



Decision and Reasons for Decision

Citation: O80 and James Cook University [2026] QICmr 141 (13 August 2026)

Application Number: 00022114

Applicant: O80

Respondent: James Cook University

Decision Date: 13 August 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - DOCUMENTS NONEXISTENT OR UNLOCATABLE - request for documents about an application for admission - applicant submits further documents should exist - whether agency has conducted all reasonable searches - refusal of access to nonexistent documents - section 67(1) of the *Information Privacy Act 2009 (Qld)* and sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009 (Qld)*

DECISION

I vary the reviewable decision of James Cook University (**JCU**) and find that access may be refused to further documents under section 67(1) of the *Information Privacy Act 2009 (Qld)* (**IP Act**) and section 47(3)(e) of the *Right to Information Act 2009 (Qld)* (**RTI Act**) on the basis that further documents do not exist, pursuant to section 52(1)(a) of the RTI Act.¹

My reasons for the decision follow.



Kristen McGuire
Acting Manager, Right to Information

Date: 13 August 2026

¹ I have made this decision under section 123(1)(b) of the IP Act as a delegate of the Information Commissioner under section 139 of the IP Act.

REASONS FOR DECISION

Background

1. The applicant applied² to JCU under the IP Act³ for access to documents relating to the assessment of their application for admission to the JCU Bachelor of Medicine, Bachelor of Surgery (**MBBS**) undergraduate degree, for a specific date range.
2. JCU located 46 documents and decided⁴ to give access to 43 documents⁵ and to refuse access to three documents⁶ on the ground that disclosure would, on balance, be contrary to the public interest.⁷ The three documents to which access was refused can generally be described as:
 - two spreadsheets comprising statistical data relating to applicants for the MBBS undergraduate degree that progressed to first and second round interviews; and
 - an admissions assessment document used by JCU to assess applications for the MBBS undergraduate degree.
3. The applicant applied⁸ to the Office of the Information Commissioner (**OIC**) for external review of JCU's decision refusing access to the three documents. During the review:
 - JCU accepted⁹ OIC's view¹⁰ that further information from the two spreadsheets was suitable for release and provided a redacted version of the two spreadsheets to the applicant in accordance with OIC's view¹¹
 - OIC conveyed preliminary views to the applicant that:¹²
 - the admissions assessment document did not contain the applicant's personal information and therefore it fell outside the scope of their application which was made under the IP Act; and
 - access to the remaining redacted information in the two spreadsheets, which comprises the personal information of other individuals, can be refused on the basis that disclosure is, on balance, contrary to the public interest
 - The applicant:¹³
 - accepted that statistical data about the MBBS undergraduate degree applicant cohort falls outside the scope of the application and access to the

² Access application dated 5 June 2025, became compliant on 15 June 2025.

³ 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 IP Act and *Right to Information Act 2009 (Qld)*. 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.

⁴ Decision dated 19 August 2025. This is the *reviewable decision* for the purpose of this review.

⁵ Comprising 136 pages.

⁶ Comprising 12 pages.

⁷ In its decision, JCU also advised that documentation submitted by the applicant through the Queensland Tertiary Admissions Centre (**QTAC**) was not held by or accessible to JCU and therefore was not considered or provided as part of the processing of the applicant's access application. The applicant advised that they are separately lodging an information access request with QTAC for documents relating to their MBBS application and therefore it is not an issue in this review.

⁸ External review application dated 21 August 2025.

⁹ Email JCU to OIC dated 28 April 2026.

¹⁰ Email from OIC to JCU dated 20 April 2026.

¹¹ Further information was released to the applicant on 28 April 2026.

¹² Email from OIC to applicant dated 30 April 2026 and 11 May 2026.

¹³ Letter from the applicant dated 1 May 2026, attached to an email dated 1 May 2026; and letter from the applicant dated 19 May 2026, attached to an email dated 18 May 2026.

- personal information of other individuals redacted from within the two spreadsheets could be refused; and
- raised concerns that further documents should exist detailing how their application for admission was assessed by JCU.
4. The issue for determination in this review is whether access to further documents may be refused under section 67(1) of the IP Act and section 47(3)(e) of the RTI Act on the basis they are nonexistent.
 5. The evidence, submissions, legislation and other material I have considered in reaching this decision are disclosed in these reasons (including the footnotes).
 6. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.¹⁴ 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.¹⁵ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.

Relevant law

7. An individual has a right, under the IP Act, to be given access to documents to the extent they contain the individual's personal information.¹⁶ However, this right of access is subject to certain limitations, including grounds for refusing access.¹⁷
8. Relevantly, access to a document may be refused if it is nonexistent or unlocatable.¹⁸ A document will be nonexistent if there are reasonable grounds to be satisfied that it does not exist.¹⁹ A document will be unlocatable if it has been or should be in the agency's possession and all reasonable steps have been taken to find the document, but it cannot be found.²⁰
9. Where searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken by the agency to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.²¹

¹⁴ Section 21 of the HR Act.

¹⁵ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. 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).

¹⁶ Section 40 of the IP Act.

¹⁷ Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent it could refuse access to the document under section 47 of the RTI Act were the document to be the subject of an access application under that Act.

¹⁸ Sections 47(3)(e) and 52 of the RTI Act.

¹⁹ Section 52(1)(a) of the RTI Act.

²⁰ Section 52(1)(b) of the RTI Act.

²¹ Section 130(2) of the RTI Act. The Information Commissioner also has power under section 102 of the RTI Act to require additional searches to be conducted during an external review. The Queensland Civil and Administrative Tribunal confirmed in *Webb v Information Commissioner* [2021] QCATA 116 at [6] that the RTI Act '*does not contemplate that* [the Information Commissioner] *will in some way check an agency's records for relevant documents*' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

10. On external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.²² However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation to locate. Suspicion and mere assertion will not satisfy this onus.²³

Searches and submissions

11. During the review, the applicant submitted:²⁴

What I am seeking is the specific information about how JCU assessed me — [name redacted] — as an individual applicant. In particular:

- (a) What score or ranking was I assigned in JCU's admissions process?*
- (b) Was my rurality status applied and recognised in the assessment of my application?*
- (c) Was my Master of [named degree] recognised and taken into account as a qualification?*
- (d) What specific eligibility factors were assessed in my case and what was the outcome of each assessment?*
- (e) Why was my application ultimately unsuccessful, given that I was initially advised I met all eligibility criteria?*

...

JCU made a specific administrative decision about my application. It assessed my qualifications, applied its eligibility criteria, and determined that my application was unsuccessful. That decision did not happen in a vacuum. There must exist, somewhere in JCU's records, information that shows:

- *the inputs used to assess my application (my rurality, my qualifications, my scores);*
- *the result produced by those inputs (my ranking or outcome); and*
- *the reason the result was 'unsuccessful'.*

Whether that information is captured in a spreadsheet, a database, a form, an email, or within the admissions assessment document, it is my personal information and I am entitled to it under the IP Act.

To date, none of the 43 documents released to me has explained what score I was assigned, whether my rurality was recognised, whether my [named degree redacted] was counted, or why I was unsuccessful. If JCU's position is that none of its documents contain this information, that itself raises serious questions about JCU's recordkeeping obligations. But I do not accept that no such records exist.

12. Following enquiries by OIC,²⁵ JCU submitted²⁶ that detailed documents were provided to the applicant during the appeal process of their admission assessment outcome and that all relevant information searched for and located was provided to the applicant again in response to their request for information from JCU under the IP Act.

²² Section 87(1) of the RTI Act.

²³ *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36].

²⁴ Letter dated 19 May 2026, attached to an email from applicant to OIC dated 15 May 2026.

²⁵ Email from OIC to JCU dated 1 June 2026.

²⁶ Email from JCU to OIC dated 2 June 2026.

13. JCU also provided²⁷ OIC with records of the searches conducted which reveal that:
- searches were conducted of the business area responsible for processing and assessing the applicant's application for admission to the MBBS undergraduate degree and records held by the head of the business area who considered the applicant's admission application
 - no other business area is expected to hold relevant information as the applicant's application for admission did not progress to an interview stage
 - the only search term used was the applicant's name, as the applicant was not assigned a student ID because they did not progress to enrolment; and
 - searching by the applicant's name located all records relating to the applicant's application for admission, assessment and appeal.

Findings

14. I have examined the 46 documents located by JCU, and the records of JCU's searches and inquiries conducted on the application. I am satisfied that in undertaking the searches in response to the access application, JCU contacted the relevant areas and officers involved in assessing the applicant's application for admission to the MBBS undergraduate degree. I am also satisfied that searches were undertaken of relevant record keeping systems that JCU maintains in relation to assessments of applications for admission to the MBBS undergraduate degree.
15. While I accept that the applicant has ongoing concerns that JCU has not located '*specific information about how JCU assessed*' their admission application, I note that JCU located and disclosed to the applicant a document which provides detailed and considered feedback regarding JCU's admission assessment process, including the evaluation methodology applied to consideration of the applicant's application for admission, consideration of prior qualifications and professional experience, and relevant rurality considerations.
16. Having considered the content of the documents disclosed to the applicant and JCU's submissions, I consider it was reasonable for JCU to undertake searches of the locations identified at paragraph 13 based on the scope of the application. This is further confirmed by the fact that relevant documents were located through those searches, including a document detailing feedback regarding the assessment of the applicant's application for admission. I accept JCU's submission that no other business area is expected to hold responsive documents. Aside from the applicant's submissions, there is no material before me to suggest that any further documents exist which would provide a reasonable basis for requesting JCU undertake further searches.²⁸
17. I acknowledge the documents located by JCU have not met the applicant's expectations regarding documents that they submit should have been created regarding the assessment of their application for admission. However, OIC does not have jurisdiction to interrogate JCU's record keeping practices, nor the actions taken by JCU in relation to the applicant's application for admission. The issue for

²⁷ Email dated 3 August 2026.

²⁸ I am also satisfied that in the circumstances of this case, searches of JCU's backup systems were not required under section 52(2) of the RTI Act.

me to consider is whether JCU has taken reasonable steps to locate all relevant documents responding to the application.

18. Taking into account the scope of the application, the documents located by JCU, and JCU's searches and record keeping practices, I am satisfied that JCU has undertaken reasonable searches in this case, and access to further documents can be refused on the basis they are nonexistent, in accordance with sections 47(3)(e) and 52(1)(a) of the RTI Act.
19. The above are the reasons for my decision set out at page 1.