

Decision and Reasons for Decision

Citation: P58 and Queensland Human Rights Commission [2026]
QICmr 121 (9 July 2026)

Application Number: 319187

Applicant: P58

Respondent: Queensland Human Rights Commission

Decision Date: 9 July 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - LEGAL PROFESSIONAL PRIVILEGE - whether information would be privileged from production in a legal proceeding on the ground of legal professional privilege - waiver and improper purpose - whether access to information may be refused on the basis that it is exempt - sections 47(3)(a) and 48 and schedule 3, section 7 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - whether disclosure would, on balance, be contrary to the public interest - sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - whether agency has taken all reasonable steps to locate requested documents - whether access to further documents can be refused on the ground they are nonexistent or unlocatable - sections 47(3)(e) and 52(1) of the *Right to Information Act 2009* (Qld)

DECISION

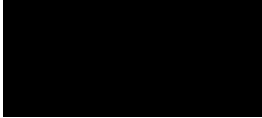
I affirm¹ the reviewable decision of Queensland Human Rights Commission (**QHRC**) and find that access may be refused to the information remaining for consideration on the

¹ Under section 110(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

grounds that it comprises exempt information or it is information which would, on balance, be contrary to the public interest to disclose. I also find that access to any further documents relevant to the access application may be refused on the ground they do not exist.²

This means that no further information is to be released to the applicant.

My reasons for the decision follow.



T Lake
Principal Review Officer

Date: 9 July 2026

² I have made this decision as a delegate of the Information Commissioner under section 145 of the RTI Act. 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 applicant's application was made after this change, the RTI Act **as in force after 1 July 2025** is the applicable legislation.

REASONS FOR DECISION

Summary

1. The applicant applied to QHRC under the RTI Act to access documents which referred, mentioned or related to them.³
2. QHRC located 402 documents relevant to the access application and decided to:
 - release 377 documents (comprising in excess of 4500 pages) to the applicant⁴
 - refuse access to 15 documents and parts of 10 documents, on the grounds this information comprised exempt information or its disclosure would, on balance, be contrary to the public interest.⁵
3. QHRC also generated, and released to the applicant, three additional documents containing metadata requested by the applicant.
4. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of QHRC's decision refusing access to located information.⁶ The applicant is also not satisfied with the level of information which has been located in response to the access application.⁷

Background

5. The access application sought access to:

1. *All documents that mention, refer to, or relate to [the applicant] (including variants of [the applicant's] name, email address, and file references) held by the QHRC, including but not limited to: emails, letters, file notes, internal messages, minutes, assessments, triage notes, briefs, referrals, recommendations, call logs/transcripts, and decision records.*
2. *All correspondence to or from the QHRC that refers to [the applicant] with any Queensland agency or body (including DJAG, CCC, QPS, QIRC, OIC, and the Attorney-General's Office) and any media or third parties.*
3. *Any internal communications discussing [the applicant's] complaints, handling, or "communications strategy" about [the applicant].*
4. *Any documents received from others about [the applicant] that the QHRC has relied on or circulated.*

³ Access application dated 6 November 2025.

⁴ Subject to the deletion of irrelevant information appearing within 28 of these 377 documents.

⁵ Decision dated 11 December 2025.

⁶ On 11 December 2025 (**External Review Application**). The applicant did not seek external review of QHRC's decision to delete information pursuant to section 73 of the RTI Act, on the basis that it was irrelevant to the access application. As that deleted information was not in issue on external review, it is not dealt with in these Reasons for Decision.

⁷ In the decision under review, QHRC:

- notified the applicant that, due to the volume of documents it had decided to release, access to those documents would be provided on a password protected USB; and
- asked the applicant to provide a postal address to facilitate the provision of that USB.

During the review, OIC asked the applicant to confirm if they wished to access the documents which QHRC had decided to release and, if so, to provide a postal address to enable documents to be posted. The applicant confirmed to OIC, on 11 June 2026, that they did wish to access those documents and, on 15 June 2026, the applicant provided OIC with the requested postal address. As a result, the information which QHRC had decided to release to the applicant was only received by the applicant on 30 June 2026.

5. *Audit trails/metadata sufficient to show who accessed or edited [the applicant's] files and when.*

6. The applicant also specifically requested in the access application that QHRC not *'limit the release to copies of materials [the applicant] supplied.'*

Reviewable decision

7. The decision under review is QHRC's decision dated 11 December 2025.

Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes).
9. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁸ 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 RTI Act.⁹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act

Information in issue

10. As mentioned in paragraph 2 above, QHRC refused access to 15 documents and parts of 10 documents (**Information in Issue**). This information falls into two broad categories, namely:
- information refused on the ground it is subject to legal professional privilege; (**Category 1 Information**);¹⁰ and
 - the name of a QHRC staff member in one document refused on the ground its disclosure would, on balance, be contrary to the public interest (**Category 2 Information**).

Issues for determination

11. During the review, I conveyed a preliminary view to the applicant that access may be refused to the Information in Issue and QHRC had conducted reasonable

⁸ Section 21 of the HR Act.

⁹ *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]. I also note the following observations made by Bell J in *XYZ* at [573], on the interaction between equivalent pieces of Victorian legislation (namely, the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic)): *'it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act'*. I further note that OIC's approach to the HR Act (as set out in this paragraph) was considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (where Judicial Member DJ McGill SC saw *'no reason to differ'* from OIC's position).

¹⁰ This comprises 15 documents and parts of nine documents.

searches for the documents requested in the access application.¹¹ The applicant did not accept that preliminary view.

12. Accordingly, the issues for determination are whether:

- the Category 1 Information comprises exempt information and access to it may be refused on that ground
- disclosure of the Category 2 Information would, on balance, be contrary to the public interest and access to it may be refused on that ground; and
- access to further documents relevant to access application may be refused on the ground they do not exist or cannot be located.

Category 1 Information

13. In the decision under review, QHRC described the Category 1 Information as confidential communications *'between Commission officers and the Commission's in-house lawyer, who is appropriately qualified and was acting in their capacity as a lawyer to provide independent legal advice'*. Although the RTI Act restricts the manner in which I can describe the Information in Issue in these Reasons for Decision,¹² I can confirm that the Category 1 Information comprises communications between QHRC and its internal legal officer.

14. It is QHRC's position that the Category 1 Information comprises exempt information. On the other hand, the applicant does not accept that this information meets the requirements of legal professional privilege and submits that *'[t]he agency must demonstrate that the dominant purpose is legal advice or litigation, not risk-management, public relations or administrative decision-making'*.¹³ The applicant also submits that there is *'at least an argument of implied waiver or that fairness requires disclosure of underlying communications to justify decision'*.¹⁴

Relevant law

15. The RTI Act creates a right of access to documents of government agencies.¹⁵ This access right is subject to some limitations, including the grounds on which access to information may be refused.¹⁶ One ground of refusal is where information comprises exempt information.¹⁷ Information will qualify as exempt where it would

¹¹ Letter dated 1 July 2026. It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner (or delegate) at that time, to an adversely affected participant. This is to explain the issues under consideration to the participant and affords them the opportunity to put forward any further information they consider relevant to those issues. It also forms part of the Information Commissioner's processes for early resolution of external reviews.

¹² Section 108(3) of the RTI Act.

¹³ External Review Application.

¹⁴ External Review Application. In the applicant's email dated 1 July 2026, they also stated that *'any waiver or partial disclosure issues must be carefully examined'*.

¹⁵ Section 23(1)(a) of the RTI Act.

¹⁶ The grounds on which access can be refused are set out in section 47 of the RTI Act.

¹⁷ Sections 47(3)(a) and 48 of the RTI Act. Schedule 3 of the RTI Act identifies the types of information which Parliament has determined will comprise exempt information under the RTI Act.

be privileged from production in a legal proceeding on the ground of legal professional privilege.¹⁸

16. Legal professional privilege protects confidential communications between a lawyer and their client, made for the dominant purpose of seeking or giving legal advice or professional legal assistance, or, for use in legal proceedings either on foot or reasonably anticipated, at the time of the relevant communication.¹⁹ The privilege will extend to copies of unprivileged documents made for the dominant purpose of obtaining legal advice.²⁰ The privilege may also protect communications between a salaried employee legal adviser of a government department or statutory authority and their employer as the client (including communications through other employees of the same employer), provided there is a professional relationship of legal adviser and client, which secures to the advice an independent character, notwithstanding the employment.²¹
17. There are qualifications and exceptions to legal professional privilege (such as waiver and improper purpose) which may affect the question of whether information attracts or remains subject to it, and therefore whether it comprises exempt information under the RTI Act.²²

Findings

18. The applicant submits that '[i]t is not sufficient to simply assert privilege. OIC must be satisfied each communication satisfies the legal test'.²³ External review under the RTI Act is a merits review.²⁴ As the Queensland Civil and Administrative Tribunal (QCAT) has observed,²⁵ the role of the Information Commissioner, 'as an independent specialist', is to conduct an examination of the information in question and 'decide whether or not there was a right to access in accordance with the Act'. In conducting a merits review in this matter, I confirm that I have carefully reviewed all of the Category 1 Information.

¹⁸ Schedule 3, section 7 of the RTI Act. This exemption reflects the requirements for establishing legal professional privilege at common law.

¹⁹ *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49 at page 73; *Daniels Corporation International Pty Ltd v Australian Competition and Consumer Commission* (2002) 213 CLR 543 at page 552. These principles were confirmed by the High Court in *Glencore International AG v Commissioner of Taxation* [2019] 265 CLR 646 at page 659–660. I note that the dominant purpose has been described as 'the ruling, prevailing or most influential purpose' (*Commissioner of Taxation (Cth) v Spotless Services Ltd* (1996) 186 CLR 404 at page 416) and it is to be determined objectively (refer to *AWB Limited v Cole (No 5)* (2006) 155 FCR 30 at [44], where Justice Young observed that '[t]he purpose for which a document is brought into existence is a question of fact that must be determined objectively.').

²⁰ *Commissioner of Australian Federal Police v Propend Finance Pty Ltd* (1997) 188 CLR 501 (**Propend**) at page 509 (Brennan CJ).

²¹ *Waterford v Commonwealth* (1987) 163 CLR 54 at 95 per Mason and Wilson JJ.

²² Once a factual basis for a claim of legal professional privilege has been established, a party contending that privilege has been waived bears the onus of establishing such waiver (refer to *Sanrus Pty Ltd & Ors v Monto Coal 2 Pty Ltd & Ors* [2019] QSC 144 at [28], citing *New South Wales v Betfair Pty Ltd* (2009) 180 FCR 543 at 556 [54]). Similarly, as McMurdo J observed in *Fletcher & Ors v Fortress Credit Corporation (Australia) II Pty Limited & Ors* [2014] QSC 303 at [61], a party alleging legal professional privilege does not apply for reasons of improper purpose is required to establish 'a prima facie case' that the relevant communications were for the purpose of facilitating alleged misconduct, or that any communication was created in furtherance of an illegal, improper or dishonest purpose. See also *Propend* at page 591.

²³ Applicant's email dated 1 July 2026.

²⁴ That is, external review is an administrative reconsideration of a case which can be described as 'stepping into the shoes' of the primary decision-maker to reach the correct and preferable decision.

²⁵ *Mokbel v Queensland Police Service* [2023] QCATA 158 (**Mokbel**) at [12]. Although this matter concerned an application under the IP Act, I consider QCAT's findings are also relevant to applications made under the RTI Act.

19. I am satisfied that the necessary professional relationship exists between QHRC (as the client) and their internal legal advisers. There is no information before me which indicates that this Category 1 Information has been disclosed outside of the lawyer-client relationship. Having considered the content of this information, I am also satisfied that the communications it records were for the dominant purpose of giving/receiving legal advice.
20. Accordingly, I am satisfied that the Category 1 Information meets the requirements of legal professional privilege.
21. The applicant submits that *'where legal advice has been relied upon in making administrative decisions affecting [the applicant], any waiver or partial disclosure issues must be carefully examined.'*²⁶ However, the applicant has provided no further information in support of this submission. Having carefully considered all the information which is before me, there is nothing which reasonably indicates that legal professional privilege in the Category 1 Information has been waived, either expressly or impliedly by QHRC. There is also no evidence before me which indicates that any communication within the Category 1 Information was created in furtherance of an illegal, improper or dishonest purpose.
22. As there is nothing before me which indicates that any qualification or exception to legal professional privilege arises in respect of this information, I find that the Category 1 Information comprises exempt information and access to it may be refused on that basis.²⁷
23. As mentioned in paragraph 14 above, the applicant has raised a general fairness consideration as favouring disclosure of the Category 1 Information. However, where information meets the requirements of an RTI Act exemption, it is not necessary to also carry out a public interest balancing exercise.²⁸ This is because Parliament has determined that disclosure of exempt information is contrary to the public interest in all circumstances.²⁹ On external review, the Information Commission (or delegate) has no discretion to decide that information should be released, once the information is established as exempt information.³⁰ Accordingly, to the extent the applicant's submissions raise public interest considerations which they consider favour disclosure of the Category 1 Information, I am unable to take them into account.

Category 2 Information

24. The decision under review confirms that the Category 2 Information comprises the name of one QHRC staff member. The document in which the Category 2 Information appears has otherwise been fully disclosed to the applicant.

²⁶ Applicant's email dated 1 July 2026.

²⁷ Under section 47(3)(a) of the RTI Act.

²⁸ This was confirmed by QCAT in *Dawson-Wells v Office of the Information Commissioner & Anor* [2020] QCATA 60 at [10] and *Mokbel* at [30].

²⁹ Section 48(2) of the RTI Act.

³⁰ Section 105(2) of the RTI Act confirms that, on external review, the Information Commissioner (or delegate) has no discretion to disclose exempt or contrary to the public interest information.

Relevant law

25. Access may also be refused to information where its disclosure would, on balance, be contrary to the public interest.³¹
26. In deciding whether disclosure of information would, on balance, be contrary to the public interest, section 49 of the RTI Act requires a decision maker to identify any irrelevant factors and disregard them; identify relevant public interest factors favouring disclosure and nondisclosure; balance the relevant factors favouring disclosure and nondisclosure; and decide whether disclosure of the information in issue would, on balance, be contrary to the public interest.
27. Schedule 4 of the RTI Act contains lists of factors that may be relevant in determining where the balance of public interest lies in a particular case. I have considered these lists, together with all other relevant information, in reaching my decision. I have also kept in mind the RTI Act's pro-disclosure bias³² and that access refusal grounds are to be interpreted narrowly.³³

Findings

28. I have not taken any irrelevant factors into account³⁴ in reaching my decision about the Category 2 Information.

Analysis of public interest factors favouring disclosure and nondisclosure

29. The public interest factors in schedule 4, part 2, items 1, 3 and 11 of the RTI Act relate, generally, to government accountability and transparency. I consider the information which QHRC has disclosed in response to the access application has advanced these factors, by enabling scrutiny of QHRC's complaint processes and how it dealt with the applicant's complaints. I do not consider disclosing the Category 2 Information, given its limited nature, would further advance government accountability considerations in any meaningful way. On that basis, I afford the accountability and transparency factors no weight.
30. The applicant's submissions raise concerns about the manner in which QHRC dealt with their complaints. The decisions made by QHRC in respect of the applicant's complaints are not reviewable decisions under the RTI Act and, on external review, the Information Commissioner is not empowered to address, or make findings about, those decisions. However, given the applicant's submissions, I have considered the public interest factors which arise where disclosing information could reasonably be

³¹ Section 47(3)(b) of the RTI Act. The term '*public interest*' refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, in general, a public interest consideration is one which is common to all members of, or a substantial segment of, the community, as distinct from matters that concern purely private or personal interests (although there are some recognised public interest considerations that may apply for the benefit of an individual).

³² Section 44 of the RTI Act.

³³ Section 47(2)(a) of the RTI Act.

³⁴ Including those set out in schedule 4, part 1 of the RTI Act.

expected³⁵ to allow or assist inquiry into possible conduct deficiencies of agencies or officials, or reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct, public interest factors favouring disclosure will arise.³⁶ Having reviewed all the information before me, I am satisfied that there is no expectation that disclosure of the Category 2 Information would allow or assist enquiry into, reveal or substantiate, deficiencies in agency or official conduct. For this reason, I do not consider these factors apply.

31. Taking into account the limited nature of this Category 2 Information, I can identify no other public interest factors which would apply to favour its disclosure.³⁷
32. The applicant submits that *'The document in question relates to [the applicant's] complaint and how it was handled, not some unrelated personal data. A staff member's identity in the context of official duties is not especially private'*.³⁸
33. The Category 2 Information comprises the personal information³⁹ of a QHRC officer. This gives rise to a factor favouring nondisclosure in schedule 4, part 4, section 6(1) of the RTI Act.⁴⁰ In determining the weight to be afforded to this factor, I have taken into account that the RTI Act does not impose any restriction on the use, dissemination or publication of information which is disclosed in response to an access application. While I accept a high level of harm would not be expected to arise from disclosure of routine personal work information of public sector officials, the released document in which the Category 2 Information appears confirms that the named officer is the subject of a received complaint. Given that context, I consider a low level of public interest harm could be expected to arise from disclosure of the officer's name and, accordingly, I afford this nondisclosure factor low weight.
34. A public interest favour favouring nondisclosure will also arise where disclosing information could reasonably be expected to prejudice the protection of an

³⁵ The phrase *'could reasonably be expected to'* has been considered previously by the Information Commissioner and, in essence, requires that the expectation must be based in reason (as distinct from something that is irrational, absurd or ridiculous) and not merely a possibility. The expectation must also arise as a result of disclosure, rather than from other circumstances. See, for example, *Sheridan and South Burnett Regional Council and Others* [2009] QICmr 26 (9 April 2009) at [189]–[193], referring to *Attorney-General v Cockcroft* (1986) 64 ALR 97.

³⁶ Schedule 4, part 2, items 5 and 6 of the RTI Act.

³⁷ This information is not the applicant's personal information and the factor in schedule 4, part 2, item 7 of the RTI Act does not apply. I also cannot see how disclosing the Category 2 Information could, for example, contribute to a positive and informed debate on important issues or matters of serious interest (schedule 4, part 2, item 2 of the RTI Act); advance the fair treatment of any individual or contribute to the administration of justice generally or for a person (schedule 4, part 2, items 10, 16 and 17 of the RTI Act); reveal this information to be incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant (schedule 4, part 2, item 12 of the RTI Act); or contribute to the enforcement of the criminal law (schedule 4, part 2, item 18 of the RTI Act). In the event that further relevant factors exist in favour of disclosure, I am satisfied that, given the particular nature of the Category 2 Information, there is no evidence before me to suggest that any would carry sufficient weight to outweigh the weight that I have afforded to the public interest factors that favour the nondisclosure of the Category 2 Information.

³⁸ External Review Application.

³⁹ 'Personal information' is defined in section 12 of the IP Act.

⁴⁰ In *Deemal-Hall v Office of the Director of Public Prosecutions* [2024] QCATA 131 at [27], QCAT confirmed that if information meets the definition of personal information in the IP Act, the factor in schedule 4, part 4, section 6(1) of the RTI Act applies.

individual's right to privacy.⁴¹ Again, I note the complaint context in which this information appears and that there is no mechanism under the RTI Act to prevent dissemination or publication of information disclosed in response to an access application. In these circumstances, I am satisfied that disclosure of the Category 2 Information could reasonably be expected to give rise to a low level of prejudice to the officer's privacy and, on that basis, I afford this public interest factor low weight in favour of nondisclosure.

Conclusion

35. I have identified and considered the public interest factors which are relevant to the Category 2 Information.
36. For the reasons explained above, I have afforded no weight to the public interest factors relating to government accountability and transparency. On the other hand, for the nondisclosure factors relating to personal information and privacy, I have afforded low weight.
37. On balance, I am satisfied that the public interest factors favouring nondisclosure of the Category 2 Information outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Category 2 Information would, on balance, be contrary to the public interest and access may be refused on that basis.⁴²

Sufficiency of search

Relevant law

38. The RTI Act requires that an access application must '*give sufficient information concerning the document to enable a responsible officer of the agency or Minister to identify the document*'.⁴³ There are sound practical reasons for requiring the documents sought in an access application to be clearly and unambiguously identified, including that the terms of the access application set the parameters for an agency's response and the direction of an agency's search efforts.⁴⁴
39. On external review, the Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps

⁴¹ Schedule 4, part 3, item 3 of the RTI Act. The concept of '*privacy*' is not defined in the IP Act or the RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their '*personal sphere*' free from interference from others (paraphrasing the Australian Law Reform Commission's definition of the concept in '*For your information: Australian Privacy Law and Practice*' Australian Law Reform Commission Report No. 108 released 12 August 2008, at paragraph 1.56).

⁴² Sections 47(3)(b) and 49 of the RTI Act.

⁴³ Section 24(2)(b) of the RTI Act.

⁴⁴ *H40 and Queensland Police Service* [2023] QICmr 30 (28 June 2023) at [13]; *M34 and Sunshine Coast Hospital and Health Service* [2023] QICmr 55 (5 October 2023) at [13].

to identify and locate documents applied for by applicants.⁴⁵ However, access to a document may be refused if it is nonexistent or unlocatable.⁴⁶

40. To be satisfied that a document does not exist, the Information Commissioner has previously identified key factors to consider.⁴⁷ By considering these key factors, a decision-maker may conclude that a particular document was not created. If searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.
41. A simple assertion that an agency has not discharged its obligation to locate relevant documents is insufficient to discharge the practical onus which falls on an applicant where they are contesting the adequacy of an agency's conducted searches.

Applicant's submissions

42. The applicant raised concerns about how QHRC treated the scope of the access application—more specifically, the applicant submits that:⁴⁸
 - QHRC misread and narrowed the access application by stating (in the decision under review) that the access application only requested documents containing the applicant's personal information; and
 - there had been an 'over-inclusion' of documents the applicant supplied to QHRC.
43. As noted in paragraph 5 above, each category of documents requested in the access application refers to documents about, or which reference, the applicant—that is, they seek documents which contain the applicant's personal information. The access application also specifically requested that QHRC was not to limit the document release to copies of materials the applicant supplied (as mentioned in paragraph 6 above). Given this, I do not consider QHRC has misread or narrowed the access application. Nor do I accept that QHRC '*padded the response with material that is already in [the applicant's] possession*' so as to give '*the impression of a generous disclosure*', as the applicant submits.⁴⁹

⁴⁵ Section 130(2) of the RTI Act. In *Webb v Information Commissioner* [2021] QCATA 116 (**Webb**), it was confirmed (at [6]) that this obligation '*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. The Information Commissioner also has power under section 102 of the RTI Act to require additional searches to be conducted during an external review.

⁴⁶ Sections 47(3)(e) of the RTI Act. A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist—section 52(1)(a) of the RTI Act. A document is unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document, but it cannot be found — section 52(1)(b) of the RTI Act.

⁴⁷ These factors are identified in *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] (**PDE**). They include the administrative arrangements of government; the agency's structure; the agency's functions and responsibilities; the agency's practices and procedures (including but not exclusive to its information management approach); and other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates.

⁴⁸ External Review Application.

⁴⁹ External Review Application.

44. The applicant was otherwise dissatisfied with the searches conducted by QHRC and requested that further searches be undertaken *‘including for all communications and documents originating from external agencies about [the applicant], and all material referring to PII or “communications strategy” regarding [the applicant]’*.⁵⁰ More specifically, the applicant submits:⁵¹

Item 2 and 4 of [the applicant’s] scope were clearly aimed at documents received from third parties (e.g. DJAG, QPS, QIRC, CCC, Attorney-General’s Office).

The decision does not state that no such documents exist; it simply does not deal with that question directly.

Schedule A shows various emails that clearly involve or refer to other agencies (e.g. entries referencing QPS RTI consultation, QO (Ombudsman), external review numbers, etc.), but no clear disclosure of substantive information received from those agencies or any attachments they may have provided.

...

The decision letter makes no mention of any documents or communications about PII, nor of any consideration of whether these exist and fall within scope.

Either the QHRC holds such documents and has failed to identify or release them, or QHRC has allowed external agencies to influence its handling of [the applicant’s] complaints verbally or informally without recording this ...

Across [the applicant’s] dealings with QHRC and other agencies, it has become clear that negative, untested allegations about [the applicant] – supplied by third parties [the applicant has] accused of serious misconduct – have influenced how [the applicant’s] complaints are treated.

45. The applicant also requested that QHRC’s assertions in the decision under review about the availability of metadata be *‘properly checked’* and that QHRC’s Information and Communications Team (ICT) be required to provide *‘a sworn statement describing what metadata existed in the old system, whether any logs, backups or audit mechanisms were available, and why none can now be retrieved’*.⁵²
46. Having reviewed all of the applicant’s submissions, the following are the additional documents which the applicant considers exist, are relevant to the access application, and have not been located:
- documents supplied to QHRC by other agencies (including police, DJAG, QIRC and others)
 - documents about public interest immunity/secretcy which the applicant considers have been raised in relation to the applicant’s matters; and
 - internal notes about how external “gossip” and untested allegations about the applicant have been used to justify decisions.

⁵⁰ External Review Application. In the applicant’s email dated 15 June 2026, the applicant also requested that OIC scrutinise the adequacy of QHRC’s searches.

⁵¹ External Review Application.

⁵² External Review Application.

Agency search information

47. QBCC relies on searches conducted by its officers to justify its position that reasonable steps have been taken to locate documents relevant to the access application.
48. In the decision under review, QHRC stated that searches were conducted of its database of *'enquiries and complaints'*, using the applicant's first and last names as the search terms. In respect of the applicant's request for metadata, the decision under review notes that:
- one of the applicant's complaint files was transferred to QHRC's new document management system in approximately July 2025
 - while the metadata released to the applicant includes metadata for the transferred file dating back to the file transfer, additional metadata for the period prior to the transfer is not available; and
 - QHRC's ICT Manager *'advises that metadata of the type sought was not recorded by the Commission's former document management system'*.
49. On external review, OIC asked QHRC to provide details of the searches it had conducted and further information about metadata for the period prior to the 2025 transition to QHRC's new record keeping system. QHRC was also requested to address the applicant's concerns about missing documents. The search information provided by QHRC confirms that in processing the access application, QHRC searched the applicant's identified complaint files; the applicant's customer complaint file; QHRC's Customer Relationship Management database, and the personal emails and filing systems of all QHRC officers who had been identified as having contact with the applicant or the applicant's files.⁵³ QHRC also explained that:⁵⁴
- in general, QHRC does not contact respondents or other agencies about a complaint unless and until it is accepted
 - the applicant had made two complaints to the QHRC and, in both cases, no information from third parties was requested or received by QHRC and the complaints were not accepted; and
 - the applicant's complaints were assessed solely based on the information the applicant had provided to QHRC; and
 - QHRC ICT had confirmed that metadata for the documents prior to the system transition in 2025 has not been stored on QHRC's new document management system.

⁵³ QHRC's letter dated 14 January 2026.

⁵⁴ QHRC's letter dated 14 January 2026.

Findings

50. The question I must answer is whether QHRC has taken all reasonable steps to locate the information requested in the access application.⁵⁵ This entails consideration of whether QHRC has required appropriate staff to conduct sufficient searches of all locations where the documents in question could reasonably be expected to be found.
51. There is nothing before me which calls into question either the efficacy of QHRC's searches, the accuracy of the provided search records or the accuracy of QHRC's provided explanations about its records management system and complaint handling process. I therefore accept QHRC's evidence in relation to its search efforts. In the circumstances of this matter, I consider searches have been conducted of locations where it was reasonable to expect that documents relevant to the access application would be stored and I do not consider additional searches, as suggested by the applicant, are warranted. Nor do I consider that obtaining a '*sworn statement*' from any QHRC officer concerning the availability of metadata is warranted.⁵⁶ In reaching these conclusions, I have noted that QCAT has acknowledged that it is open to reach a finding that an agency has taken all reasonable steps '*even if, at least in theory, further and better searches might possibly disclose additional documents*'.⁵⁷
52. Having reviewed the documents which were located by QHRC, the applicant's submissions and the information QHRC provided in response to the applicant's concerns about missing documents (which included search records), I consider that relevant QHRC officers have conducted comprehensive and appropriately targeted searches of all relevant QHRC record keeping systems for documents responsive to the access application. There is nothing before me which reasonably suggests that QHRC would be in possession of any further documents relevant to the access application. In particular, I consider the explanation QHRC provided about contact with external agencies provides a reasonable basis to conclude that additional documents of that type do not exist.
53. Accordingly, I am satisfied that QHRC has taken all reasonable steps to locate documents relevant to the access application and access to any further relevant documents may be refused, on the basis they do not exist.⁵⁸
54. The above are the reasons for my decision set out at pages 1-2.

⁵⁵ In *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], the Information Commissioner confirmed that the relevant question is whether the agency has taken all *reasonable* steps to identify and locate documents, as opposed to all *possible* steps.

⁵⁶ In the applicant's email dated 1 July 2026, the applicant also requested that they be provided with the following specific details about QHRC's searches—a schedule of every document identified by the conducted searches; details of every business unit, database, mailbox and recordkeeping system searched; name or position of officers who conducted searches; the search terms used; details of any documents excluded from scope or withheld; confirmation of whether any records existed before transfer to the new recordkeeping system and how they were preserved; and confirmation of whether any correspondence or information was received from any agency, regulator or external body regarding the applicant, whether formally or informally. The search terms used in QHRC's searches are mentioned in paragraph 48 above. Noting that the issue I am determining here is whether QHRC has taken all reasonable steps to locate requested information, I am satisfied that it is unnecessary to provide this level of detail to the applicant in order to support of my factual finding.

⁵⁷ *Webb* at [6].

⁵⁸ Under section 47(3)(e) and 52(1) of the RTI Act.