



## Decision and Reasons for Decision

---

<b>Citation:</b>	<b><i>X49 and Department of State Development, Infrastructure and Planning [2026] QICmr 32 (26 February 2026)</i></b>
<b>Application Number:</b>	<b>318473</b>
<b>Applicant:</b>	<b>X49</b>
<b>Respondent:</b>	<b>Department of State Development, Infrastructure and Planning</b>
<b>Decision Date:</b>	<b>26 February 2026</b>
<b>Catchwords:</b>	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - DISCLOSURE PROHIBITED BY ACT - application for documents related to workplace investigation - whether disclosure is prohibited under section 65(1) of the <i>Public Interest Disclosure Act 2010 (Qld)</i> - section 67(1) of the <i>Information Privacy Act 2009 (Qld)</i> and sections 47(3)(a) and 48 and schedule 3, section 12(1) of the <i>Right to Information Act 2009 (Qld)</i></b>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Office of Industrial Relations (**OIR**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)<sup>2</sup> for access to documents relating to a workplace investigation into certain actions taken by the applicant while he was employed by OIR.
2. The request was handled by the Department of State Development, Infrastructure and Planning (**Department**) on behalf of OIR.<sup>3</sup>

---

<sup>1</sup> Access application dated 10 December 2024, narrowed in email correspondence dated 20 December 2024. The Department notified the applicant that this application was compliant on 23 December 2024.

<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 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.

<sup>3</sup> Pursuant to a delegation under section 50(2) of the IP Act.

3. In response to the application, the Department located 618 pages. On 13 February 2025, the Department decided to fully release 160 pages and refuse access to 458 whole pages, on the basis that they comprise exempt information.<sup>4</sup>
4. The applicant then applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision.<sup>5</sup>
5. For the reasons set out below, I affirm the Department's decision and find that access to the information in issue may be refused under section 67(1) of the IP Act and section 47(3)(a) of the RTI Act because it comprises exempt information under schedule 3, section 12(1) of the RTI Act.

## Background

6. During the review, OIC conveyed preliminary views to the Department.<sup>6</sup> This resulted in the Department conducting further searches which located additional documents,<sup>7</sup> and the release of further information to the applicant.<sup>8</sup>
7. OIC also conveyed preliminary views to the applicant during this review.<sup>9</sup> The applicant confirmed that he considers some of the issues arising in this review to be resolved.<sup>10</sup> He did, however, request a formal decision with respect to some of the remaining refused information.<sup>11</sup>

## Reviewable decision

8. The decision under review is the Department's decision dated 13 February 2025.

## Evidence considered

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

## Information in issue

11. The following information remains in issue:

---

<sup>4</sup> Under section 48 and schedule 3, section 12(1) of the RTI Act.

<sup>5</sup> External review application dated 19 February 2025 (**ER Application**).

<sup>6</sup> On 18 September and 12 and 25 November 2025.

<sup>7</sup> 397 pages.

<sup>8</sup> On 9 December 2025.

<sup>9</sup> On 18 September and 4 December 2025.

<sup>10</sup> Submissions dated 25 January 2026.

<sup>11</sup> Listed at paragraph [11] of these reasons.

<sup>12</sup> Relevant provisions of which commenced on 1 January 2020.

<sup>13</sup> Section 21(2) of the HR Act.

<sup>14</sup> See *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]. OIC's approach to the HR Act has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw '*no reason to differ*' from our position ([23]).

- contemporaneous notes taken by one or more named staff members who attended a specific meeting with the applicant<sup>15</sup>
- information in the applicant's own record of interview<sup>16</sup>
- the record of interview of another named staff member<sup>17</sup>
- the investigation report,<sup>18</sup> and
- a Matters Assessed Report completed by OIR's Ethical Standards Unit.<sup>19</sup>

### Issue for determination

12. The remaining issue for me to determine in this review is whether access to the information in issue can be refused because it is exempt information.

### Relevant law

13. An individual has a right, under the IP Act, to be given access to documents to the extent they contain the individual's personal information.<sup>20</sup> However, this right is subject to the provisions of the IP and RTI Acts, including grounds for refusing access to information. Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent it could refuse access to the document under section 47 of the RTI Act, were the document to be the subject of an access application under that Act.
14. Access to a document can be refused to the extent it comprises exempt information.<sup>21</sup> Schedule 3 of the RTI Act lists the types of information that are exempt.<sup>22</sup> The legislation is to be administered with a pro-disclosure bias<sup>23</sup> and it is Parliament's intention that grounds for refusing access to information be interpreted narrowly.<sup>24</sup> However, where information meets the criteria for any of the categories of exempt information set out in schedule 3 of the RTI Act, Parliament has also determined that disclosure of this information is contrary to the public interest and, therefore, access may be refused without further consideration of public interest arguments.<sup>25</sup>
15. Relevantly, schedule 3, section 12(1) of the RTI Act provides that information will be exempt if its disclosure is prohibited by specific provisions of other legislation, including section 65(1) of the *Public Interest Disclosure Act 2010* (Qld) (**PID Act**). That section provides:
- (1) If a person gains confidential information because of the person's involvement in this Act's administration, the person must not make a record of the information, or intentionally or recklessly disclose the information to anyone, other than under subsection (3).*
16. The main purpose of the PID Act is to facilitate the disclosure, in the public interest, of information about wrongdoing in the public sector and provide protection for persons who make public interest disclosures (**PIDs**).<sup>26</sup> Part of that protection lies in section 65(1) of the PID Act which, as set out above, prohibits recording or disclosing '*confidential information*' gained through a person's involvement with the PID Act's administration.

<sup>15</sup> The Department refused access to this document in full.

<sup>16</sup> The Department refused access to 54 full pages and parts of 30 pages of this document.

<sup>17</sup> The Department refused access to this document in full.

<sup>18</sup> The Department refused access to 12 full pages and parts of nine pages of this document.

<sup>19</sup> The Department refused access to this document in full.

<sup>20</sup> Section 40 of the IP Act.

<sup>21</sup> Section 67(1) of the IP Act and sections 47(3)(a) and 48 of the RTI Act.

<sup>22</sup> Section 48(2) of the RTI Act.

<sup>23</sup> Section 64 of the IP Act.

<sup>24</sup> Section 67(2)(a) of the IP Act and section 47(2)(a) of the RTI Act.

<sup>25</sup> Section 48(2) of the RTI Act.

<sup>26</sup> See preamble to PID Act.

17. The PID Act defines '*confidential information*' as follows:<sup>27</sup>

***confidential information***—

(a) *includes*—

(i) *information about the identity, occupation, residential or work address or whereabouts of a person—*

(A) *who makes a public interest disclosure; or*

(B) *against whom a public interest disclosure has been made; and*

(ii) *information disclosed by a public interest disclosure; and*

(iii) *information about an individual's personal affairs; and*

(iv) *information that, if disclosed, may cause detriment to a person; and*

(b) *does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.*

18. Section 65(2) of the PID Act provides that a person gains confidential information because of their involvement in the PID Act's administration if the person '*gains information because the person is a public officer who receives a public interest disclosure for a proper authority*'.

19. Section 65(3) of the PID Act sets out certain exceptions to the prohibition in section 65(1) of the PID Act including, for example, to discharge functions under the PID Act or another Act, for a proceeding in a court or tribunal, or if the written consent of relevant persons has been obtained.

20. Schedule 3, section 12(2) of the RTI Act also sets out an exception, providing that information is not exempt information under schedule 3, section 12(1) if it is only personal information of the applicant.

21. In summary, to be protected information under the PID Act and thus exempt from disclosure under the RTI Act, the remaining information in issue must:<sup>28</sup>

- be confidential information as defined in section 65(7) of the PID Act
- have been received by a person involved in the PID Act's administration as explained in section 65(2) of the PID Act; and
- not be subject to an exception listed in section 65(3) of the PID Act or schedule 3, section 12(2) of the RTI Act.

## Findings

### ***Confidential information***

22. I have assessed the information in issue and am satisfied that it is confidential information. The information in issue comprises:

- information disclosed by a PID; and
- information about the personal affairs of individuals other than the applicant.

23. The applicant submits that the matters investigated and the other people involved are well known to him and others at OIR.<sup>29</sup> He submits that he does not seek information about the identity of the PID complainant and this person's name could be redacted from

<sup>27</sup> Section 65(7) of the PID Act.

<sup>28</sup> *U04ENJ and Queensland Health* (Unreported, Queensland Information Commissioner, 9 March 2012) at [14].

<sup>29</sup> ER Application and submissions dated 1 May 2025 and 25 January 2026.

documents, although he believes he knows their identity in any event.<sup>30</sup> He has also, throughout this review, queried why he cannot be provided a copy of notes from a meeting he attended, in circumstances where the information discussed in this meeting is already known to him and he recalls that the names of any complainant or public interest discloser were not mentioned during this meeting.<sup>31</sup>

24. The term '*personal affairs*' is not defined in the PID Act or the *Acts Interpretation Act 1954* (Qld). The relevant dictionary definitions for '*affair/s*' are '*matters of interest or concern*' and '*a private or personal concern*'.<sup>32</sup> While the IP Act prevents me from disclosing or revealing any of the information in issue,<sup>33</sup> I can confirm that it includes information about, or provided by, individuals other than the applicant to OIR in the context of a PID investigation. This includes information about the feelings, beliefs and involvement in allegations of wrongdoing of individuals other than the applicant. I am satisfied that this comprises information about matters of interest to, or the private or personal concerns of, individuals other than the applicant. While some of this information may be known to the applicant, including information in his own record of interview, this does not impact on my assessment that it comprises information about the personal affairs of other individuals.<sup>34</sup>
25. I am constrained in providing additional reasoning about why specific documents are confidential information, beyond the fact that they either comprise information about the personal affairs of other people or were disclosed by a PID. The IP Act prohibits OIC from including information that is claimed to be exempt in a decision.<sup>35</sup> I consider that providing further details about why particular documents comprise '*confidential information*', including which specific subsection of section 65(7) of PID Act applies to specific information, would be to divulge the very information the PID exemption is designed to protect.
26. The same constraints also applied during this review. Given these considerations, I was satisfied that not giving the applicant details of the specific subsection or subsections of the section 65(7) definition that applies to certain documents was both reasonable and necessary, notwithstanding the obligations of procedural fairness in the IP Act<sup>36</sup> and at common law.<sup>37</sup> I am satisfied that, during this review, I '*adopt[ed] procedures that are fair, having regard to the obligations of the commissioner under [the IP] Act*',<sup>38</sup> as is within my discretion as a delegate of the Information Commissioner.<sup>39</sup>

### **Received by a person in the administration of the PID Act**

27. In the decision under review,<sup>40</sup> the Department stated:

*A complaint in relation to an alleged workplace conduct matter concerning the Applicant was made to Ethical Standards, Office of Industrial Relations (OIR). The matter was assessed as a disclosure under the Public Interests [sic] Disclosure Act 2010 (PID).*

...

<sup>30</sup> Submissions dated 1 May and 18 September 2025.

<sup>31</sup> Submissions dated 1 May and 18 September 2025 and 25 January 2026.

<sup>32</sup> *Macquarie Dictionary Online* at <www.macquariedictionary.com.au>.

<sup>33</sup> Section 121(3) of the IP Act.

<sup>34</sup> See *G42 and Department of Children, Youth Justice and Multicultural Affairs* [2021] QICmr 62 (22 November 2021) at [21]-[22], considering the term '*person's affairs*' in the context of section 187(2) of the *Child Protection Act 1999* (Qld).

<sup>35</sup> Section 121(3) of the IP Act.

<sup>36</sup> Section 110(2)(a) of the IP Act.

<sup>37</sup> See for example *Kioa v West* (1985) 159 CLR 550 at 584.

<sup>38</sup> Section 110(2)(a) of the IP Act.

<sup>39</sup> Sections 108(1)(a) and 139 of the IP Act.

<sup>40</sup> Dated 13 February 2025.

*Certain pages of the Documents consists of information that was provided, gained or involved in a PID process and investigation.*

(footnotes omitted)

28. The information located by the Department in response to the access application, including the information in issue, supports the Department's statement that a PID was made to OIR under the PID Act.
29. I am satisfied that the information in issue comprises records or information gained by OIR staff because of their involvement in the administration of the PID Act, as provided in section 65(2) of the PID Act.

### **Exceptions**

30. To the extent the requested documents did not comprise confidential information, or included information that was only about the applicant, that information has already been released to him.
31. I am satisfied that none of the circumstances at section 65(3) of the PID Act apply to the information in issue.
32. In the decision under review,<sup>41</sup> the Department stated:

*... Notwithstanding the information does contain the personal information of the Applicant the information is inextricably intertwined with the personal information of other persons to the extent that it cannot be separated.*

*In this case, as the applicant's personal information cannot be separated from the personal information of other persons, I find that the application of schedule 3, section 12(1) of the RTI Act is not excluded by schedule 3, section 12(2) of the RTI Act and is exempt from disclosure.*

33. The applicant submits, with respect to the transcript of his own interview, that he '*cannot see how the information in this transcript is inextricable [sic] intertwined with the personal information of others*' because he was present for the interview and knows what was discussed.<sup>42</sup> While the relevant investigation was into actions taken by the applicant, and so the information is about him, I do consider the refused information in his transcript of interview (and in other documents) is information that is either only about the affairs of other people, or shared information about the applicant and other people. In those circumstances, I do not consider the exception at schedule 3, section 12(2) of the RTI Act applies to the information in issue.

### **Other matters raised by the applicant**

34. The applicant has made the following submissions:<sup>43</sup>
  - Providing him with a copy of the transcript of his own interview would provide him with procedural fairness.
  - He has concerns that the PID was fabricated, and that this may amount to corrupt conduct or other criminal behaviour. In support of this, he has referenced a meeting he had with other individuals at OIR about the relevant matters which occurred a few days before the date he understands the PID was made.

---

<sup>41</sup> Dated 13 February 2025.

<sup>42</sup> ER Application.

<sup>43</sup> ER Application and submissions dated 1 May and 18 September 2025 and 25 January 2026.

- The investigation, which cleared him of any wrongdoing, was unnecessary and distressing to him. He submits that the decision to investigate him may have amounted to corrupt conduct.
  - He requires the requested information to ensure he has '*the facts correct*' for the purpose of certain legal processes, including legal proceedings he is considering with respect to the termination of his employment.
  - '*...[s]aving OIR from embarrassment is not a ground for refusing access to information*'.
35. These submissions could be construed as raising public interest factors favouring disclosure of the information in issue,<sup>44</sup> as well as a factor which is irrelevant to determining the balance of public interest.<sup>45</sup> However, once I am satisfied that the relevant information is exempt, as is the case for the information in issue, there is no scope for me to take into account public interest factors that may favour disclosure. This is because Parliament has already determined that disclosure of the kinds of information listed in schedule 3 of the RTI Act is contrary to the public interest, regardless of any types of public interest that may arise in particular circumstances.<sup>46</sup>
36. For completeness, section 65(4) of the PID Act provides that, subject to certain limitations,<sup>47</sup> the prohibition at section 65(1) does not affect an obligation a person may have under the principles of natural justice to disclose information to a person whose rights would otherwise be detrimentally affected. I have considered whether OIR might have such an obligation, including whether the applicant's rights might be detrimentally affected by nondisclosure of his transcript of interview. I note that the relevant investigation has been finalised and, as the applicant has noted, he was '*cleared of any wrongdoing*'.<sup>48</sup> In those circumstances, there is nothing before me to suggest natural justice will not be afforded to the applicant, or that his rights would be detrimentally affected, if his full transcript of interview is not now released to him in response to his application under the IP Act. Accordingly, I do not consider section 65(4) of the PID Act applies to remove the prohibition on disclosure of the applicant's interview transcript.
37. The applicant also submits that some of the refused information has been referenced elsewhere in documents released to him or in OIR's correspondence to him outlining why the complaint was not substantiated. He submits that '*[t]his is completely inconsistent and makes a mockery of the PID and RTI laws*'.<sup>49</sup> The question before me in this review is whether access to the information in issue can be refused under the IP Act, where there can be no limits placed on its further use or dissemination.<sup>50</sup> For the reasons set out in this decision, I have answered that question in the affirmative. It is not my role, in this review, to decide whether OIR appropriately managed the release of information to the applicant during the PID investigation.
38. Finally, during this review, the applicant raised various concerns about decisions made and the conduct of individuals at OIR. To the extent these submissions are relevant to the issues in determination, I have addressed them in these reasons. Otherwise, OIC's external review jurisdiction does not extend to investigating the conduct of other government agencies.<sup>51</sup>

---

<sup>44</sup> Such as the factors listed at schedule 4, part 2 of the RTI Act.

<sup>45</sup> Such as the factor at schedule 4, part 1, item 1 of the RTI Act.

<sup>46</sup> Section 48(2) of the RTI Act.

<sup>47</sup> Set out in section 65(5) of the PID Act.

<sup>48</sup> Submissions dated 1 May and 18 September 2025.

<sup>49</sup> Submissions dated 25 January 2026.

<sup>50</sup> *FLK v Information Commissioner* [2021] QCATA 46 at [17].

<sup>51</sup> On 7 August 2025 and 28 January 2026, OIC informed the applicant by email that, if he had concerns about corrupt conduct of a government agency, he could contact the Crime and Corruption Commission.

## **DECISION**

39. For the reasons set out above, I affirm the reviewable decision<sup>52</sup> and find that access to the information in issue can be refused under sections 67(1) of the IP Act and sections 47(3)(a) of the RTI Act because it comprises exempt information under schedule 3, section 12(1) of the RTI Act.
40. 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.



---

**Stephanie Davis**  
**Assistant Information Commissioner**

**Date: 26 February 2026**

---

<sup>52</sup> Under section 123(1)(a) of the IP Act.