



Decision and Reasons for Decision

Citation: N49 and Queensland Police Service [2026] QICmr 136 (4 August 2026)

Application Number: 00022901

Applicant: N49

Respondent: Queensland Police Service

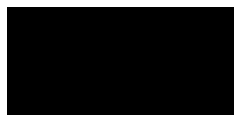
Decision Date: 4 August 2026

Catchwords: ADMINISTRATIVE LAW – RIGHT TO INFORMATION – AMENDMENT OF PERSONAL INFORMATION – request to amend information appearing in police records – whether information is inaccurate, incomplete, out of date or misleading – whether agency entitled to exercise discretion to refuse amendment – section 78S(1)(a) of the *Right to Information Act 2009* (Qld)

DECISION

I set aside¹ the reviewable decision of the Queensland Police Service (**QPS**) and, in substitution for that decision, I find that the applicant's amendment request may be refused under the *Right to Information Act 2009* (Qld) (**RTI Act**).²

My reasons for the decision follow.



T Lake
Principal Review Officer
Date: 4 August 2026

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

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 amendment application was made after this change, the RTI Act and IP Act **as in force after 1 July 2025** is the applicable legislation.

REASONS FOR DECISION

Summary

1. The applicant applied³ to QPS under the RTI Act to amend records which they had previously accessed (via a separate access application) about their transport to, and attendance at, a hospital on a particular date (**Document**).
2. QPS did not make a decision within the required statutory timeframe and was therefore taken to have made a deemed decision refusing the amendment request.⁴
3. The applicant then applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of that deemed decision.

Reviewable decision

4. The decision under review is the deemed decision QPS is taken to have made under section 78R(1) of the RTI Act.

Evidence considered

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 rights to freedom of expression, privacy and reputation.⁶ I consider a decision-maker will be '*respecting and acting compatibly with*' those rights and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.⁷ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.
7. The applicant made a number of submissions to OIC.⁸ The applicant has also copied OIC into a number of emails that they addressed to other organisations and individuals.⁹ I have carefully reviewed all of the correspondence received from the applicant during this review and taken into account the parts of that correspondence which are relevant to the issues for determination.

³ On 26 August 2025.

⁴ Under section 78R(1) of the RTI Act. QPS notified the applicant of this by email dated 6 November 2025 and, subsequently, by letter dated 11 November 2025.

⁵ On 8 November 2025 (**External Review Application**).

⁶ Sections 21 and 25 of the HR Act.

⁷ *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).

⁸ External Review Application and emails dated 10 November 2025, 3 June 2026 and 15 June 2026.

⁹ These were received between 4 June 2026 and 19 June 2026.

Relevant law

8. Under the RTI Act,¹⁰ an individual has a right to apply for amendment of an agency's document containing the individual's personal information where the following requirements are satisfied:
 - a. the applicant has previously obtained access to the relevant document
 - b. the document forms part of the agency's functional record
 - c. the information the applicant seeks to amend is their personal information;¹¹ and
 - d. the personal information is inaccurate, incomplete, out of date, or misleading.
9. The terms '*inaccurate*', '*incomplete*', '*out of date*' and '*misleading*' are not defined in the RTI Act, the IP Act or the *Acts Interpretation Act 1954* (Qld). These terms are therefore used in their ordinary sense.¹²
10. Section 78S(1) of the RTI Act sets out non-exclusive grounds on which a decision-maker may refuse to amend a document.¹³ While an agency has the onus on external review of establishing that its decision was justified,¹⁴ *'the practical or evidentiary onus shifts to the party challenging the decision to provide evidence in support of the contention that the party is entitled to amendment on the basis that the documents in question contain information which is inaccurate, incomplete, out of date or misleading'*.¹⁵
11. However, even if it is shown that the information an applicant seeks to amend is inaccurate, incomplete, out of date or misleading, the opening words of section 78S(1) of the RTI Act—'*[w]ithout limiting the grounds on which an agency or Minister may refuse to amend a document*'—confer a discretion on the decision-maker to refuse amendment.¹⁶
12. The exercise of this discretionary refusal may take into account the fact that the purpose of amending a document is not to:

¹⁰ Sections 78C and 78E of the RTI Act.

¹¹ 'Personal information' is defined in section 12 of the IP Act as information or an opinion about an identified individual or an individual who is reasonably identifiable from the information or opinion—

(a) whether the information or opinion is true or not; and
(b) whether the information or opinion is recorded in a material form or not.

¹² I consider the following dictionary definitions of these terms are relevant to my consideration:

- '*inaccurate*' not accurate.
- '*incomplete*' 1. not complete; lacking some part.
2. not to the entire extent: incomplete combustion.
- '*out of date*' 1. (of a previous style or fashion) obsolete.
2. (of a ticket, etc.) no longer valid.
- '*mislead*' 1. to lead or guide wrongly; lead astray.
2. to lead into error of conduct, thought or judgement.

¹³ These grounds are where an agency is not satisfied the information sought to be amended is personal information of the applicant (section 78S(1)(a)(ii) of the RTI Act); where an agency is not satisfied the personal information contained in the document is inaccurate, incomplete, out of date, or misleading (section 78S(1)(a)(i) of the RTI Act); and where the document does not form part of a functional record (section 78S(1)(b) of the RTI Act).

¹⁴ Section 87(1) of the RTI Act.

¹⁵ *Purrer v Office of the Information Commissioner & Anor* [2021] QCATA 92 (**Purrer**) at [32].

¹⁶ In *Purrer*, Daubney J observed at [28] that '*the prefatory words of the section clearly operate to retain in the relevant agency or Minister a general discretion to refuse to amend*'.

- re-write history,¹⁷ as this destroys the integrity of the record-keeping process¹⁸
- determine disputed questions of opinion (including expert opinion), when that opinion was actually held and accurately entered in the official record¹⁹
- re-write a document in words other than the author's²⁰
- review the merits or validity of official action;²¹ or
- correct any perceived deficiencies in the work undertaken by agencies or re-investigate matters.²²

Issue for determination

13. In the amendment application, the applicant confirmed that it was their view that the Document contained statements and omissions that were inaccurate or misleading.
14. It is not in dispute that the applicant has previously obtained access to the Document. Having reviewed the amendment application and the Document content, I confirm that the Document contains the applicant's personal information, and the application seeks to amend some of that personal information. Accordingly, I am satisfied that the applicant was entitled to apply for amendment under the RTI Act.
15. As the Document forms part of a functional record, section 78S(1)(b) of the RTI Act cannot be relied on to refuse the requested amendment.
16. Therefore, the issues for determination in this review are whether:
 - the applicant has demonstrated that the particular information sought to be amended within the Document is inaccurate, incomplete, out of date or misleading; and
 - if so, whether under section 72S(1) of the RTI Act, amendment of the information may still be refused.

Parties' submissions

17. In summary, the amendment application sought:
 - (a) annotations to confirm that (i) no relevant authority was located for the incident recorded in the Document and (ii) no charges were laid against the applicant; and
 - (b) *'Correction/annotation of the record concerning the use of police force'*; and

¹⁷ *DenHollander and Department of Defence* [2002] AATA 866 (**DenHollander**) at [96].

¹⁸ To ensure that, in a record keeping context, the document is preserved without any alteration as a public record.

¹⁹ *Crewdson v Central Sydney Area Health Service* [2002] NSWCA 345 (**Crewdson**) at [34].

²⁰ *Re Traynor and Melbourne and Metropolitan Board of Works* (1987) 2 VAR 186 (**Traynor**) at [190], cited in *3DT2GH* at [18]. *Traynor* considered the requirements of the *Freedom of Information Act 1982* (Cth), the terms of which are substantially similar to the amendment provisions in the IP Act.

²¹ *Crewdson* at [24].

²² *Shaw and Medical Board of Queensland* (Unreported, Queensland Information Commissioner, 3 July 2008) (**Shaw**) at [57].

- (c) 'Include the differing accounts of facts submitted to the RTI Office' and 'Clarification that the account of event provided by QPS differs materially from my own, which I documented and submitted to QPS ...'.

18. On review, the applicant submits²³ that:

My amendment application was not limited to a request that QPS replace the authoring officer's account with my preferred version of events. Rather, I sought amendment and/or annotation concerning a number of matters ...

I accept that the RTI amendment provisions are not intended to determine every disputed question of opinion or to rewrite a record merely because an applicant disagrees with it. However, I did not seek only to challenge the officer's opinions. I sought recognition of objectively verifiable matters and the existence of a genuine factual dispute.

I formally provided QPS with a detailed account of the incident. The existence of that account is not disputed. Recording that the events are contested does not rewrite the officer's record. Rather, it provides a more complete and accurate representation of the information held by QPS concerning my personal information.

An annotation recording that I dispute particular factual assertions and have provided a contrary account would preserve the integrity of the original record while ensuring that subsequent readers are aware that the account is contested.

I am particularly concerned because these records have been relied upon beyond their original administrative purpose ... In those circumstances, the existence of a substantial dispute regarding the underlying facts is itself relevant information.

19. It is QPS's position that the applicant's personal information within the Document is not inaccurate, incomplete, out of date or misleading and that the Document summarises the events as perceived by the police officer who authored it.²⁴ In support of that position, QPS provided me with a copy of all the documents which QPS located as responsive to the access application which is referenced in the applicant's amendment application (being the Document and other records to which access was refused, in whole or part).

Findings

20. I consider the Document reflects what the authoring officer considered, at the time the Document was created, to be the salient details of the applicant's interactions with police officers on the nominated date. There is nothing before me to suggest that the authoring officer held any different view at the time of creating the Document or that the contents of the Document were inaccurately entered. Having carefully reviewed all the material before me, I am not satisfied that the applicant's personal information recorded within the Document is inaccurate, incomplete, out of date or misleading.²⁵

²³ Applicant's email dated 3 June 2026.

²⁴ QPS submission dated 13 March 2026.

²⁵ In reaching this factual conclusion, I confirm that, in addition to reviewing the content of the Document, I have also reviewed the other documents provided by QPS, as referenced in paragraph 19 above.

21. I acknowledge that the Document may not contain all the details the applicant would like the Document to contain. However, of itself, this is not enough to establish that, in the absence of the nominated additional details, the Document content is inaccurate, incomplete, out of date or misleading. Accordingly, and notwithstanding the applicant's submissions, I am not satisfied that the absence of the further details listed in paragraph 17 above makes the applicant's personal information within the Document inaccurate, incomplete, out of date or misleading.
22. Accordingly, I find that the applicant has not met the practical or evidentiary onus of demonstrating that the particular information which he seeks to amend is inaccurate, incomplete, out of date or misleading.
23. The Document concerns police interactions with the applicant on a specified date. While the applicant considers these details do not accurately record those interactions and that further details about them *should* appear in the Document, I consider amending the Document in the manner requested by the applicant seeks to:
 - correct what the applicant considers to be deficiencies in how their interactions with police on the specified date were characterised; and
 - include additional information not considered necessary by the Document author.
24. I consider this could damage the integrity of the Document and, in my view, that is not an outcome which the amendment provisions in the RTI Act were intended to permit.
25. For these reasons, I am also satisfied that, even if the applicant had demonstrated that particular personal information within the Document was inaccurate, misleading or incomplete, the discretion to refuse amendment could be exercised.
26. As the applicant's submissions request an 'annotation' of the Document, I have also considered whether the notation provisions in section 78V of the RTI Act are enlivened. As mentioned in paragraph 2, QPS did not make a decision within the required statutory timeframe and was deemed to have made a decision refusing the amendment under section 78R(1) of the RTI Act. As section 78V(1) of the RTI Act confirms that the notation provisions apply where an agency has refused a requested amendment under section 78Q of the RTI Act, QPS is not required to notate the Document as contemplated under section 78V of the RTI Act.
27. The above are the reasons for my decision set out at page 1.