



Decision and Reasons for Decision

Citation:	<i>V96 and Energy Queensland Ltd [2026] QICmr 39 (11 March 2026)</i>
Application Number:	318499
Applicant:	V96
Respondent:	Energy Queensland Ltd
Decision Date:	11 March 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST INFORMATION - request to access certain records relating to a workplace investigation - accountability, transparency, fair treatment and administration of justice, personal information of applicant and other individuals, flow of information, 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>

REASONS FOR DECISION

Background

1. The applicant applied¹ to Energy Queensland Limited (**EQL**) under the *Right to Information Act 2009 (Qld)* (**RTI Act**)² for access to documents regarding a workplace review³ involving themselves, including a copy of a consultant report prepared by EQL (**Report**), and copy of the recording of the interviews between named individuals and the consultant (**Recordings**).
2. EQL located 142 pages and, after consulting with a relevant third party, decided⁴ to give access to 2 pages. EQL refused access to parts of 14 pages and 126 pages on the ground that disclosure would, on balance, be contrary to the public interest.⁵ It also refused access to the Recordings on the basis that they did not exist.⁶

¹ On 12 December 2024. The applicant amended the scope of the application on 21 January 2025.

² 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 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**.

³ On the external review, EQL advised that this review was a workplace 'cultural review'. See [6] below.

⁴ Decision dated 20 February 2025. This is the *reviewable decision* in this external review.

⁵ Section 47(3)(b) of the RTI Act.

⁶ Sections 47 (3)(e) and 52(1)(a) of the RTI Act.

3. The applicant applied⁷ to the Office of the Information Commissioner (**OIC**) for external review of EQL's decision⁸ because '*...I believe the consultants report is based on misleading advice given by my managers*' and '*...I'm primarily seeking a right of reply to the responses given by my managers to the documented behaviours I raised as well as other detail*'.
4. As part of this external review, the applicant confirmed⁹ their particular interest in obtaining further information contained in the Report, including the responses from specific individuals regarding the workplace investigation and a copy of the Recordings. The review proceeded under these terms.
5. OIC conveyed a view to EQL that some further information from the Report was suitable to be released.¹⁰ EQL agreed with OIC's views¹¹ and further information from the Report was released to the applicant.¹² However, to the extent that the responses from named individuals remained redacted, the applicant did not agree to informally resolve this matter.
6. In relation to the Recordings, EQL provided search certifications detailing the locations, descriptions of searches and result of searches and explained that EQL engaged an external consultant to conduct a '*cultural review*'. EQL advised that '*Transcripts of interviews were not located as the external consultant... does not record interviews during cultural reviews. Therefore, there were no transcripts of interview provided to Energy Queensland*'.¹³ OIC conveyed a view to the applicant that the explanations provided by EQL were reasonable to explain for the nonexistence of such recordings and OIC was satisfied that the Recordings may be refused on the basis that they are nonexistent under section 52 of the RTI Act.¹⁴ The applicant did not contest this view.
7. On 5 February 2025, OIC wrote to the applicant and advised that, in absence of a response regarding this issue, OIC would proceed on the basis that the applicant had accepted OIC's position regarding the nonexistence of the Recordings. The applicant did not respond and, therefore, this is no longer in issue and OIC is not considering it as part of this decision.
8. For the reasons set out below, I affirm EQL's decision and find that access to the remaining information may be refused on the ground that its disclosure would, on balance, be contrary to the public interest.
9. In making this decision, I have considered evidence, submissions, legislation and other material as set out in these reasons.¹⁵ I have also had regard to the *Human Rights Act 2019 (Qld)* (**HR Act**), particularly the right to seek and receive information,¹⁶ and in doing so, have acted in accordance with section 58(1) of the HR Act.¹⁷

⁷ External review application received on 11 March 2025.

⁸ The applicant lodged an internal review application on 11 March 2025. However, EQL advised that it was not a 'reviewable decision' under the Act.

⁹ Telephone call with the applicant on 22 August 2025, as summarised in correspondence from OIC to applicant on 3 October 2025 and in OIC's preliminary view dated 17 November 2025.

¹⁰ Correspondence dated 3 October 2025. The further released information revealed the steps taken by the consultant during the investigation, the outcomes of the investigation and further information previously released to the applicant.

¹¹ Email dated 28 October 2025.

¹² On 25 November 2025.

¹³ Search certification provided by EQL to OIC on 30 April 2025.

¹⁴ Email correspondence dated 17 November 2025.

¹⁵ Including footnotes.

¹⁶ Section 21 of the HR Act.

¹⁷ OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

Information in Issue

10. The information that remains in issue comprises the responses provided by named individuals to the consultant as part of the workplace cultural review, contained in the Report (**Third Party Responses**).
11. The issue for determination in this review is whether the Third Party Responses may be refused on the ground that its disclosure would, on balance, be contrary to the public interest.

Relevant law

12. Under the RTI Act, a person has a right to be given access to documents of an agency.¹⁸ However, this right of access is subject to certain limitations, including grounds upon which access to information may be refused.¹⁹ The RTI Act requires the grounds for refusing access to be interpreted narrowly, and decisions on access to be made with regard to the pro-disclosure bias.²⁰ Relevantly, access to information may be refused where its disclosure would, on balance, be contrary to the public interest.²¹
13. 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. There are, however, some recognised public interest considerations that may apply for the benefit of an individual.
14. The RTI Act explains the steps that the decision-maker must take in deciding the public interest.²² It also identifies a non-exhaustive list of factors in Schedule 4 that may be relevant to deciding the balance of the public interest. I have considered all these factors, together with other relevant information in reaching my decision, and discuss relevant factors below.

Submissions

15. In summary, the applicant submits that they have not been afforded procedural fairness and have raised the following in support of their view that they have a right to access the Third Party Responses:²³
 - the Third Party Responses have not been accessible. The applicant's observations and statements were disclosed to the other individuals, yet the applicant has not been afforded the same opportunity to review or respond to theirs, despite EQL assuring the applicant that they would have a right to respond. Further, the applicant understood that '*procedural fairness is that everyone gets a right of reply to claims made by others as in a court of law*'.
 - the '*executive summary [the applicant] was provided demonstrates that the consultant was given misleading information, which is why [the applicant] wanted a right of reply*'. The Report is based on misleading information provided by the named individuals and it '*led EQL's preferred consultant to assume that the [relevant behaviour being investigated] was not deliberate, despite the years of*

¹⁸ Section 23 of the RTI Act.

¹⁹ Section 47(3) of the RTI Act.

²⁰ Section 47(2)(a) and 44 of the RTI Act.

²¹ Sections 47(3)(b) and 49 of the RTI Act.

²² Section 49(3) of the RTI Act.

²³ External review dated 11 March 2025; submissions dated 19 November and 9 December 2025, 20 and 25 February 2026.

[the applicant] *raising [the behaviour] with both managers...and senior management...*. As such, it should not have been relied upon by the consultant for decision-making and this is why the applicant sought 'a right of reply'.

- the applicant is seeking access to the Third Party Responses '*...solely to understand the basis of the recommendation [made by the consultant], check accuracy of comments given and to ensure that all parties [were] treated equitably*'.
- the applicant questioned '*whether it is in the public interest to withhold information that could establish whether a manager in a government-owned corporation misinformed a consultant during an investigation*' and submits that transparency in such circumstances should be considered critical to ensure the integrity of workplace investigations.

Findings

Irrelevant factors

16. I have not taken any irrelevant public interest factors into account in making this decision.

Factors favouring disclosure

17. The RTI Act recognises that public interest factors favouring disclosure will arise where the information is the applicant's personal information²⁴ and if disclosing the information could reasonably be expected to:
- promote open discussion of public affairs and enhance Government accountability, inform the community of the Government's operations or reveal the reason for a government decision and any background or contextual information that informed the decision²⁵
 - reveal that information was incorrect, out of date, misleading, gratuitous, unfairly subjective or irrelevant²⁶
 - contribute to the administration of justice generally, including procedural fairness for a person, and advance the fair treatment of an individual in their dealings with an agency.²⁷
18. Given the EQL workplace review related to concerns raised by the applicant about named individuals, the Third Party Responses contain the applicant's personal information. I afford significant weight to this factor favouring disclosure. However, this needs to be balanced against the factors favouring nondisclosure which are discussed below.
19. I am satisfied that transparency and accountability in agency operations and decision making extends to workplace reviews/investigations when determining what action to take following concerns by staff and how agencies manage workplace reviews/investigations. I accept that disclosure of the Third Party Responses would provide the applicant with a more comprehensive understanding of the background/contextual information that was available to the consultant and to EQL in making determinations in connection with the applicant's concerns, and some further details about the decision making process. In considering the weight to be attributed to these factors, it is relevant that EQL granted the applicant access to considerable

²⁴ Schedule 4, part 2, item 7 of the RTI Act.

²⁵ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

²⁶ Schedule 4, part 2, item 12 of the RTI Act.

²⁷ Schedule 4, part 2, items 10, 16 and 17 of the RTI Act

information in response to the access application and as part of this external review, including a summary of outcomes and steps taken regarding the workplace review.

20. I acknowledge that obtaining access to the Third Party Responses could give the applicant a more comprehensive understanding of the workplace review and the outcomes of the review undertaken. However, the Third Party Responses reveal only information provided by third parties to EQL as part of the workplace review, rather than steps taken by EQL regarding such information. Considerable information, including a summary of the actions taken and outcomes by EQL, has already been released to the applicant. As such, I am satisfied that disclosure of the Third Party Responses is not likely to further advance, to any significant degree, the accountability and transparency factors. For these reasons, in the circumstances of this review, I find that the accountability and transparency factors warrant moderate weight.
21. The applicant contests that the Report is based on misleading information provided by the named individuals and submits '*...I respectfully question whether it is in the public interest to withhold information that could establish whether a manager in a government-owned corporation misinformed a consultant during an investigation*'.²⁸ The applicant also submitted that there had '*been no mechanisms in place to ensure factual responses were given to EQL's consultant and he wasn't misled or lied to*', and that the '*executive summary [the applicant] was provided demonstrates that the consultant was given misleading information*'.²⁹ Given the nature of the Third Party Responses and the context in which it appears, particularly in the circumstances of how such information was provided to EQL, it comprises, by its very nature, the opinions and versions of events expressed by relevant individuals as part of the workplace review. This inherent subjectivity does not mean that the Third Party Responses are necessarily incorrect, misleading or unfairly subjective.³⁰ It is also a matter for the consultant engaged by EQL to weigh the evidence collected as part of the review in coming to a decision/making a recommendation or finding. Whilst the applicant may be dissatisfied with the outcome, having reviewed the Third Party Responses, there is no evidence before me to establish that such information is incorrect or misleading in nature. For these reasons, I afford this factor favouring disclosure low to no weight.
22. The applicant submits '*my manager was privy to and had a right of reply to my observations, opinions, complaints, recollections, or information yet I'm refused the same rights which does not seem equitable or just in any way*'.³¹ While I understand the reasons why the applicant wishes to access the Third Party Responses, the procedural fairness component of natural justice does not require an agency to give each party to a review/investigation equal transparency. Rather, it is about giving the accused party/subject of a complaint reasonably sufficient information to respond to accusations. A 'right of reply' held by a subject of a complaint does not create a reciprocal right of access for a complainant such as the applicant.³² In this case, the workplace review incorporated concerns raised by the applicant. As such, the applicant has been provided procedural fairness, in that the applicant had the opportunity to provide information (via interview with the consultant and a series of emails supporting their concerns) as part of the workplace review and has also received a summary of the outcomes and recommendations made by the consultant to EQL.

²⁸ Applicant's submissions dated 9 December 2025.

²⁹ Applicant's submissions dated 25 February 2026.

³⁰ *Marshall and Department of Police* (Unreported, Queensland Information Commissioner, 25 February 2011) (**Marshall**) at [15]-[20].

³¹ Applicant's submissions dated 9 December 2025.

³² *Kelson and Queensland Police Service* [2017] QICmr 7 (3 March 2017) at [27] and *F60XCX and Department of Natural Resources and Mines* [2017] QICmr 19 (9 June 2017) (**F60XCX**) at [89]-[94].

23. For contribution to the administration of justice for the applicant personally, in terms of any proceedings regarding an actionable wrong,³³ it is difficult to discern how disclosure of the Third Party Responses could reasonably be expected to achieve this. Further, in terms of the fair treatment factor, this factor does not require a decision maker to ensure that an applicant is provided with sufficient information to enable that applicant to be *subjectively* satisfied that he or she received fair treatment.³⁴ Notwithstanding the applicant is 'very disappoint[ed]' they were not provided a 'right of reply' and that they consider it 'very unjust',³⁵ having carefully considered the material before me (including not only the summary of the outcomes and recommendations made by the consultant but the entirety of the Report), I cannot see how disclosure could reasonably be expected to advance the fair treatment of the applicant in their dealings with EQL, related either to the review or in future.³⁶ For these reasons, I afford these factors favouring disclosure low weight.
24. I have carefully considered the remaining factors favouring disclosure listed in schedule 4, part 2, of the RTI, and factors favouring disclosure more generally, given the factors listed in schedule 4 are not exhaustive. I can identify no other public interest considerations in favour of disclosure of the Third Party Responses.

Factors favouring nondisclosure

25. The RTI Act recognises nondisclosure factors will arise where disclosing information could reasonably be expected to:
- prejudice the protection of an individual's right to privacy³⁷
 - cause a public interest harm if it would disclose personal information of a person, whether living or dead³⁸
 - prejudice the management function³⁹
 - prejudice the flow of information to law enforcement or regulatory agencies.⁴⁰
26. Generally, information relating to the day-to-day work duties and responsibilities of a public service officer may be disclosed under the RTI Act, despite it falling within the definition of personal information. However, agency documents can also contain personal information of public servants which is not *routine* work information. Although the Third Party Responses appear in a workplace context, it comprises individuals' personal accounts, recollections of events, opinions and reactions to events in the workplace which were conveyed to EQL during a workplace review. I consider it is not related wholly to the routine day-to-day work activities of a public service officer and is not routine personal work information. It is then relevant to consider the extent of the harm that could result from disclosing the personal information of other individuals under the RTI Act.
27. The Third Party Responses comprise the personal information of other individuals.⁴¹ Whilst it also comprises the personal information of the applicant to some extent, the

³³ In the sense of being a person having suffered an actionable wrong, as considered in *Willsford and Brisbane City Council* (1996) QAR 368.

³⁴ *Gapsa and Department of Transport and Main Roads* (Unreported, Queensland Information Commissioner, 6 September 2013) at [20] and *F60XCX* at [101].

³⁵ Applicant's submissions dated 25 February 2026.

³⁶ OIC's preliminary view dated 24 February 2026.

³⁷ Schedule 4, part 3, item 3 of the RTI Act.

³⁸ Schedule 4, part 4, item 6(1) of the RTI Act.

³⁹ Schedule 4, part 3, item 19 of the RTI Act.

⁴⁰ Schedule 4, part 3, item 13 of the RTI Act.

⁴¹ Personal information is defined as 'information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion' – see schedule 5 of the RTI Act and section 12 of the IP Act.

personal information of the applicant is intertwined with the personal information of other individuals in a way that it is not possible to separate them. In these circumstances, I consider that releasing the applicant's personal information would necessarily disclose the personal information of other individuals and could reasonably be expected to prejudice the protection of those individuals' right to privacy and cause a public interest harm. Given the nature of the Third Party Responses and the context in which they appear, the extent of the public interest harm that could be anticipated from disclosure is quite significant. In the circumstances of this case, I afford significant weight to these factors favouring non-disclosure.

28. Given the Third Party Responses were conveyed to the consultant engaged by EQL by employees in the context of a review into workplace concerns and comprises responses to some of these concerns by staff, I have also considered whether its disclosure could reasonably be expected to prejudice EQL's management function. While I acknowledge the applicant has concerns about the handling of their complaints and other issues within the workplace, I do not consider that this alleviates the harm that could reasonably be expected to result from disclosing the Third Party Responses. I am satisfied that disclosing the Third Party Responses to other individuals under the RTI Act would likely make employees/staff reluctant to participate and express their opinions to management. It is reasonable to expect that this would significantly prejudice EQL's ability to effectively manage staffing issues in the future. Also to consider, the individuals provided information confidentially to the EQL consultant as part of the review to respond to the concerns and complaints made by the applicant. I do not consider that these individuals would have contemplated that their responses to the EQL workplace review would be disclosed under the RTI Act. I therefore afford this factor favouring nondisclosure very significant weight.
29. It is generally recognised that there is very strong public interest in protecting the free flow of information to law enforcement and regulatory agencies.⁴² If disclosing information could reasonably be expected to prejudice the flow of information to law enforcement or regulatory agencies, a public interest factor favouring nondisclosure arises.⁴³ Routinely disclosing this type of information would tend to discourage staff from providing information relevant for a workplace review at EQL's request. In the circumstances of this review, I am satisfied that this is the case in terms of the individuals who provided further information in the EQL workplace review. If this occurred, I consider it reasonable to expect that this would prejudice the flow of information to EQL in future workplace reviews/investigations and in turn, detrimentally effect EQL's ability to effectively discharge its functions.⁴⁴ I therefore afford this factor favouring nondisclosure significant weight.

Balancing the relevant factors

30. Disclosing the Third Party Responses could reasonably be expected to enhance the Government's accountability and reveal the reasons for a government decision and I afford moderate weight to these factors. To the extent that the Third Party Responses comprises the applicant's personal information, this also gives rise to a public interest factor favouring disclosure to which I afford significant weight. In terms of the remaining factors favouring disclosure, I consider that these should be given no to low weight.

⁴² See for example: *Marshall* at [29], *P6Y4SX and Department of Police* (Unreported, Queensland Information Commissioner, 31 January 2012) at [35]-[40], *Gregory and Queensland Police Service* [2014] QICmr 48 (12 November 2014) at [25], *P6Y4SX and Queensland Police Service* [2015] QICmr 25 (11 September 2015) at [29], and *SW5Z7D and Queensland Police Service* [2016] QICmr 1 (15 January 2016) at [27].

⁴³ Schedule 4, part 3, item 13 of the RTI Act.

⁴⁴ See *Marshall* at [29]. Adopting the ordinary meaning of the term 'prejudice': see *Daw and Queensland Rail* (Unreported, Queensland Information Commissioner, 24 November 2010) at [16].

31. However, the Third Party Responses are also the personal information of other individuals provided in response to a workplace review and its disclosure could reasonably be expected to prejudice the protection of their right to privacy and cause a public interest harm. I am also satisfied that disclosing the Third Party Responses could reasonably be expected to prejudice EQL's management function and the flow of information. Given the sensitive nature of the Third Party Responses, and the context in which they were provided, I consider these factors warrant significant and determinative weight and outweigh the factors favouring disclosure.
32. For these reasons, I am satisfied that disclosing the Third Party Responses would, on balance, be contrary to the public interest. As such, access may be refused to the Third Party Responses under section 47(3)(b) of the RTI Act.

DECISION

33. For the reasons set out above, I affirm the reviewable decision⁴⁵ and find that disclosure of the Third Party Responses would, on balance, be contrary to the public interest⁴⁶ and access can be refused on that basis.⁴⁷
34. 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.



K Zaidiza
Manager, Right to Information

Date: 11 March 2026

⁴⁵ Under section 110(1)(a) of the RTI Act.

⁴⁶ Under section 49 of the RTI Act.

⁴⁷ Section 47(3)(b) of the RTI Act.