway is unfair and inefficient

- *The documents have already been located in this external review. OIC has already required further searches. OIR has now accepted that searches beyond my claim file were required. A fresh application would also create further delay and may allow the same section 41 objection to be raised again. That is not an effective remedy.*

Findings

23. As previously set out in these reasons, at the time the application was processed, OIR interpreted it as confined to the applicant's claim files in respect of which most information could be released administratively. I observe that the number of documents captured on those claim files comprised approximately 2000 pages. Had there been mutual understanding between the participants as to the breadth of scope of the application at the time of processing, I consider it is reasonable to expect that OIR would have taken steps under section 42 of the RTI Act to consult with the applicant to seek to narrow the scope of the request.
24. In the absence of formal steps having been taken by OIR under section 42 of the RTI Act, I am satisfied that once submissions were received from OIR about the impact on its resources, and outcomes of its searches, these were put to the applicant and she was afforded an opportunity to consider narrowing her application, eg. through further, confined, consecutive applications to OIR.³⁷ I am satisfied that the process followed by OIC on external review served to afford the applicant an opportunity to consider narrowing in line with the obligation placed on an agency under section 42 of the RTI Act.
25. I accept that through OIR's further searches on external review, over 2000 pages have been identified.³⁸ I am satisfied that the estimate of more than 2000 responsive documents is a substantial volume of documents to be dealt with in the

³⁷ Preliminary view letter dated 9 June 2026.

³⁸ Plus, an estimated further 1000 pages from searches that had not yet been completed at the time of OIR's 2 June 2026 submission.

context of a single access application (and related external review). I am further satisfied that the resources already expended and time already spent by OIR on this application have been substantial.

26. I have examined OIR's submissions regarding its searches and inquiries to date, and its records of searches. Given the substantial number of documents located and cross checking that OIR has submitted would be required against previous applications, I consider it is reasonable to conclude that careful and time consuming assessment of the Additional Documents would be required to identify their relevance to the broader scope.
27. I have taken into account that it is reasonable for an individual to seek access to their personal information from a government agency, particularly where there has been a workplace incident and subsequent compensation claim. However, given the nature of the information the applicant is seeking (including external communications), the Additional Documents are likely to require third party consultations.
28. I have also taken into account OIR's estimate of 50 hours, which equates to approximately seven working days. This figure does not include the approximately 25 hours already taken to conduct the searches and collate the documents or the estimated 25 hours to deal with the further 1000 pages from searches still to be finalised. I am satisfied that the estimate of time, in dealing with the 2000 pages alone, is sufficient to support a finding that further dealing with the application, to the extent it seeks access to the Additional Documents, would substantially divert OIR's resources.
29. As set out in its submission to OIC, OIR is experiencing extremely high demand for its information access services with approximately 350 applications on hand, not including internal or external reviews. I also acknowledge that OIR has a small team of four decision makers to deal with information access matters, and their caseloads are very high. I am satisfied that to the extent the application seeks the Additional Documents, the work required by OIR to process those documents (on external review) would have a manifestly excessive impact on OIR's RTI resources and its ability to perform its functions, by diverting its employees from dealing with other access applications.
30. I acknowledge that obtaining records of communications in connection with how their claims were reviewed and managed by OIR is of great importance to the applicant. However, I do not consider it would be reasonable for OIR to process a request of this size, taking into account the significant number of documents involved, the estimated time it would take to examine the documents and prepare them for release, and the finite resources OIR has available to devote to processing a significant volume of information access applications.
31. I have turned my mind to the public interest in disclosure of the Additional Documents and to that end, have had regard to the nature of the requested information, submissions made by the applicant, and information provided by OIR,

including search records.³⁹ Given the information the applicant is seeking is in the nature of correspondence and communications in connection with her claims, I have proceeded on the basis that those documents would contain the applicant's personal information, but would also, to a degree, be of an administrative nature as they would be likely to record OIR's day to day actions in connection with claims processing. As outlined earlier in these reasons, disclosure may further her understanding of how the claim review processes were managed by OIR, and may to some degree, advance her fair treatment and afford procedural fairness. However, given my findings regarding the impact on OIR's resources outlined above, I do not consider the public interest considerations are sufficient to overcome a finding that it would also be an *unreasonable* diversion of OIR's resources.

32. The outcome of this review will undoubtedly be disappointing for the applicant. I also acknowledge the time it took for the full extent of her scope to be understood is unlikely to have met her expectations. While this review has not led to the applicant gaining access to anything beyond the documents in her claim files that were previously released by WCRS administratively, there is scope for her to reapply to OIR for further OIR documents of interest to her.⁴⁰ As outlined above, OIR are open to accepting further applications, but they have indicated they would not be able to process concurrent applications, and their capacity to process them would depend upon the resources available at the time.
33. For the reasons set out above, I refuse to deal with the application to the extent it seeks the Additional Documents as it would substantially and unreasonably divert OIR's resources from their use in performance of its functions, in accordance with section 41 of the RTI Act.
34. The above are the reasons for my decision set out at page 1.

³⁹ OIC did not obtain a copy of the Additional Documents for the purpose of this review.

⁴⁰ I note however that since making this access application, the applicant has made further applications to OIR which may have served to narrow the scope of information that remains of interest to her.