



## Decision and Reasons for Decision

---

Citation:	<i>X84 and Department of State Development, Infrastructure and Planning (Office of Industrial Relations) [2025] QICmr 30 (5 June 2025)</i>
Application Number:	317896
Applicant:	X84
Respondent:	Department of State Development, Infrastructure and Planning (Office of Industrial Relations)
Decision Date:	5 June 2025
Catchwords:	<b>ADMINISTRATIVE LAW - RIGHT TO INFORMATION - IRRELEVANT INFORMATION - application for documents about investigation of an incident - whether information is irrelevant to the terms of the access application - section 73 of the <i>Right to Information Act 2009</i> (Qld)</b>

## REASONS FOR DECISION

### Summary

1. The applicant applied<sup>1</sup> to the Office of Industrial Relations (**OIR**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) seeking certain information in relation to OIR's investigation of an incident that occurred in 2023.
2. OIR located three pages and decided<sup>2</sup> to release these pages, except for irrelevant information which it deleted from the first page, and portions of information on the second and third pages which it considered may be refused on the ground that disclosure would, on balance, be contrary to the public interest.
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for review of OIR's decision.
4. For the reasons set out below, I vary OIR's decision and find that access to the remaining information in issue may be refused on the ground that it is irrelevant.<sup>3</sup>

### Background

5. The application that is the subject of this external review (**Current Application**)<sup>4</sup> arose as a result of a previous application (**Previous Application**)<sup>5</sup> the applicant made to OIR

---

<sup>1</sup> Email dated 31 January 2024. By email dated 29 May 2024, OIR advised that the application became compliant on 5 February 2024.

<sup>2</sup> Decision dated 8 March 2024.

<sup>3</sup> Section 73 of the RTI Act.

<sup>4</sup> OIR reference RTI 240355.

<sup>5</sup> OIR reference RTI 240322.

in relation to an incident that occurred in 2023.<sup>6</sup> Following OIR's issuing of a charges estimate notice (**CEN**), the applicant's narrowing of the scope of the Previous Application, and OIR's issuing of a further CEN, the applicant wished to further narrow the scope, but could not.<sup>7</sup> Therefore the applicant agreed<sup>8</sup> to withdraw the Previous Application and lodge the Current Application which sought *'the last 3 pages of the [Employers] Log'*.

6. The scope of the Current Application was recorded in OIR's decision as *'The most recent 3 pages of the Employers Log from RTI 240322 for the incident on [date] in [location]'*.
7. The review participants appeared to share a common understanding of the nature of the document requested. Despite both using the term Employers Log in their negotiations, the requested document is more accurately referred to as an Employer History Report (**EH Report**). An EH Report is an extract from OIR's then case management system known as CISr.<sup>9</sup>
8. The parties common understanding that an EH Report is the relevant document is evidenced by OIR's disclosure of an EH Report pursuant to its decision and the applicant's application for external review, which expressed concern that, while the right type of report was provided, it was compiled on the wrong date, as follows:<sup>10</sup>

*Please review this decision 240355, on the basis that the complied [sic] report from the OIR RTI was dated the 25 January 2024.*

*The original application was cancelled and a new application made on the 31st January 2024. This report should have been generated after the 31st and after the payment was made and compliant.*

9. During the review, the applicant did not raise any objection to the small difference in the wording of the scope as set out in the decision (that is, *'most recent 3 pages'*, rather than *'last 3 pages'*). From information received from OIR about EH Reports during the review, I understand that the words *'most recent'* were included to more accurately reflect how the EH Report is organised—that is, *firstly* by activity/event number and *then* in reverse date order.<sup>11</sup>
10. During the review, OIR agreed<sup>12</sup> to release a fresh version of the EH Report, generated so as to include any further information after 25 January 2024 up to and including 5 February 2024, should such information exist. The Current Application was taken to apply to information in existence in CISr up to and including 5 February 2024, not 31 January 2024, as while the applicant's email which instigated the Current Application was sent on 31 January 2024, that application did not become compliant until 5 February 2024.<sup>13</sup>
11. The fresh EH Report was created on 15 May 2024. OIR explained that, as EH Reports comprise extracts from CISr, the content changes from extract to extract and, as noted

---

<sup>6</sup> The incident notification reference number was 95977.

<sup>7</sup> Section 36(5) of the RTI Act provides that no more than two CENs may be given in relation to an access application.

<sup>8</sup> Email to OIR dated 31 January 2024.

<sup>9</sup> Email dated 29 May 2024. General information regarding CISr and EH Reports is noted in *A34 and Department of State Development, Infrastructure and Planning (Office of Industrial Relations) [2024] QICmr 61* at [17].

<sup>10</sup> Dated 20 March 2024.

<sup>11</sup> Email to OIC dated 29 May 2024.

<sup>12</sup> Email to OIC dated 29 May 2024.

<sup>13</sup> Email to OIC dated 29 May 2024.

above, each extract is organised *firstly* by activity/event number and *then* in reverse date order.<sup>14</sup> OIR released the fresh EH Report on 10 June 2024.<sup>15</sup>

12. OIC wrote to the applicant<sup>16</sup> and explained that OIR had agreed to release a fresh version of the EH Report, created on 15 May 2024, in an effort to informally resolve this external review. OIC also relayed OIR's explanation of its redactions to the EH Report, as follows:

*OIR explained that:*

- *the information... on Page 1 of the report of 25 May 2025 [sic<sup>17</sup>] is irrelevant on date range, being post application information; and*
- *the information that has been marked contrary to the public interest/irrelevant on page 3 of the report of 25 May 2025 [sic] is both outside of scope as [it] would require consultation with third parties, and during consultation with the inspectors, it was determined that the release of the information may prejudice the ongoing investigation.*

13. The applicant was invited to provide a submission if he wanted to continue with the review. He did so,<sup>18</sup> and then made further submissions<sup>19</sup> responding to OIC's subsequent correspondence.<sup>20</sup>

### Reviewable decision

14. The decision under review is OIR's decision dated 8 March 2024.

### Evidence considered

15. Significant procedural steps relating to the external review are set out in the Appendix.
16. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes and the Appendix). I have taken into account the applicant's submissions to the extent they are relevant to the issues for determination in this review.
17. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information, and to privacy and reputation.<sup>21</sup> I consider a decision-maker will be '*respecting, and acting compatibly with*' that right, and others prescribed in the HR Act, when applying the law prescribed in the *Information Privacy Act 2009* (Qld) and the RTI Act.<sup>22</sup> I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.

---

<sup>14</sup> Email to OIC dated 29 May 2024.

<sup>15</sup> For sake of clarity, I confirm that the EH Report, although created after the application was received, is not a 'post-application' document for the purpose of section 27 of the RTI Act. Rather, the application relates to information in CISr and OIR was able to create the EH Report containing the information using equipment usually available to it, as contemplated by section 68(1)(e) of the RTI Act.

<sup>16</sup> Letter to applicant dated 3 June 2024.

<sup>17</sup> The date of this EH Report is, as noted above, 15 May 2024.

<sup>18</sup> On 16 June 2024.

<sup>19</sup> On 23 and 26 December 2024 and 6 March 2025.

<sup>20</sup> Dated 19 and 23 December 2024 and 20 February 2025.

<sup>21</sup> Sections 21(2) and 25 of the HR Act.

<sup>22</sup> See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (XYZ) at [573] wherein Bell J observed as follows with respect to the interaction between the *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic): '*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*'. 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] (where Judicial Member McGill saw 'no reason to differ' from OIC's position).

## Issues for determination

18. The applicant has not sought to contest the refusal of access to personal information of other individuals including EnergyQ employees (names, mobile numbers and residential addresses).<sup>23</sup>
19. The applicant has raised the following three issues about the EH Report:<sup>24</sup>
  - a) No reasoning was provided for the redaction of a small portion of information.<sup>25</sup>
  - b) A response from the 'entity' on 26 January 2024 was not included.<sup>26</sup>
  - c) No reasoning was provided for why information was deleted as irrelevant.<sup>27</sup>
20. The issue at a) has since been resolved and will not be addressed in this decision.<sup>28</sup> I will address the issue at b) first, and then provide reasons regarding the only issue for determination, at c).

## Preliminary issue

21. In terms of issue b), the applicant submitted:<sup>29</sup>

*Also noted on the redacted document was the failure to add the additional information of a dated response of the entity on 26/1/24 from the entity. This is on the reapplying of documents on the 31st January.*

...

*As noted WLR information noted in the transaction ... , noted information release for date 26 January 2024. This was well within the Request information timeline and was not provided.*

22. It is my understanding that this submission relates to the following information released to the applicant on the first page of the EH Report created on 15 May 2024, which was also released in the earlier EH Report dated 25 January 2024:

	18/01/2024	INFORMATION SEARCHING
<b>Description</b>	WLR, Awaiting response to 122C, due 26/1/2024	
<b>Outcomes</b>	Proceed with ELC referrals for worker and employer. Review of reply from 122C for enforcement action.	

23. In both versions of the EH Report, the information immediately above this released information has been deleted on the basis it is irrelevant to the application. This is addressed at issue c) below.
24. It appears that the applicant may expect that an entry on 26 January 2024 should appear above the released information in the EH Report created on 15 May 2024. I can understand why the applicant may expect this, given EH Reports are, as OIR has advised, organised *firstly* by activity/event number and *then* in reverse date order, and noting the content of the released information at paragraph 22 above, which indicates that a response was due on 26 January 2024, and contemplates further action after that.

<sup>23</sup> Consequently, this information as it appears all three pages of the EH Report created on 15 May 2024 (including the bottom quarter of the third page) is no longer in issue.

<sup>24</sup> Submission dated 16 June 2024.

<sup>25</sup> This issue was raised with respect to the redaction of information regarding information listed at 16) on page 3 of the EH Report (see all but the last two paragraphs of submission dated 16 June 2024).

<sup>26</sup> See last paragraph of submission dated 16 June 2024, and similar submissions dated 26 December 2024 and 6 March 2025.

<sup>27</sup> See second last paragraph of submission dated 16 June 2024, and similar submissions dated 26 December 2024 and 6 March 2025.

<sup>28</sup> At OIC's request, OIR released the information raised by the applicant to him, except for the names of EnergyQ employees, and the applicant has not objected to refusal of these names.

<sup>29</sup> Submissions dated 16 June 2024 and 6 March 2025.

25. However, I can confirm that the EH Report created on 15 May 2024 does not include any further information after 25 January 2024 up to and including 5 February 2024, and thus this expectation is erroneous.
26. I can further confirm that there is nothing to substantiate the applicant's concern that the EH Report has '*missing information*' or has been '*edited in obstruction of transparency*'.<sup>30</sup> The absence of entries recording a response on or about 26 January 2024, or any steps flowing from such response in the period up to and including 5 February 2024, raise no reasonable concern that information is 'missing' from the EH Report, or that OIR has 'edited' it. In this regard, I reiterate the explanation which OIC provided to the applicant<sup>31</sup> during the review that we are only able to consider his entitlement to access information covered by his Current Application; and EH Reports are not organised by date order, but by activity and therefore, each time an EH Report is generated, it can look different depending on the activities completed since the last time it was generated.
27. I am satisfied that the document released to the applicant responds to his application—that is, the document released comprises '*the most recent 3 pages of the Employers Log from RTI240322 for the incident on [date] in [location]*.' It is open to the applicant to make a separate application to OIR for any further information he wishes to access.

### Deletion of irrelevant information

28. In terms of issue c), the applicant submitted:<sup>32</sup>

*Also of note is the action of the continual use of notations of S73 Irrelevant Information. The advisor under the released document noted this and failed to advise reasons why under the action of release of the document under the Employers log and the application of the last 3 pages. As the 3 pages was within scope of the application. The advisor failed to note why the admission of the reason of irrelevance under the application scope.*

29. The only information deleted from the EH Report created on 15 May 2024 is the first half of the first of the three pages. The only issue for determination is whether this information may be deleted on the basis that this information is not relevant to the access application.
30. Section 74 of the RTI Act provides that an agency may give access to a document subject to the deletion of information it reasonably considers is not relevant to an application. This is a mechanism to allow irrelevant information to be deleted from documents which are identified for release to an applicant. In deciding whether information is irrelevant, it is necessary to consider whether it has any bearing upon, or is pertinent to, the terms of the application.<sup>33</sup>
31. As explained to the applicant during the external review,<sup>34</sup> the information on page one that has been marked irrelevant post dates his application—that is, it is information entered after 5 February 2024. I am therefore satisfied that this information does not respond to the terms of the application—that is, this information was entered after this application was made compliant. Accordingly, I am satisfied this information can be deleted under section 73 of the RTI Act.

<sup>30</sup> Email from applicant dated 23 December 2024.

<sup>31</sup> Dated 19 December 2024 and 20 February 2025.

<sup>32</sup> Submissions dated 16 June 2024 and 6 March 2025.

<sup>33</sup> *O80PCE and Department of Education and Training* (Unreported, Queensland Information Commissioner, 15 February 2010) at [52] which was a decision made under the equivalent provision in the repealed *Freedom of Information Act 1992* (Qld).

<sup>34</sup> Letter dated 19 December 2024 and email dated 23 December 2024.

## **DECISION**

32. For the reasons set out above, I vary OIR's decision and find that part of one page may be deleted on the basis that it is not relevant to the access application.<sup>35</sup>
33. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.

---

**A Rickard**  
**Assistant Information Commissioner**

**Date: 5 June 2025**

---

<sup>35</sup> Under section 73(2) of the RTI Act.

## APPENDIX

### Significant procedural steps

Date	Event
20 March 2024	Applicant applied for external review.
4 April 2024	OIC accepted external review application.
16 April 2024	OIR provided a copy of the information in issue to OIC.
1 May 2024	OIC requested OIR to generate a fresh EH Report.
20 May 2024	OIR provided a copy of the EH Report (15 May 2024)
3 June 2024	OIC requested OIR to release the EH Report (15 May 2024) OIC wrote to the applicant.
16 June 2024	OIC received a submission from the applicant.
19 December 2024	OIC wrote to the applicant and conveyed preliminary view.
23 December 2024	OIC received a submission from the applicant.
23 December 2024	OIC responded to the applicant, clarifying preliminary view.
26 December 2024	OIC received a submission from the applicant.
20 February 2025	OIC responded to the applicant and confirmed that OIR had agreed to release further information.
6 March 2025	OIC received a further submission from the applicant.