



Decision and Reasons for Decision

Citation:	<i>K68 and Department of Transport and Main Roads [2025]</i> QICmr 77 (3 November 2025)
Application Number:	318973
Applicant:	K68
Respondent:	Department of Transport and Main Roads
Decision Date:	3 November 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - noncompliance with application requirement - section 33 of the <i>Right to Information Act 2009</i> (Qld) - whether the agency was entitled to decide an application does not comply with all relevant application requirements - requirement to provide evidence of identity

REASONS FOR DECISION

Summary

1. The applicant applied to the Department of Transport and Main Roads (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to certain documents relating to himself.¹
2. The Department refused to deal with the Access Application under section 33(6) of the RTI Act,² on the basis the identification requirement³ necessary for a valid access application had not been met.
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision.⁵
4. I affirm the Department's decision. The Department was entitled to refuse to deal with the Access Application, under section 33(6) of the RTI Act.

Preliminary issue

5. Before dealing with the substantive issue in this review, it is appropriate that I first note that I have dealt with other applications made by the applicant to OIC. He has previously requested that a decision maker other than myself deal with his applications.

¹ The '**Access Application**', dated 12 September 2025. The nature of relevant documents is described in the Department's email to the applicant dated 16 September 2025.

² Decision dated 2 October 2025 – the **Reviewable Decision**.

³ Section 24(2)(d) of the RTI Act.

⁴ Application dated 4 October 2025.

⁵ The Department's decision being a reviewable decision: schedule 4A, section 1(b) of the RTI Act.

6. I see no reason to accede to requests of this kind. I am satisfied that no fair-minded and reasonably informed observer would perceive any bias on my part, actual or apparent,⁶ and that there is no reason I should not make this decision in relation to application 318973.

Relevant law

7. An application under the RTI Act for documents containing the applicant's personal information⁷ must, among other things, be accompanied by evidence of identity.⁸ Evidence of identity means a document '*that could reasonably be accepted to be evidence of the person's identity*'⁹ and relevantly includes a passport or a certified copy of the passport.¹⁰
8. If a person purports to make an access application which does not meet all relevant application requirements, the agency must:¹¹
 - make reasonable efforts to contact the person within 15 days after the purported application is received
 - inform the person how the application does not comply with the relevant application requirements; and
 - give the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements.
9. If, after giving the applicant a reasonable opportunity to consult with a view to making the application in a form complying with all relevant application requirements, the agency then decides that the application does not comply with all such requirements, the agency must give the applicant prescribed written notice of the decision.¹²

Discussion and Findings

10. Relevant background facts and applicable statutory provisions were set out in an email from an Assistant Information Commissioner (**AIC**) to the applicant dated 16 October 2025.¹³ That email explained why, in the AIC's preliminary view, the reviewable decision was justified:

Your access application requested access to documents relating to you. Under section 24(2)(d)(i) of the Right to Information Act 2009 (Qld) (RTI Act), an application for access to a document containing personal information of the applicant must be accompanied by evidence of identity for the applicant. Valid forms of identity under the RTI Act are documents that could 'reasonably be accepted to be evidence of the person's identity': Right to Information Regulation 2025, section 4(1). This may include, relevantly, a certified copy of an applicant's passport (Right to Information Regulation 2025, section 4(2)(a)).

In this case, your access application was accompanied by a copy of your passport. While certified, that copy is a partial copy only. As OIC's guideline on this issue notes, '[t]he entire identity document, with no information blacked out or covered, must be provided for it to be valid.

⁶ Paraphrasing the relevant test (apprehended bias), as stated in *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337, [33].

⁷ As the application in this case was.

⁸ Section 24(2)(d) of the RTI Act.

⁹ Section 4(1) of the *Right to Information Regulation 2025* (Qld) (**RTI Regulation**) provides the applicable definition of 'evidence of identity' for schedule 5 of the RTI Act.

¹⁰ Section 4(2)(a) of the RTI Regulation.

¹¹ Sections 33(1)-(3) of the RTI Act.

¹² Section 33(6) of the RTI Act.

¹³ Which also advised the applicant that OIC had accepted his application for external review.

Following the consultation process prescribed in section 33 of the RTI Act, on 16 September 2025 the Department wrote to you. The Department's 16 September 2025 email advised you that the partial copy of your passport did not meet the requirements for evidence of identity prescribed in section 24(2) of the RTI Act. The Department offered you until 30 September 2025 the opportunity to correct that issue.

Having received no reply to its 16 September 2025 correspondence, the Department then made its 2 October 2025 decision, under section 33(6) of the RTI Act, declining to deal with your application, on the basis of noncompliance with an application requirement.

On the information before me, my preliminary view is that the Department's decision was justified, and should therefore be affirmed.

11. I have reviewed the Department's letter to the applicant dated 16 September 2025 which advised that the partial copy of his passport did not comprise 'satisfactory certified evidence' of the applicant's identity. The Department referred the applicant to OIC's guideline on this issue,¹⁴ and stated that the Department could not accept an 'incomplete copy', as supplied in support of the Access Application, 'as proof of identity for the purpose of the RTI Act'.¹⁵
12. The applicant did not, as the AIC noted in his 16 October 2025 email to the applicant, respond to the Department's 16 September 2025 letter or seek to rectify the issue with his evidence of identity. As no response was received, on 2 October 2025 the Department decided to refuse to deal with the Access Application.
13. The applicant replied to the above preliminary view at paragraph 10 by email dated 17 October 2025, relevantly stating:¹⁶

...
Which "ID" is in question
14. Assuming the above is a question, the 'ID' used by the applicant was clearly identified in the AIC's 16 October 2025 preliminary view: a partial copy of his certified passport.
15. The applicant's email dated 17 October 2025 otherwise contains no submissions engaging with nor contesting the AIC's preliminary view that the applicant had not complied with the mandatory identity requirement imposed by section 24(2)(b) of the RTI Act.
16. Accordingly, I can identify nothing in the information before me to cause me to reconsider the AIC's preliminary view quoted in paragraph 10 above.¹⁷ I therefore adopt the AIC's preliminary view as final for the purposes of this decision. As the purported Access Application did not comply with the requirements of section 24(2)(b) of the RTI Act, the

¹⁴ Accessible at <https://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/receiving-and-assessing-applications/evidence-of-authority-and-identity>, also referred to in the AIC's 16 October 2025 email to the applicant (see paragraph 1). **Error! Reference source not found.**

¹⁵ Although not cited in the Department's 16 September 2025 letter, or 2 October 2025 reviewable decision, it is relevant to note that where, as here, an applicant seeks to tender an electronic copy of a form of identity by way of electronic communication, the Queensland Civil and Administrative Tribunal has found that an agency may decline to consent to receipt of same if it is not in a form complying with agency requirements, which might presumably include provision of a complete copy of a relevant identity document), under section 16(2)(c) of the *Electronic Transactions (Queensland) Act 2001* (Qld): *Poyton v Department of Education; Department of Education v Poyton* [2024] QCATA 78, [21] and [25] (Judicial Member Rinaudo AM).

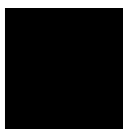
¹⁶ The balance of this email comprised a complaint as to the OIC account from which the AIC's 16 October 2025 email was sent, and what I understand to be allegations of bias against the AIC – which, given the AIC is not the decision-maker in this case – are not necessary to repeat.

¹⁷ Noting there is nothing in the application for external review relevant to these issues – the applicant in that application merely stating that he requests an external review, before setting out brief submissions that do not pertain to the identification of matters in issue in this review.

Department was entitled to refuse to deal with that application, under section 33 of the RTI Act.

DECISION

17. For the reasons set out above, I affirm the reviewable decision¹⁸ and find that the Department was entitled to refuse to deal with the purported Access Application under section 33 of the RTI Act, on the basis that the application does not meet all relevant application requirements.
18. In making this decision, I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.¹⁹ 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.²⁰ I have acted in this way in reaching my decision, in accordance with section 58(1) of the HR Act.
19. I have made this decision under section 110 of the RTI Act as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Brianna Luhrs
Manager, Right to Information

Date: 3 November 2025

¹⁸ Under section 110(1)(a) of the RTI Act.

¹⁹ Section 21(2) of the HR Act.

²⁰ *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]. The Information Commissioner's approach to the HR Act set out in this paragraph has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw '*no reason to differ*' from our position [23].