



Decision and Reasons for Decision

Citation:	<i>R75 and Metro North Hospital and Health Service [2025] QICmr 39 (19 June 2025)</i>
Application Number:	318261
Applicant:	R75
Respondent:	Metro North Hospital and Health Service
Decision Date:	19 June 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST - information provided by a third party - personal information and right to privacy of individuals - accountability and transparency of a Health Service - prejudice to an agency's ability to obtain confidential information - prejudice to the management function of an agency or the conduct of industrial relations by an agency - whether disclosure would, on balance, be contrary to the public interest - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Metro North Hospital and Health Service (**Health Service**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) requesting access to a file note made about the applicant by a specified individual.
2. The Health Service located a one-page document (**file note**) in response to the application and decided² to refuse access to some information in that document (**Information in Issue**) on the basis that it would, on balance, be contrary to the public interest to disclose.³
3. The applicant applied⁴ to the Office of the Information Commissioner (**OIC**) for external review of the Health Service's decision.
4. For the reasons set out below, I affirm the Health Service's decision of 19 September 2024 and find that access to the Information in Issue may be refused.

¹ On 18 September 2024.

² Decision dated 19 September 2024.

³ Section 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld) (**RTI Act**). Section 67 of the IP Act provides that access may be refused in the same way and to the same extent as under the RTI Act.

⁴ External review application dated 7 October 2024.

Background

5. The applicant is a healthcare professional who was employed by the Health Service at the time the file note was produced.
6. The file note is comprised of six paragraphs on one-page. It was written by a Director at the Health Service, who was asked by an employee at the Health Service to speak to the applicant following concerns raised about the applicant's health. While I am limited in the level of detail I can provide,⁵ the file note records the Director's discussions with the applicant and various persons and the Information in Issue is one paragraph within the file note and can broadly be described as a record of the Director's discussion about the applicant's health and welfare with a particular individual.
7. The Health Service decided that disclosure of the Information in Issue would be contrary to the public interest. Therefore, the issue for determination in this decision is whether disclosure of the Information in Issue would, on balance, be contrary to the public interest.

Evidence considered

8. The evidence, submissions, legislation and other material I have considered in reaching this decision are included in these reasons, including footnotes.
9. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information.⁶ I consider that I will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when applying the law prescribed in the RTI Act⁷ and in doing so, I have acted in accordance with section 58(1) of the HR Act.⁸

Relevant law

10. Under the IP Act, an individual has a right to be given access to documents of an agency to the extent the documents contain the individual's personal information. However, this right is subject to limitations, including grounds for refusal of access.⁹ Relevantly, access to information may be refused if its disclosure would, on balance, be contrary to the public interest.¹⁰
11. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision maker must:¹¹
 - 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

⁵ Section 121 of the IP Act.

⁶ Section 21 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].

⁸ *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).

⁹ The grounds for refusal are set out in section 47(3) of the RTI Act.

¹⁰ 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.

¹¹ Section 49(3) of the RTI Act.

- decide whether, on balance, disclosure of the information would be contrary to the public interest.
12. 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,¹² together with all other relevant information, in reaching my decision. I have kept in mind the IP Act's pro-disclosure bias¹³ and Parliament's requirement that grounds for refusing access to information be interpreted narrowly.¹⁴

Applicant's submissions

13. As part of the external review process, a preliminary view was conveyed to the applicant that access to the Information in Issue could be refused under the IP Act.¹⁵ In response, the applicant made submissions contesting this view and maintained his request for access.¹⁶
14. The applicant submitted that the file note was akin to a report that was prepared to be distributed and relied upon. He submitted that his clinical duties were curtailed, and his career impacted because of the file note. He argued that, should the Information in Issue comprise specific speculations regarding the reasons for his uncharacteristic behaviour which was not acted on appropriately, then disclosure is in the public interest even though *'it may not be in the interest of the [Health Service] or some individuals involved'*.¹⁷

Findings

Irrelevant factors

15. To the extent the applicant's submissions intimate that the Health Service may have considered its own interests over the public interest, I note that embarrassment to the Government or a loss of confidence in the Government as a result of disclosure, is an irrelevant factor for the purpose of the IP Act, and is therefore not to be considered when weighing the various public interest factors for and against disclosure.¹⁸ Consequently, I have not taken this, or any other irrelevant factor, into account in making my decision.

Disclosure and nondisclosure factors

16. Naturally, as the Information in Issue is a record of a conversation about the applicant's health and welfare with a particular individual, much of the paragraph comprises the applicant's personal information.¹⁹ The RTI Act²⁰ recognises that an individual accessing their own personal information is in the public interest. Consequently, to the extent the Information in Issue is the applicant's personal information, I afford this public interest factor favouring disclosure high weight.
17. However, the nature of the Information in Issue is such that it is also the personal information of the individual with whom the Director at the Health Service spoke, and it

¹² I have considered each of the public interest factors outlined in schedule 4 of the RTI Act.

¹³ Section 64 of the IP Act.

¹⁴ Section 67(2)(a) of the IP Act.

¹⁵ Letter dated 3 December 2024.

¹⁶ Applicant's submissions dated 16 December 2024. I have carefully considered the applicant's submissions (including his external review application), to the extent they are relevant to the issue for determination.

¹⁷ Applicant's submissions dated 16 December 2024.

¹⁸ Schedule 4, part 1 of the RTI Act.

¹⁹ *Personal information* is defined in section 12 of the IP Act 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.*

²⁰ Schedule 4, part 2, item 7 of the RTI Act.

is intertwined with the personal information of the applicant in such a way that it is not possible to disclose the applicant's personal information, without also disclosing the personal information of the other individual. Where information is 'inextricably intertwined' in this way, the RTI Act recognises that there will be public interest harm in disclosing the personal information of the other individual,²¹ and also that there is an associated public interest in protecting the privacy interests of the other individual.²² I consider that disclosure of the Information in Issue would be a significant intrusion into the privacy of the individual and the extent of the public interest harm that could be anticipated from disclosure is also quite significant.

18. I have considered the applicant's submissions and whether disclosure of the Information in Issue could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of the Health Service, which, if made out, raises a public interest in favour of disclosure of information.²³ I have carefully reviewed the Information in Issue, together with the information in the other five paragraphs of the file note which has been released to the applicant. I find that the Information in Issue does not disclose any deficiency in conduct or administration by the Health Service as suggested by the applicant. In particular, it does not contain specific speculations regarding the reasons for the applicant's uncharacteristic behaviour, nor does it disclose that the Health Service acted inappropriately in relation to that behaviour. Indeed, much of the content which is about the applicant, is similar to that which has already been disclosed to the applicant, but (as noted above) appears in a context which if disclosed, would disclose someone else's personal information. Consequently, I find that the public interest factor in favour of disclosure, namely that disclosure could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct or administration of the Health Service, is not enlivened.
19. For the same reason, I find that the public interest in favour of disclosure in circumstances where the disclosure would reveal misconduct, or negligent, improper or unlawful conduct of the Health Service,²⁴ is not enlivened.
20. In a similar vein I have also considered whether disclosure of the Information in Issue could reasonably be expected to enhance the Health Service's transparency and accountability in relation to the handling of the matter involving the applicant.²⁵ Given the nature of the Information in Issue and the information contained in the five other disclosed paragraphs of the file note, I consider the public interests in ensuring the Health Service is accountable and transparent, are largely discharged and, therefore, would only be very minimally advanced by the disclosure of the Information in Issue. I have, therefore, attributed minimal weight to these public interest factors favouring disclosure.
21. The RTI Act provides that if disclosure of information could reasonably be expected to prejudice an agency's ability to obtain confidential information, that disclosure would not be in the public interest.²⁶ The Information in Issue was obtained in the context of the Director at the Health Service having a confidential conversation about the applicant's health and wellbeing. If information provided by individuals under these circumstances is disclosed under the RTI Act, it is reasonable to expect that they would be discouraged from providing relevant information. I consider this public interest applies in the circumstances of this matter and should be given significant weight as disclosure of the

²¹ Schedule 4, part 4, section 6 of the RTI Act.

²² Schedule 4, part 3, item 3 of the RTI Act.

²³ Schedule 4, part 2, item 5 of the RTI Act.

²⁴ Schedule 4, part 2, item 6 of the RTI Act.

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

²⁶ Schedule 4, part 3, item 16 of the RTI Act.

Information in Issue could reasonably be expected to prejudice the agency's ability to obtain such information.

22. The RTI Act also recognises a public interest in ensuring that the ability of an agency to adequately manage its staff is not prejudiced by disclosure of information.²⁷ Given the Information in Issue concerns the applicant's health and wellbeing in the work context, and noting my findings at paragraph 18 about the Information in Issue, I consider that the public interest which favours non-disclosure of information obtained in such a context, is enlivened and should be afforded substantial weight in order not to prejudice the Health Service's ability to manage its staff.

Balancing the public interest

23. As noted above, much of the Information in Issue is the applicant's personal information, and I have attribute high weight to the factor in favour of disclosing a person's personal information to them. I have also found that the public interest factors in ensuring the transparency and accountability of the Health Service apply but have limited weight in the circumstances.
24. Balanced against the factors which favour disclosure, are the public interests in safeguarding the personal information of other individuals and protecting their privacy, to which I have attributed significant weight, and the public interests in protecting the Health Service's ability to manage its staff and obtain confidential information, to which I have also afforded substantial weight.
25. I consider that the public interests which favour non-disclosure of the Information in Issue, on balance, outweigh the public interests which favour its disclosure. Therefore, I am satisfied that disclosure of the Information in Issue, would on balance, be contrary to public interest.²⁸

DECISION

26. I affirm the Health Service's decision and find that access to the Information in Issue may be refused.
27. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.

V Corby
Assistant Information Commissioner

Date: 19 June 2025

²⁷ Schedule 4, part 3, item 19 of the RTI Act.

²⁸ Section 47(3)(b) and 49 of the RTI Act.