



## Decision and Reasons for Decision

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Citation:	<b><i>W59 and Department of Transport and Main Roads [2026] QICmr 3 (19 January 2026)</i></b>
Application Number:	<b>318423</b>
Applicant:	<b>W59</b>
Respondent:	<b>Department of Transport and Main Roads</b>
Decision Date:	<b>19 January 2026</b>
Catchwords:	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL TO DEAL - EFFECT ON AGENCY'S FUNCTIONS - whether work involved in dealing with application would, if carried out, substantially and unreasonably divert resources of agency from their use by agency in performing the agency's functions - section 41 of the <i>Right to Information Act 2009</i> (Qld)</b>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Department of Transport and Main Roads (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) to access certain information about government school transport contracts.<sup>2</sup>
2. The Department decided<sup>3</sup> (**Original Decision**) to refuse to deal with the Access Application under section 41 of the RTI Act.
3. The applicant sought internal review of the Original Decision and, on internal review, the Department affirmed the Original Decision.<sup>4</sup>
4. The applicant then applied<sup>5</sup> to the Office of the Information Commissioner (**OIC**) for external review of the Internal Review Decision.

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<sup>1</sup> By access application dated 17 October 2024 (**Access Application**). Although the Access Application appeared to indicate that it had been made on behalf of an organisation, the applicant confirmed to OIC (by email dated 19 January 2026) that the application had been made by them as an individual.

<sup>2</sup> On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act and *Information Privacy Act 2009* (Qld) (**IP Act**). As the Access Application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in 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. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**.

<sup>3</sup> Decision dated 27 November 2024.

<sup>4</sup> By letter dated 20 December 2024 (**Internal Review Decision**).

<sup>5</sup> On 21 January 2025 (**External Review Application**).

5. For the reasons that follow, I set aside the decision under review and, in substitution for that decision, I find that the Department is not entitled to refuse to deal with the Access Application under section 41 of the RTI Act.

## Background

6. The Access Application sought:

*A list of current government kilometre-based, fares-based, cluster, and specialist school transport contracts, including the contract number (route no) along with the corresponding holder of that contract, service description (if applicable) and the commencement and expiry date of each contract.*

7. After receiving the Access Application, the Department:

- notified the applicant (**Notice**)<sup>6</sup> that they intended to refuse to deal with the Access Application under section 41 of the RTI Act, because the Department considered the work involved in dealing with the Access Application would, if carried out, substantially and unreasonably divert the Department's resources from their use in the performance of the Department's functions; and
- invited the applicant to consult with the Department, with a view to making the Access Application in a form that would remove this ground as a basis for refusing to deal with it.

8. In response to the Notice, the applicant confirmed that they did not wish to vary the scope of the Access Application.<sup>7</sup>

9. On external review, the Department maintained that they were entitled to refuse to deal with the Access Application under section 41 of the RTI Act. Noting the review onus in this matter,<sup>8</sup> OIC conveyed preliminary views to the Department that they had not established that dealing with the Access Application would be both a substantial and unreasonable diversion of the Department's resources.<sup>9</sup> In response, the Department provided further information in support of their position.

10. Reflecting OIC's obligation under section 90(1) of the RTI Act, OIC attempted to resolve the review as follows:

- OIC provided the applicant with the further processing information received from the Department (as referenced in the preceding paragraph) and, noting the applicant's submission that certain requested information was available in the Department's annual reports, asked the applicant to confirm whether they continued to seek all, or only some, of the information requested in the Access Application<sup>10</sup>—the applicant confirmed they continued to seek all the information requested in the Access Application; and
- OIC asked the Department whether they would agree to process the Access Application<sup>11</sup>—in response, the Department proposed that they would agree to

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<sup>6</sup> Dated 27 November 2024.

<sup>7</sup> By email dated 27 November 2025.

<sup>8</sup> Section 87(1) of the RTI Act, which provides that the agency 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.

<sup>9</sup> By letters dated 22 July 2025 and 20 October 2025. It is the practice of OIC to convey a preliminary view, based on an assessment of the material before the Information Commissioner or their 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>10</sup> That is, the applicant was provided with a further opportunity to consider narrowing the terms of the access application.

<sup>11</sup> By letters dated 22 July 2025 and 25 August 2025.

process the Access Application if the applicant agreed to allow the Department a period of 110 business days to complete that processing.<sup>12</sup> OIC conveyed this proposal to the applicant,<sup>13</sup> however, the applicant confirmed that they did not accept the Department's resolution proposal.

## Reviewable decision

11. The decision under review is the Internal Review Decision.

## Evidence considered

12. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
13. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to freedom of expression<sup>14</sup> (which includes the right to seek and receive information). I consider a decision-maker will be '*respecting, and acting compatibly with*' that rights, and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.<sup>15</sup> I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.<sup>16</sup>

## Issue for determination

14. The issue for determination is whether the access application may be the subject of a refusal to deal decision under section 41 of the RTI Act.

## Relevant law

15. The RTI Act requires an agency to deal with an access application unless this would not be in the public interest.<sup>17</sup> One of the circumstances in which it would not be in the public interest to deal with an access application is where the work involved in dealing with the application would, if carried out, substantially and unreasonably divert the agency's resources from their use by the agency in the performance of its functions.<sup>18</sup>
16. The terms 'substantially' and 'unreasonably' are not defined in the RTI Act, nor in the *Acts Interpretation Act 1954* (Qld) (**AI Act**). It is therefore appropriate to consider the ordinary meaning of these words,<sup>19</sup> that is:<sup>20</sup>

<sup>12</sup> The Department explained that this nominated processing period took into account the current staffing levels of the Department's RTI team and the consultation they would be required to undertake.

<sup>13</sup> By letter dated 3 November 2025. On 28 November 2025, OIC also provided the applicant with the clarification they had sought about whether the issued Charges Estimate Notice (which had been accepted by the applicant on 18 November 2024) would be payable if the proposal was accepted.

<sup>14</sup> Section 21 of the HR Act.

<sup>15</sup> *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>16</sup> In this regard, I note Bell J's observations at [573] of XYZ on the interaction between the Victorian analogues of Queensland's RTI Act and HR Act: '*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].

<sup>17</sup> Section 39 of the RTI Act.

<sup>18</sup> Section 41(1)(a) of the RTI Act. Before making a decision to refuse to deal with an application under section 41(1)(a), an agency must satisfy certain procedural prerequisites set out in section 42 of the RTI Act, for the purpose of allowing the applicant an opportunity to narrow the scope of the application, so that the agency can manage processing of the application. However, in this case, as the issue of substantial and unreasonable diversion of resources was raised by Council on external review, I am not required to make any determination regarding Council's satisfaction of the procedural requirements in section 42 of the RTI Act.

<sup>19</sup> Section 14B of the AI Act.

<sup>20</sup> Being the relevant dictionary definitions (Macquarie Dictionary Online, accessed 19 January 2026).

- ‘*substantial*’ – defined as meaning ‘of ample or considerable amount, quantity, size, etc.: a substantial sum of money’; and
  - ‘*unreasonable*’ – defined as meaning ‘exceeding the bounds of reason; immoderate; exorbitant’.
17. In deciding to refuse to deal with an application on this basis, the RTI Act requires a decision-maker to:
- not have regard to any reasons the applicant gives for applying for access or the agency’s belief about what are the applicant’s reasons for applying for access;<sup>21</sup> and
  - have regard to the resources that would be used for:<sup>22</sup>
    - identifying, locating or collating the documents
    - making copies, or edited copies of any documents
    - deciding whether to give, refuse or defer access to any documents, including resources that would have to be used in examining any documents or conducting third party consultations; or
    - notifying any final decision on the application.
18. The question of whether the impact on an agency’s resources would be ‘substantial’ is a question of fact. In previous decisions, the Information Commissioner has found that relevant factors to consider in determining whether the impact on any agency’s resources would be ‘substantial’ include:
- the agency’s resources and size<sup>23</sup>
  - the other functions of the agency;<sup>24</sup> and
  - whether, and to what extent, processing the application will take longer than the legislated processing period of 25 business days.<sup>25</sup>
19. In determining whether the work involved in dealing with an application is unreasonable, it is not necessary to show that the extent of the unreasonableness is overwhelming.<sup>26</sup> Rather, it is necessary to weigh up the considerations for and against, and form a balanced judgement of reasonableness, based on objective evidence.<sup>27</sup> Factors that have been taken into account in considering this question include:<sup>28</sup>
- whether the terms of the request offer a sufficiently precise description to permit the agency, as a practical matter, to locate the documents sought
  - the public interest in disclosure of documents
  - whether the request is a reasonably manageable one, giving due but not conclusive, regard to the size of the agency and the extent of its resources usually available for dealing with access applications
  - the agency’s estimate of the number of documents affected by the request, and by extension the number of pages and the amount of officer time
  - the reasonableness or otherwise of the agency’s initial assessment and whether the applicant has taken a cooperative approach in rescopeing the application
  - the timelines binding on the agency

<sup>21</sup> Section 41(3) of the RTI Act.

<sup>22</sup> Section 41(2) of the RTI Act.

<sup>23</sup> *Middleton and Building Services Authority* (Unreported, Queensland Information Commissioner, 24 December 2010) at [34] [37].

<sup>24</sup> *60CDYY and Department of Education and Training* [2017] QICmr 52A (7 November 2017) at [18].

<sup>25</sup> *ROM212 and Queensland Fire and Emergency Services* [2016] QICmr 35 (9 September 2016) (**ROM212**) at [40].

<sup>26</sup> *F60XCX and Department of the Premier and Cabinet* [2016] QICmr 41 (13 October 2016) at [90].

<sup>27</sup> *ROM212* at [42], adopting *Smeaton v Victorian WorkCover Authority (General)* [2012] VCAT 1550 (**Smeaton**) at [30].

<sup>28</sup> *Smeaton* at [39].

- the degree of certainty that can be attached to the estimate that is made as to the documents affected and hours to be consumed; and in that regard, importantly whether there is a real possibility that processing time may exceed to some degree the estimate first made; and
- whether the applicant is a repeat applicant to that agency, and the extent to which the present application may have been adequately met by previous applications.

20. Refusing to deal with an application under section 41 of the RTI Act is subject to certain prerequisite procedural steps, which are set out in section 42 of the RTI Act.

### Applicant's submissions

21. It is the applicant's position that the Department is not entitled to rely upon section 41 of the RTI Act. They have, in summary, submitted that:

- the identities of the Service Providers/contract holders<sup>29</sup> are disclosed in the Department's annual reporting<sup>30</sup>
- they consider the Department's claim that they would need to review approximately 400 individual contracts is *'illogical'* as *'there are only 4 types of standard form contracts'* and the Department knows *'exactly what the terms are in these documents given that they prepared and issued them in the first place'*<sup>31</sup>
- each of these standard contracts contain *'an express exclusion/carve out for a disclosure required by law'*, which they consider encompasses disclosure under the RTI Act in response to an access application<sup>32</sup> and, even in the absence of such a carve out, the Department's disclosure of the requested information under the RTI Act would not make the Department liable for breach of confidence because the Department is *'compelled to do so under the RTI Act unless an exception applies'*<sup>33</sup>
- the claimed 100 hours of initial consultation is not required *'because the requested information in question is already in the public domain and is, therefore, not confidential information necessitating consultation'*<sup>34</sup>
- as similar information has been released in response to previous access applications, *'it is not reasonable to expect that Service Providers may be concerned about the disclosure of the information requested because it is clearly already in the public domain'*<sup>35</sup>
- *'Even if the information requested was confidential, which is denied, there would only possibly by [sic] a handful of people that would need to be consulted regarding its disclosure any way and it is not reasonable to expect this would not take 100 hours as claimed by the decision maker'*<sup>36</sup> and
- *'It is unclear how any of the requested information would **reasonably be expected to be of concern** to any third party' because the period for which these contracts are entered is 'common knowledge within the industry' and information about these arrangements is already in the public domain.*<sup>37</sup>

<sup>29</sup> For ease of reference, I will refer to these entities as the contract holders.

<sup>30</sup> External Review Application.

<sup>31</sup> External Review Application.

<sup>32</sup> External Review Application.

<sup>33</sup> External Review Application.

<sup>34</sup> External Review Application.

<sup>35</sup> External Review Application.

<sup>36</sup> External Review Application.

<sup>37</sup> Applicant's email dated 9 December 2025. In this submission, the applicant specifically referenced a number of the Information Commissioner's previous decisions, namely, *Mewburn and Department of Natural Resources and Mines* [2016] QICmr 31 (19 August 2016) (**Mewburn**); *Nine Network Australia Pty Ltd v Department of Justice and Attorney-General* (Unreported, Queensland Information Commissioner, 14 February 2012) (**Nine**); and *C63 and Department of the Premier and Cabinet* [2024] QICmr 18 (15 May 2024) (**C63**).

## Department's submissions

22. As mentioned above, the Department maintains they are entitled to refuse to deal with the Access Application under section 41 of the RTI Act. More specifically, the Department submitted:
- while names of the contract holders are published in the Department's annual reports,<sup>38</sup> all the other contract information requested in the Access Application is not published<sup>39</sup>
  - *'the contracts have been entered into at varying times over a number of years and as such the contents may have altered over that time'*<sup>40</sup>
  - taking into account the confidentiality provisions contained in a sample of reviewed contracts, the contract holders would reasonably be expected to have a concern about the release of the terms of the contract, thereby necessitating the requirement to consult<sup>41</sup>
  - with 387 individual contracted entities, the initial consultation with the contract holders would require in excess of 8 business days,<sup>42</sup> for any one officer working exclusively on that task, and additional time may be required *'for the decision maker to review responses, answer questions and prepare and issue decisions to third parties'*<sup>43</sup>
  - requiring one of the Department's decision-makers to focus exclusively on processing the access application (including preparing and issuing consultation correspondence to third parties and managing the responses to those consultations) would constitute an unreasonable and substantial diversion of the Department's resources<sup>44</sup> and, given changes in Departmental staffing levels, it is likely the Department may need to outsource the consultation component of the work required to process the Access Application;<sup>45</sup> and
  - although the applicant may have made previous applications to the Department seeking to access similar types of information, *'each new application is considered afresh at the time of submission and independently of previous applications'*.<sup>46</sup>

## Findings

### Compliance with legislative prerequisites

23. Having reviewed the Notice, I am satisfied that the Department complied with the requirements of section 42 of the RTI Act. Given this, I did not consider it was necessary to provide the applicant with a further opportunity to narrow the terms of the Access Application. However, as noted in paragraph 10 above, I did invite the applicant to give further consideration to the scope of the Access Application (noting their submissions that components of the requested information were accessible in the Department's annual reports) and confirm whether they wished to maintain the full terms of their information request.

<sup>38</sup> The total payments made to each service provider in the relevant financial year are also published in the Department's annual reports.

<sup>39</sup> Submission dated 3 March 2025.

<sup>40</sup> Submission dated 3 March 2025.

<sup>41</sup> Submission dated 3 March 2025.

<sup>42</sup> Based on a 7 hour, 15 minute work day.

<sup>43</sup> Submission dated 5 August 2025.

<sup>44</sup> Submission dated 5 August 2025.

<sup>45</sup> Submission dated 15 September 2025. The Department's submission dated 26 September 2025 identified additional changes to the Department's staffing levels.

<sup>46</sup> Submission dated 3 March 2025.

**What work would be involved in dealing with the access application?**

24. As noted in paragraph 17 above, when considering the work involved in dealing with an application, the decision-maker must have regard to the resources that would be used for identifying, locating or collating the documents; making copies, or edited copies of any documents; deciding whether to give, refuse or defer access to any documents, including examining any documents or conducting third party consultations; and notifying any final decision on the application.
25. In the Original Decision, the Department outlined the work estimated for dealing with the access application as follows:

*As there are over 400 individual entities providing the contracted services, I have estimated that it would take in excess of 100 hours for consultation to be undertaken with each entity. Additional time would then be required to draft the decision letter to the applicant and potentially to consulted third parties.*

...

*Based on the estimated time to undertake consultations with the third parties, it would take a minimum of 13 days for any one departmental officer working exclusively on the application to undertake the required consultations. Additional time would then be required for the decision maker to review the responses from the third parties, draft the decision notice to the applicant and also potentially to numerous third parties.*

26. On internal review, the Department provided a more detailed estimate of the work involved in processing the access application, based upon conducting consultation with each of the contract holders, namely:
- review of contracts to determine confidentiality obligations – 40-60 hours
  - initial consultation – 100 hours
  - reviewing responses and responding with decision letters with respect to an objection to disclosure – a minimum of 4-5 hours per objection; and
  - 'internal review of any individuals who may object to TMR's decision on disclosure'<sup>47</sup> – a minimum of 4-5 hours per objection.
27. During the review (as mentioned in paragraphs 9 and 22 above), the Department:
- provided information to OIC about the staffing limitations of the Department's RTI Unit;<sup>48</sup> and
  - submitted that issuing consultation correspondence would take in excess of eight business days,<sup>49</sup> for one officer working exclusively on preparing and issuing that correspondence.<sup>50</sup>
28. The Department's estimates in the preceding three paragraphs confirm that the Department's position is fundamentally based upon the resources they consider will be required to conduct extensive consultations under section 37 of the RTI Act. As I have noted, it is the applicant's position that the Department is not required to consult with the contract holders.

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<sup>47</sup> Internal Review Decision.

<sup>48</sup> Department's submissions dated 5 August 2025, 15 September 2025 and 26 September 2025.

<sup>49</sup> This estimate is based on it taking a minimum of 10 minutes (which would encompass sourcing relevant addresses) to prepare and issue correspondence to each of the contract holders.

<sup>50</sup> Department's submission dated 5 August 2025.

29. Having reviewed all the information before me, I consider that, if the Department were to deal with the Access Application, they would be required to locate and collate the requested information, determine if access to that information could be granted under the RTI Act and then prepare (at a minimum) a written decision to the applicant. For the following reasons, and having reviewed the sample contracts provided by the Department, I am satisfied that, in assessing whether to grant access, the Department would be required to undertake consultation with the contract holders. However, I am not satisfied that the Department's 140-160 hours partial estimate for reviewing contracts and conducting such consultation is reasonable.
30. Under section 37 of the RTI Act, an agency may give access to a document that contains information, the disclosure of which may reasonably be expected to be of concern to a relevant third party, only if the agency has taken steps that are reasonably practicable to obtain the view of the relevant third party. It has been observed that there is a low threshold for the obligation to consult relevant third parties under section 37 of the RTI Act.<sup>51</sup> As the applicant has also noted, the Information Commissioner has previously observed that this obligation to consult requires '*an objective assessment as to whether release of information may reasonably be expected to be of concern to a third party*'.<sup>52</sup>
31. I can confirm that the sample contracts I have reviewed contain contractual provisions which, in general terms, prohibit each contract party disclosing the contents of the contract without the written consent of the other contract party. The applicant argued that a '*disclosure required by law*' exception to such a nondisclosure obligation encompasses the disclosure of information under the RTI Act in response to the access application. In this regard, I note that the Information Commissioner has previously found that, in the absence of a decision under the RTI Act to disclose the information or a proper exercise of the discretion to release the information, any information disclosure would not be '*required*' under the RTI Act.<sup>53</sup>
32. In support of their position that consultation with the contract holders is not required in respect of the requested contract start and end dates, the applicant referred to the Information Commissioner's following finding about the disclosure of certain routine work information of public sector officers (being start and end dates of positions held by such officers):

*I am satisfied that, given the removal of the Third Party Information, the obligation to consult with any individuals named in the application is not enlivened as disclosure of the Remaining Information could not reasonably be expected to be of concern to those individuals.*<sup>54</sup>
33. The information sought in this Access Application is of quite a different nature<sup>55</sup>—it relates to commercial transport arrangements entered by the Department. The Department annually publishes both the names of the contract holders, and the total remuneration paid to them under these commercial arrangements in a financial year. Had the Access Application been confined to these types of contract information, I would agree that consultation under section 37 of the RTI Act would not be required. However,

<sup>51</sup> C63 at [25].

<sup>52</sup> *Mewburn* at [53]. Although the applicant's 9 December 2025 submission also references the Information Commissioner's findings in *Nine*, those referenced findings relate to term '*could reasonably be expected*' (my emphasis).

<sup>53</sup> Refer to *Cole and Department of State Development, Infrastructure and Planning (Office of Industrial Relations) & Ors* [2024] QICmr 67 (26 November 2024) (*Cole*) at [52], which referenced *Maurice Blackburn Lawyers and Queensland Treasury; AAI Limited (Third Party); RACQ Insurance Ltd (Fourth Party)* [2020] QICmr 66 (4 November 2020) at [44]. Although the finding in *Cole* related to an exception to a statutory obligation of confidence, I consider it is applicable to the contractual obligation of confidence exception referenced in the External Review Application.

<sup>54</sup> *Mewburn* at [59].

<sup>55</sup> The applicant acknowledged that the information requested in the access application is also of a different nature to the information considered in C63 (which concerned reports containing personal information of Ministerial staff members). I further note that, unlike this matter, the decisions under review in both *Mewburn* and C63 were deemed refusals of access.

the Access Application seeks additional contract details which are not routinely published by the Department—namely, the contract type entered by each contract holder (which could reveal the method of payment to the contract holder), route numbers and contract start and end dates.

34. Noting the contractual provisions referenced in paragraph 31 above, I am satisfied that it is reasonable to expect that the contract holders *may* have concern with the proposed disclosure, under the RTI Act, of their contract information which is not ordinarily published by the Department in its annual reports. For this reason, I find that consultation with the contract holders under section 37 of the RTI Act would be required to be conducted if the Department were to deal with the Access Application.
35. While I accept that the applicant has, via prior access applications, been given access to some school transport information in addition to the details published in the Department's annual reports, I do not consider that this, of itself, negates the requirement to seek the views of the contract holders regarding the disclosure of information in response to the applicant's current application.<sup>56</sup> Applications to OIC for external review are dealt with on a case-by-case basis, and each is assessed on its own merits when determining whether the agency decision under review should be affirmed, varied or set aside. However, I have taken the applicant's submissions about the prior disclosures into account when considering whether the Department's estimates of the time and resources required to conduct consultation with the contract holders are reasonable (as outlined below).
36. While it is difficult for OIC to reach a firm estimate regarding the amount of time that would be required to conduct consultation with the contract holders, I note that the information sought by the applicant does not comprise any substantive commercial terms or service details from the commercial contracts. Instead, the information requiring consultation is quite limited in nature and, as mentioned previously, some of it is published in the Department's annual reports. The Department also conceded on external review that they considered it is unlikely the contract holders would raise concerns about the disclosure of some contract details sought by the applicant.
37. In these circumstances, while I am not satisfied that the Department's estimates in paragraphs 25 and 26 above are reasonable, I do consider the estimate of eight business days (equating to approximately one third of the standard processing period<sup>57</sup>) to prepare and issue consultation correspondence is reasonable. The Department did not quantify the additional time or resources it considered would be required to complete the consultation process. Having reviewed all the information before me (including the applicant's submissions about similar information having been previously disclosed and the Department's submission that it is unlikely the contract holders would raise concerns about the disclosure of some requested information), I consider that it is reasonable to proceed on the basis that up to a further five business days may be required to complete the consultation process and issue written decisions. However, if I am wrong and this additional five business days underestimates the time required to complete the processing of the Access Application, I am nonetheless satisfied that any further steps required to complete the consultation process and issue required written decisions would not take substantially more than five business days.

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<sup>56</sup> The Information Commissioner's external review jurisdiction does not extend to considering the manner in which the Department processed the applicant's prior access applications.

<sup>57</sup> That is, 25 business days.

***Would the impact on the Department's functions be substantial and unreasonable?***

38. I accept that the Department's RTI Unit has experienced resourcing issues and staffing changes/shortages in recent months. However, processing applications under the RTI Act forms part of the core business of that RTI Unit. The substantial and unreasonable refusal to deal provision is a mechanism to deal with applications that would divert the resources of the agency away from its other functions.
39. Based on the above estimate of 13 business days to process the Access Application, I consider it is relevant to note that section 18 of the RTI Act specifically contemplates an extended processing period<sup>58</sup> in circumstances where consultation under section 37 is required, as is the case here.<sup>59</sup>
40. The scope of the Access Application does not, on its face, appear to me to be unreasonable. I consider applications for summary contract information are routinely processed by various agencies and, as mentioned above, the Access Application does not seek any substantive commercial terms or service details from the Department's commercial contracts. While the Access Application may seek details about a substantial number of commercial contracts, this does not, of itself, amount to unreasonableness.
41. Having carefully considered all the information before me (including the scope of the Access Application, the types of information which are ordinarily published by the Department and the parties' submissions), I am unable to find that processing the Access Application would be either a substantial or unreasonable diversion of agency resources.
42. On this basis, I have concluded that dealing with the Access Application would not substantially and unreasonably divert the Department's resources in the performance of their functions and therefore, section 41 of the RTI Act does not apply.

**DECISION**

43. For the reasons set out above, I set aside the Internal Review Decision.<sup>60</sup> In substitution for that decision, I decide that the Department is not entitled to refuse to deal with the Access Application under section 41 of the RTI Act.
44. 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.



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**T Lake**  
**Principal Review Officer**

**Date: 19 January 2026**

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<sup>58</sup> Being 25 business days, plus an additional 10 business days.

<sup>59</sup> I also note that sections 35(1) and (2) of the RTI Act enable an agency to ask an applicant for a further specified period (or periods) to consider an access application and the agency may continue to consider the application if the applicant has not refused such a request or sought review (section 35(3) of the RTI Act).

<sup>60</sup> Under section 110(1)(c) of the RTI Act.