



## Decision and Reasons for Decision

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Citation:	<i>L28 and Supreme Court of Queensland [2025] QICmr 48 (23 July 2025)</i>
Application Number:	318704
Applicant:	L28
Respondent:	Supreme Court of Queensland
Decision Date:	23 July 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - APPLICATION OUTSIDE SCOPE OF ACT - ENTITIES TO WHICH ACT DOES NOT APPLY IN RELATION TO A PARTICULAR FUNCTION - information concerning documents filed with court registry - whether the application is to an entity to which the Act does not apply - section 17 of the <i>Information Privacy Act 2009</i> and sections 14(2) and 17(b) and schedule 2, part 2 of the <i>Right to Information Act 2009</i> (Qld)

### REASONS FOR DECISION

#### Summary

1. The applicant applied<sup>1</sup> to the Supreme Court of Queensland under the former<sup>2</sup> *Information Privacy Act 2009 (Qld)* (**IP Act**) for access to ‘*all documents relating to the submission of legal documents to the Supreme Court Registry by [the applicant], including [d]ocuments submitted for processing and returned and the ‘decisions made about these documents...’.*<sup>3</sup>
2. The Principal Registrar decided<sup>4</sup> the application was outside the scope of the former IP Act, as it comprised an application to an entity to which that Act does not apply.
3. The applicant applied<sup>5</sup> to the Office of the Information Commissioner (**OIC**) for external review of the Principal Registrar’s decision.
4. I affirm the Principal Registrar’s decision. The Access Application is outside the scope of the former IP Act, as an application made to an entity to which the former IP Act does not apply.

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<sup>1</sup> Application dated 21 May 2025 - the ‘**Access Application**’.

<sup>2</sup> See discussion at paragraphs 5-6.

<sup>3</sup> Other types of documents requested in the Access Application were ‘...*Documents submitted for processing and not returned; Documents outlining the reasons for non-return of documents submitted; Executive orders relating to submission and processing of the previous mentioned documents; The evidence used to make the decisions; The source of the evidence used to make the decisions; The justifications for the decisions made*’.

<sup>4</sup> Decision dated 29 May 2025 – the **decision under review**.

<sup>5</sup> External review application dated 11 June 2025.

## Relevant law

5. The law as discussed in these reasons is that as applied before 1 July 2025. On 1 July 2025 significant parts of the *Information Privacy and Other Legislation Amendment Act 2025* (Qld) (**IPOLA Act**) commenced which, among other things:
  - removed from the IP Act the right to access documents; and
  - transferred jurisdiction for reviewing ‘judicial function’ decisions of the kind in issue in this review from the Information Commissioner to the Queensland Civil and Administrative Tribunal.
6. Applications made, but not finalised, before 1 July 2025, however, are to be dealt with as if the IPOLA Act had not been enacted.<sup>6</sup> The Access Application the subject of this review is an application of that kind. References in these reasons, therefore, to the IP Act and *Right to Information Act 2009* (Qld) (**RTI Act**) are to provisions of each of those Acts as in force prior to 1 July 2025.
7. Under the former IP Act, an individual has a right to be given access to documents of an agency to the extent they contain the individual’s personal information.<sup>7</sup> However, an access application will be outside the scope of the former IP Act where, relevantly, the entity to which the application is made is not an agency to which Chapter 3<sup>8</sup> of the former IP Act applies.<sup>9</sup>
8. The combined effect of section 17 of the former IP Act, sections 14(2) and 17(b) of the RTI Act, and schedule 2, part 2, items 1 and 2 of the RTI Act is to exclude from the definition of ‘agency’ (and therefore the operation of Chapter 3 of the former IP Act):
  - ‘a court, or the holder of a judicial office or other office connected with a court, in relation to the court’s judicial functions’;<sup>10</sup> and
  - ‘a registry or other office of a court, or the staff of a registry or other office of a court in their official capacity, so far as its or their functions relate to the court’s judicial functions’.<sup>11</sup>
9. Under section 52(1)(b)(ii) of the former IP Act, an entity can decide that an application is outside the scope of the IP Act if the entity decides it is not an agency for the purposes of Chapter 3. Decisions of this kind are reviewable decisions within the jurisdiction of the Information Commissioner.<sup>12</sup>

## Discussion

10. The concept of ‘judicial functions’ is not defined in the RTI or IP Acts. The Macquarie Dictionary defines the word ‘judicial’ as ‘*relating to courts of law or to judges*’.<sup>13</sup> Assistance can also be obtained from the NSW analogue of the IP and RTI Acts, the *Government Information (Public Access) Act 2009*, which defines ‘judicial functions’ as ‘*such functions of the court as relate to the hearing or determination of proceedings before it*’.<sup>14</sup>

<sup>6</sup> Chapter 8, part 3 of the IP Act as it now stands – see particularly sections 215 and 217. Subsection (2) of the latter provides that the ‘*former IP Act continues to apply in relation to the application or purported application as if the amendment Act had not been enacted*.’

<sup>7</sup> Section 40 of the former IP Act.

<sup>8</sup> Prescribing the mechanism for, relevantly, disclosure of documents under the former IP Act.

<sup>9</sup> And, as noted below in paragraph 9 liable to a decision to that effect, under section 52 of the former IP Act.

<sup>10</sup> Schedule 1, part 2, item 1 of the RTI Act.

<sup>11</sup> Schedule 1, part 2, item 2 of the RTI Act.

<sup>12</sup> Definition of ‘reviewable decision’, schedule 5 of the former IP Act.

<sup>13</sup> Macquarie Dictionary (Seventh Edition).

<sup>14</sup> Schedule 4.

11. 'Relational expressions' of the kind used in the provisions quoted in paragraph 8, meanwhile, have been held to be '*capable of extremely broad application*'.<sup>15</sup> Further, '[t]here is nothing to indicate that the scope of the Items in Schedule 2 to the RTI Act is to be interpreted in a narrow or restrictive way, or with a pro-disclosure bias'.<sup>16</sup>
12. The Access Application in this case is one made to the Supreme Court, for access to documents that clearly relate to that court's hearing and determinative – ie, its judicial – functions. The very act of hearing and determining matters and proceedings by any court is, on my understanding, almost invariably precipitated by and/or involves the filing of documents with that court, via its registry.
13. Such filing, and any associated actions by a court registry or staff of that registry in respect of those documents,<sup>17</sup> is in my view inexorably related to the court's determinative or judicial functions: they are the means by which those functions are engaged, and define the scope of a given matter before a court.<sup>18</sup>
14. An access application, then, of the kind in issue in this review—expressly seeking access to documents '*relating to the submission of legal documents to the Supreme Court Registry*'—is an application made to that court and/or its registry, in relation to its judicial functions: in other words, to an entity to which the former IP Act does not apply.
15. The Access Application is, therefore, outside the scope of the former IP Act.
16. In my letter<sup>19</sup> advising the applicant I had accepted the application for external review, I expressed the preliminary view<sup>20</sup> that the decision under review was correct. The applicant did not accept that view, making various submissions in response.
17. While I have carefully considered those submissions, it is unnecessary to canvass them in any detail in these reasons. In summary terms, they note the general objects of the information access scheme enshrined in the former IP Act and the RTI Act, and seek, in essence, to argue why there exist public interest considerations favouring disclosure of requested documents.<sup>21</sup>
18. Considerations of the kind raised by the applicant are relevant '*when the question is whether or not a document should be disclosed, not at the point when one is determining whether or not something is an entity to which the Act does not apply*'.<sup>22</sup>

## DECISION

19. I affirm the decision under review.<sup>23</sup> The Access Application is outside the scope of the former IP Act.
20. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

<sup>15</sup> *Carmody v Information Commissioner & Ors* (5) [2018] QCATA 18, at [51] (Hoeben J).

<sup>16</sup> *Stella v Griffith University* [2025] QCAT 20 at [83].

<sup>17</sup> Such as making 'decisions' to 'return' those documents, documentation of which kind was among that requested by the applicant.

<sup>18</sup> Noting that the registry and registrar are each expressly recognised in and play key roles under both the *Uniform Civil Procedure Rules 1999* (Qld) (UCPR) and the *Criminal Practice Rules 1999* (Qld) governing the court's civil and criminal jurisdiction.

<sup>19</sup> Dated 26 June 2025.

<sup>20</sup> It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner or her 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.

<sup>21</sup> Those submissions also raised concerns with the conduct of registry personnel with whom the applicant has had dealings; these matters are, too, not relevant to the question to be determined in this review, noting that the applicant, via external review, has had the benefit of objective review of the decision under review by an independent, impartial arbiter in OIC.

<sup>22</sup> *Carmody v Information Commissioner & Ors* [2018] QCATA 14 at [105].

<sup>23</sup> Under section 123(1)(a) of the former IP Act.

21. In making this decision, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), in particular, the right to seek and receive information.<sup>24</sup> I consider that a decision-maker will, when observing and applying the IP Act, be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act.<sup>25</sup> I further consider that, having done so when reaching my decision, I have acted compatibly with, and given proper consideration to, relevant human rights, as required under section 58(1) of the HR Act.<sup>26</sup>

  
**Jim Forbes**  
**Assistant Information Commissioner**

**Date: 23 July 2025**

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<sup>24</sup> Section 21 of the HR Act.

<sup>25</sup> See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (*XYZ*) at [573]; and *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

<sup>26</sup> I note the observations by Bell J on the interaction between equivalent pieces of Victorian legislation in *XYZ*, [573]: '*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 also note that OIC's approach to the HR Act set out in this paragraph has recently been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23] (noting that Judicial Member McGill saw '*no reason to differ*' from our position).