



Decision and Reasons for Decision

Citation:	Y76 and Cairns and Hinterland Hospital and Health Service [2026] QICmr 26 (19 February 2026)
Application Number:	318889
Applicant:	Y76
Respondent:	Cairns and Hinterland Hospital and Health Service
Decision Date:	19 February 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - HEALTHCARE INFORMATION - applicant's clinical records - whether applicant's relevant healthcare information - whether disclosure prejudicial to physical or mental health or wellbeing of the applicant - whether disclosure contrary to the applicant's best interests - section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(d) and 51 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to Cairns and Hinterland Hospital and Health Service (**Health Service**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)² for a complete copy of their mental health record.
2. The Health Service located the applicant's mental health record, known as the 'CIMHA Record'³ and decided⁴ to refuse access to the health record on the basis that its disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant.
3. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of the Health Service's decision.

¹ On 26 June 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 IP Act and *Right to Information Act 2009* (Qld) (RTI Act). As the applicant's application was made before this change, the IP Act and RTI Act as in force prior to 1 July 2025 remain applicable to it. This is in accordance with transitional provisions in Chapter 8, Part 3 of the IP Act and 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 IP Act and RTI 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-2009-014> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> respectively.

³ Consumer Integrated Mental Health and Addiction (CIMHA). The CIMHA application is a statewide consumer-centric clinical information system which is the designated patient record for the purposes of the Mental Health Act 2016.

⁴ On 28 August 2025.

⁵ On 5 September 2025.

4. For the reasons set out below, I am satisfied that the CIMHA Record comprises the applicant's healthcare information the disclosure of which might be prejudicial to the applicant's mental health or wellbeing. Accordingly, I have decided to affirm the Health Service's decision, and find that access to the CIMHA Record may be refused under 67(1) of the IP Act and sections 47(3)(d) and 51 of the *Right to Information Act 2009* (Qld) (**RTI Act**).

Reviewable decision

5. The decision under review is the Health Service's decision dated 28 August 2025.

Evidence considered

6. Where possible, the evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes). However, the Information Commissioner must not, in a decision on an external review or in reasons for a decision on an external review, include information that is claimed to be exempt information or contrary to the public interest information.⁶ I am unable to discuss in detail the Health Service's submissions as the Health Service has claimed that doing so would be contrary to the public interest as it would pose a similar risk of prejudice to the applicant's physical or mental health or wellbeing as would disclosure of the CIMHA Record.
7. On review, OIC asked the Health Service⁷ if it would consider disclosure of the CIMHA Record to a nominated healthcare professional, such as the applicant's GP.⁸ As noted below, OIC asked the applicant if they would agree to receiving the CIMHA Record through a nominated healthcare professional and if so, if they could provide their details to OIC.⁹ The Health Service's appointed healthcare professional provided a submission and affirmed their decision to refuse access to the CIMHA record.¹⁰
8. OIC wrote to the applicant to convey the preliminary view that on the information currently before the OIC, there was no evidence to displace the Health Service's appointed healthcare professional's assessment and the healthcare decision should be upheld. Submissions were requested from the applicant to support the application for external review.¹¹ The applicant requested clarification about the type of information they could provide, and it was explained that they could provide any submission or evidence pertinent to a consideration of the healthcare decision and it would be considered. It was further explained that alternative evidence from a healthcare provider may result in a healthcare decision being overturned. The applicant explained they were not currently under the care of a health professional and that they could provide references and supporting information from people who know them.¹²
9. The applicant's submissions and supporting evidence have been considered and taken into account.¹³

⁶ Section 121(3) of the IP Act; section 51(2) of the RTI Act provides that Parliament considers it would, on balance, be contrary to the public interest to give access to a document to the extent it comprises relevant healthcare information of the applicant if the disclosure of the information might be prejudicial to the physical or mental health or wellbeing of the applicant. [my emphasis]

⁷ Letter to the agency dated 17 September 2025.

⁸ Section 92 of the IP Act.

⁹ Letter to the applicant dated 17 September 2025.

¹⁰ Submission received from the Health Service on 1 October 2025.

¹¹ Letter to the applicant dated 18 November 2025.

¹² In a telephone conversation between the applicant and OIC Review Officer on 25 November 2025.

¹³ As contained in the external review application and in submissions received on 9 and 28 January 2026.

10. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to freedom of expression¹⁴ (which includes the right to seek and receive information) and the right to privacy and reputation.¹⁵ I consider a decision-maker will be '*respecting, and acting compatibly with*' these rights, and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.¹⁶ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations of Bell J on the interaction between equivalent Victorian legislation,¹⁷ that '*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*'.¹⁸

Information in issue

11. The information in issue in this review is the applicant's CIMHA Record, comprising 113 pages.

Issue for determination

12. The issue for determination in this external review is whether access to the CIMHA Record may be refused on the ground that its disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant.¹⁹

Relevant law

13. Under the IP Act, an applicant has a right to be given access to documents of an agency to the extent those documents contain the individual's personal information.²⁰ However, this right is subject to other provisions of the IP Act, including the grounds on which an agency may refuse access to documents.

14. Section 67(1) of the IP Act provides that access to a document may be refused in the same way and to the same extent as access could be refused under section 47 of the RTI Act.

15. Access to '*relevant healthcare information*' may be refused under the RTI Act if disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant.²¹

16. '*Relevant healthcare information*' is defined as '*healthcare information given by a healthcare professional*'.²² A '*healthcare professional*' is a person who carries on, and is entitled to carry on, an occupation involving the provision of care for a person's physical or mental health or wellbeing, including, for example:²³

- a doctor, including a psychiatrist
- a psychologist
- a social worker; or
- a registered nurse.

¹⁴ Section 21 of the HR Act.

¹⁵ Section 25 of the HR Act.

¹⁶ *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].

¹⁷ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

¹⁸ XYZ at [573]. This approach was endorsed by Judicial Member DJ McGill SC in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23], observing that the Information Commissioner 'was conscious [of the right to seek and receive information] and considered that the application of the Act gave effect to the requirements of the Human Rights Act. I see no reason to differ from that conclusion'.

¹⁹ Section 67(1) of the IP Act and sections 47(3)(d) and 51 of the RTI Act. Section 67(1) of the IP Act allows an agency to refuse access to documents on the grounds set out in section 47 of the RTI Act.

²⁰ Section 40(1)(a) of the IP Act.

²¹ Sections 47(3)(d) and 51 of the RTI Act.

²² See definition in schedule 5 of the RTI Act.

²³ See definition in schedule 5 of the RTI Act.

17. The Information Commissioner has the power to decide any matter in relation to an access application that could have been decided by an agency.²⁴

Submissions of the Health Service

18. As set out at paragraph 6 above, I cannot fully recount the detail of the submissions made by the Health Service as this information is claimed to be contrary to the public interest.²⁵ I will note that the Health Service's nominated healthcare professional, a psychiatrist, outlined the applicant's relevant medical history and explained how release of the CIMHA Record would present a risk to the applicant's mental health or wellbeing.

Submissions of the applicant

19. In summary, the applicant submits that there is no risk of harm to them from disclosure of the CIMHA Record; that its refusal violates their rights under the IP Act, RTI Act and human rights law and undermines their recovery; that they have been misdiagnosed and the diagnosis has been weaponised against them. The applicant provided character references and evidence in support of their submission that they lead a purposeful life and their mental health is stable.²⁶

20. The applicant also explained that they believe the doctor at the Health Service who made the diagnosis is biased against them,²⁷ and access to the CIMHA Record, which is about them, is required to provide to the Health Ombudsman to investigate those responsible for the false mental health diagnosis, which the applicant believes is part of a systematic abuse of them.²⁸

Findings

Is the applicant's CIMHA Record 'relevant healthcare information'?

21. Yes.

22. The IP Act provides that *relevant healthcare information* is healthcare information given by a healthcare professional.²⁹ There is no definition of the word '*healthcare*' in the RTI Act, however, the ordinary and natural meaning of the word is '*the organized provision of medical care to individuals or a community*'.³⁰

23. Paragraph 16 above, explains the definition of '*healthcare professional*'. The CIMHA Record contains entries/referrals of healthcare professionals within this definition. Therefore, I am satisfied that the CIMHA Record is the applicant's relevant healthcare information.

Might disclosing the CIMHA Record prejudice the applicant's physical or mental health or wellbeing?

24. Yes.

²⁴ Section 118(1)(b) of the IP Act.

²⁵ Health Service's submissions received on 1 October 2025.

²⁶ Applicant's submissions received on submissions received on 9 and 28 January 2026.

²⁷ Telephone conversation between the applicant and OIC Review Officer on 5 November 2025.

²⁸ Application for external review dated 5 September 2025.

²⁹ Schedule 5 of the IP Act.

³⁰ Oxford Dictionary of English (online at 19 April 2024) '*healthcare*'. *Amalgamated Society of Engineers v Adelaide Steamship Co Ltd* (Engineers' Case) (1920) 28 CLR 129 at 162.

25. In this context, the prejudice must be real and tangible as opposed to a fanciful, remote or far-fetched possibility.³¹ In considering whether there is a real and tangible risk that the applicant's physical or mental health or wellbeing might be prejudiced by the disclosure of the CIMHA Record to the applicant, I have considered the CIMHA Record, the submissions made by the applicant and the Health Service, and the expertise of the Health Service's nominated decision maker.
26. When considering the question of whether disclosure may have an impact on an individual's physical or mental health, evidence from a medical professional would generally carry significant weight. As explained by the applicant, they are currently not under the care of a medical professional and is, therefore, unable to offer the opinion of a suitably qualified medical professional to support a decision to set aside the Health Service's decision. The Health Service's nominated healthcare decision maker, however, is a psychiatrist and specialist in the mental health field and reviewed the CIMHA Record before reaching the decision to refuse the applicant access to it on the basis its disclosure might be prejudicial to the applicant's physical or mental health or wellbeing.³²
27. Having considered the totality of the information before me, I am satisfied that the risk to the applicant's mental health or wellbeing is real and tangible should the CIMHA Record be disclosed.

DECISION

28. For the reasons set out above, I affirm the reviewable decision³³ and find that the CIMHA Record comprise the applicant's relevant healthcare information and that its disclosure might be prejudicial to the physical or mental health or wellbeing of the applicant.
29. I have made this decision under section 123 of the IP Act as a delegate of the Information Commissioner, under section 139 of the IP Act.



V Corby
Assistant Information Commissioner

Date: 19 February 2026

³¹ This meaning of the term 'might be prejudicial' was adopted by the Administrative Appeals Tribunal for the purposes of a similar provision in the Freedom of Information Act 1982 (Cth) in *Re K and Director-General of Social Security* (1984) 6 ALD 354 at 356-7 and endorsed by the Information Commissioner in *S and Medical Board of Queensland* (1994) 2 QAR 249 when considering section 44(3) of the repealed *Freedom of Information Act 1992* (FOI Act). Section 51(2) of the RTI Act is the equivalent provision to section 44(3) of the repealed FOI Act. As this section also contains the phrase 'might be prejudicial', this interpretation remains relevant.

³² Section 47(3)(d) of the RTI Act.

³³ Section 47(3)(d) of the RTI Act.