

## Decision and Reasons for Decision

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<b>Citation:</b>	<i>W51 and Queensland Ombudsman [2025] QICmr 82 (13 November 2025)</i>
<b>Application Number:</b>	318501
<b>Applicant:</b>	W51
<b>Respondent:</b>	Queensland Ombudsman
<b>Decision Date:</b>	13 November 2025
<b>Catchwords:</b>	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - personal information of applicant and other individuals - prejudice to management function - whether disclosure of information would on balance be contrary to the public interest - section 47(3)(b) and 49 of the <i>Right to Information Act 2009 (Qld)</i></b>

### REASONS FOR DECISION

#### Summary

1. The applicant applied to the Queensland Ombudsman on 21 November 2024 under the *Right to Information Act 2009 (Qld)* (**RTI Act**)<sup>1</sup> for access to:
  - (i) *All documents relating to [another party] request, including emails ([another party] advised he first saw an email about this request on 7/12/23) and any records of discussions ([another party] advised he was aware of discussions before 7/12/23).*
  - (ii) *All documents relating to the Office's actions leading up to, and the decision to instruct [another party] to request the return of my work computer, including any emails between [various parties], and record of discussion, any meeting minutes, any audit of items on issue to staff. ([another party] advised an 'audit' was conducted), and any subsequent actions taken by the Office in response to the audit in seeking the return of items on issue from the identified employees. (I am not seeking names or positions of employees requested to return).*
  - (iii) *All documents relating the Office's consultation with [another party] in relation to my RTI access application dated 26/10/23, including [another party] response.*
  - (iv) *All documents relating to the CCC's request to the Office for information, including*

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<sup>1</sup> On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023 (Qld)* (**IPOLA Act**) came into force, affecting changes to the RTI Act and *Information Privacy Act 2009 (Qld)* (**IP Act**). As the applicant's 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**. These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> respectively.

meeting requests, emails, telephone calls, and the information provided (The CCC advised in its assessment decision that it had obtained information from the Office).

(v) All documents relating to [another party] response to [another party] email 25/09/23, 10:45am email, and any related communications and actions taken by [another party] following his response.

2. The applicant specified the time period for these requests as follows:

- Items (i) and (ii) 10 Feb 2023 to 30 June 2024
- Item (iii) 26/10/23 to 2/1/24
- Item (iv) 16/12/23 to 9/2/24
- Item (v) 25/09/23 to 14/12/23

3. The Queensland Ombudsman decided to:<sup>2</sup>

- grant full access to 46 pages removing irrelevant information
- refuse access to information that is subject to legal professional privilege<sup>3</sup>
- refuse to deal with the application, to the extent it sought documents about a prior access application under the RTI Act or documents about the Crime and Corruption Commission's (CCC) response to a complaint made by the applicant
- refuse to deal with the request for information that is outside the scope of the Act; and
- refuse access to information that would on balance, be contrary to the public interest to release.

4. In response to the internal review application<sup>4</sup>, the Queensland Ombudsman varied the original decision and decided<sup>5</sup> to release parts of one further page. All remaining aspects of the decision were affirmed.

5. On 11 March 2025, the applicant applied to the Office of the Information Commissioner (OIC) for external review of the Queensland Ombudsman internal review decision dated 4 March 2025.

6. For the reasons set out below, I affirm the reviewable decision<sup>6</sup> and find that access may be refused the remaining information in issue on the basis that disclosure would, on balance, be contrary to the public interest.<sup>7</sup>

## Background

7. In the course of the external review, OIC conveyed a preliminary view that the Queensland Ombudsman's decision should be affirmed.<sup>8</sup> In response, the applicant accepted OIC's view<sup>9</sup>, except for the information refused on the basis disclosure would, on balance, be contrary to the public interest.<sup>10</sup>

8. That remaining information in issue is contained in two redacted emails, that have already been disclosed to the applicant. They may be described as follows:

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<sup>2</sup> 15 January 2025.

<sup>3</sup> Schedule 3, item 7 of the RTI Act.

<sup>4</sup> Internal review application dated 5 February 2025.

<sup>5</sup> Internal review decision dated 4 March 2025.

<sup>6</sup> Under section 110(1)(b) of the RTI Act.

<sup>7</sup> Under sections 47(3)(b) and 49 of the RTI Act.

<sup>8</sup> Letter dated 18 July 2025.

<sup>9</sup> Applicant's submissions dated 31 July 2025.

<sup>10</sup> As these matters were resolved informally in the course of the review, they are not dealt with in this decision.

- a. Email dated 5 September 2023 at 9:08 am from a person X (**email X**)
  - b. Email dated 7 December 2023 at 1:21 pm from a person Y (**email Y**).
9. While I am limited in the detail I am able to provide in this decision, I can give a general description of the nature of the refused information to provide some context to the approach I have taken to weighing the public interest factors under Schedule 4 of the RTI Act. Email X contains personal information of individuals other than the applicant and it also contains observations regarding the handling of practical issues arising from the applicant's employment. Email Y contains personal information of another individual.
10. A further letter was provided to the applicant<sup>11</sup> giving a broad description of the refused information and conveying the preliminary view that the internal review decision be affirmed.
11. In response the applicant reiterated earlier submissions<sup>12</sup> that he disagreed with the preliminary view because he took issue with the approach being taken to the weighting of factors to decide the public interest.

### Relevant law

12. The RTI Act provides individuals with a general right of access to documents held by a Queensland government agency, subject to certain limitations and grounds for refusal of access.<sup>13</sup> Relevantly, access to information may be refused if its disclosure would, on balance, be contrary to the public interest.<sup>14</sup>
13. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:<sup>15</sup>
- identity factors irrelevant to the public interest and disregard them
  - identify factors in favour of disclosure of information
  - identify factors in favour of nondisclosure of information; and
  - decide whether, on balance, disclosure of the information would be contrary to the public interest.
14. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of public interest lies in a particular case. I have considered these lists,<sup>16</sup> together with all other relevant information, in reaching my decision. I have kept in mind the pro-disclosure bias<sup>17</sup> under the RTI Act and Parliament's requirement that grounds for refusing access to information be interpreted narrowly.<sup>18</sup>
15. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.<sup>19</sup> I consider that I will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law

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<sup>11</sup> Letter dated 9 October 2025.

<sup>12</sup> Email dated 31 July 2025.

<sup>13</sup> Under section 23 of the RTI Act. Section 47 of the RTI Act sets out the grounds on which access to information may be refused.

<sup>14</sup> Section 47(3)(b) and 49 of the RTI Act. The term *public interest* refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that in general, a public interest consideration is one which is common to all members of, or a substantial segment of, the community, as distinct from matters that concern purely private or personal interests. However, there are some recognised public interest considerations that may apply for the benefit of an individual.

<sup>15</sup> Section 49(3) of the RTI Act.

<sup>16</sup> I have considered each of the public interest factors outlined in schedule 4 of the RTI Act.

<sup>17</sup> Section 44 of the RTI Act.

<sup>18</sup> Section 47(2)(a) of the RTI Act.

<sup>19</sup> Section 21 of the HR Act.

prescribed in the RTI Act<sup>20</sup> and in doing so, I have acted in accordance with section 58(1) of the HR Act.<sup>21</sup>

## Findings

### **Irrelevant factors**

16. I confirm that I have not taken any irrelevant factors<sup>22</sup> into account in reaching the findings detailed below

### **Factors favouring disclosure**

17. I have identified the following factors favouring disclosure:
- Information that could reasonably be expected to promote open discussion of public affairs and enhance government accountability<sup>23</sup>.
  - Information that is the applicant's personal information<sup>24</sup>.
18. In the preliminary view issued to the applicant, consideration was also given to the following factors favouring disclosure:
- Information that could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official;<sup>25</sup>
  - Information that could reasonably be expected to reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct;<sup>26</sup>
  - Information that could reasonably be expected to advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies;<sup>27</sup> and
  - Information that could reasonably be expected to contribute to the administration of justice for a person.<sup>28</sup>

### **Factors favouring non-disclosure**

19. I have identified the following factors favouring non-disclosure:
- Information that could reasonably be expected to prejudice the protection of an individual's right to privacy<sup>29</sup> and cause a public interest harm if disclosure would disclose personal information of a person<sup>30</sup>
  - Information that could reasonably be expected to prejudice the management function of an agency<sup>31</sup>.

### **Balancing the public interest**

20. Providing the applicant access to the refused information may provide the applicant with a more complete picture of the agency dealings on practical matters relating to staff

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<sup>20</sup> 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].

<sup>21</sup> XYZ at [573]. OIC's approach to the HR Act 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] (noting that Judicial Member McGill saw 'no reason to differ' from OIC's position).

<sup>22</sup> Schedule 4, Part 1 of the RTI Act.

<sup>23</sup> Schedule 4, Part 2, item 1 of the RTI Act.

<sup>24</sup> Schedule 4, Part 2, item 7 of the RTI Act.

<sup>25</sup> Schedule 4, Part 2, item 5 of the RTI Act.

<sup>26</sup> Schedule 4, Part 2, item 6 of the RTI Act.

<sup>27</sup> Schedule 4, Part 2, item 10 of the RTI Act.

<sup>28</sup> Schedule 4, Part 2, item 17 of the RTI Act.

<sup>29</sup> Schedule 4, Part 3, item 3 of the RTI Act.

<sup>30</sup> Schedule 4, Part 4, item 6 of the RTI Act.

<sup>31</sup> Schedule 4, Part 3, item 19 of the RTI Act.

employment which is relevant to agency accountability and transparency. However, having considered the refused information, I am of the view that this will not materially advance the level of accountability and transparency that should already have occurred as a result of the information that was already disclosed to the applicant. I therefore afford low weight to this factor.

21. Some of the information in the emails is about the applicant and a person is entitled to access information about themselves. Accordingly, I afford significant weight to this factor.
22. Having considered the nature of the refused information, I am satisfied that it is not of a nature that disclosure will assist in the inquiry into possible deficiencies in the conduct or administration of the agency, nor does it assist in revealing misconduct, negligent or improper or unlawful conduct. I therefore do not consider these factors relevant to this assessment.
23. In respect of the factors relating to fair treatment and the administration of justice, considering the amount of other information already released to the applicant that can assist with such matters, and noting the nature of the refused information, I afford these factors no weight.
24. In considering the factors favouring non-disclosure, I have had regard to the applicant's submissions relating specifically to these factors. In response to the second preliminary view<sup>32</sup>, the applicant raised a concern about the reliance on the factors favouring non-disclosure pertinent to protecting personal information of others. He noted that he did not consider it was necessary to have regard to the factor causing public interest harm on account of disclosure of personal information, because he had made it clear on various occasions throughout the review that his request for access excludes personal information of other individuals. He expressed the view that this factor should therefore not be considered.
25. As noted earlier, the redacted parts of both emails that remain in issue contain personal information of other individuals. As that information is intertwined with other information that is refused, it is therefore necessary and appropriate that I consider these factors when making a decision. Having regard to the nature of the personal information in both emails and the public interest harm that arises from disclosure of such information, I afford these factors significant weight.
26. Finally, I have carefully considered the workplace information contained in the emails that has also been refused. I am satisfied that it is of a nature that involves agency managers communicating about management matters required for effective workplace co-operation in the context of employment related practical arrangements. In responding to the preliminary view, the applicant questioned the basis for giving this factor a moderate weighting in the context of being described as '*relatively benign management discussions*'. In making his submission against the weighting given, the applicant has understandably had to speculate about the information. Unfortunately, I cannot provide any further details because doing so may defeat the purpose of nondisclosure. I have had regard to the character of the management function in the context of this agency and the nature of issues involved.<sup>33</sup> Suffice to say that having reviewed it, I am satisfied that it is of a nature that necessarily arises in workplace management and relies on such communications being able to occur openly amongst managers. I am satisfied that this nondisclosure factor should be afforded moderate weight.

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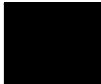
<sup>32</sup> Dated 21 October 2025.

<sup>33</sup> *Stella v Griffith University* [2025] QCA 203 at [41].

27. After balancing the factors for and against disclosure, I find that on balance the public interest weighs in favour of nondisclosure of this information.

## **DECISION**

28. For the reasons set out above, I affirm the reviewable decision<sup>34</sup> and find that access may be refused to the remaining information in issue on the basis that disclosure would, on balance, be contrary to the public interest.<sup>35</sup>
29. I have made this decision as a delegate of the Information Commissioner under section 145 of the RTI Act.



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**Stephanie Winson**  
**Right to Information Commissioner**

**Date: 13 November 2025**

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<sup>34</sup> Under section 110(1)(b) of the RTI Act.

<sup>35</sup> Under sections 47(3)(b) and 49 of the RTI Act.