



Decision and Reasons for Decision

Citation:	N12 and WorkCover Queensland [2026] QICmr 56 (7 April 2026)
Application Number:	319095
Applicant:	N12
Respondent:	WorkCover Queensland
Decision Date:	7 April 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NEITHER CONFIRM NOR DENY - request for documents relating to a WorkCover claim lodged by third party - whether the existence of responsive information can be neither confirmed nor denied - section 55 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to WorkCover Queensland (**WorkCover**) under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to documents relating to a worker's compensation claim made by a third party.
2. WorkCover decided, under section 55 of the RTI Act, to neither confirm nor deny the existence of the documents sought by the applicant.² The applicant then applied³ to the Office of the Information Commissioner for external review of that decision.
3. For the reasons set out below, I affirm WorkCover's decision to neither confirm nor deny the existence of the documents to which access is sought, on the basis that those documents would, if they existed, contain prescribed information.

Evidence considered

4. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
5. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**),⁴ particularly the rights to seek and receive information, and privacy and reputation.⁵ I consider a decision-

¹ On 20 October 2025. Application became complaint on 24 October 2025.

² Decision dated 3 November 2025. This is the *reviewable* decision for the purpose of this external review.

³ External review application dated 19 November 2025.

⁴ Relevant provisions of which commenced on 1 January 2020.

⁵ Sections 21(2) and 25 of the HR Act.

maker will be '*respecting, and acting compatibly with*' those rights, and others prescribed in the HR Act, when applying the law prescribed in the RTI Act.⁶ 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,⁷ 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*'.⁸

Issue for determination

6. The issue for determination is whether WorkCover was entitled, under section 55 of the RTI Act, to neither confirm nor deny the existence of the documents sought by the applicant.

Relevant law

7. Under the RTI Act, an individual has a right to be given access to documents of an agency, to the extent they contain the individual's personal information.⁹ However, this right is subject to certain limitations.
8. One such limitation is comprised in section 55 of the RTI Act. Section 55 allows a decision-maker to neither confirm nor deny the existence of a document which, if it existed, would contain prescribed information. This provision is intended to apply in situations where, due to the specific wording of the request, revealing that the agency does, or does not, have documents in response to an application, would reveal information to which an agency would normally be entitled to refuse access.
9. '*Prescribed information*' is defined¹⁰ as:
 - (a) *exempt information mentioned in schedule 3, section 1, 2, 3, 4, 5, 9 or 10; or*
 - (b) *personal information the disclosure of which would, on balance, be contrary to the public interest under section 47(3)(b).*
10. WorkCover has the onus in this review of establishing that the decision under review was justified or that the Information Commissioner should give a decision adverse to the applicant.¹¹

Findings

11. For section 55 of the RTI Act to apply to the applicant's access application, I must be satisfied that, based on the terms of that access application, the requested documents would, if they existed, contain either certain types of exempt information under section 47(3)(a) of the RTI Act or personal information the disclosure of which would, on balance, be contrary to the public interest under section 47(3)(b) of the RTI Act.
12. Nothing in these Reasons for Decision should be taken to confirm nor deny that the documents sought in the access application exist.

⁶ *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].

⁷ *Freedom of Information Act 1982* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

⁸ *XYZ* at [573]. This approach, in the context of the RTI Act, 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.*'

⁹ Section 23 of the RTI Act.

¹⁰ In schedule 5 of the RTI Act.

¹¹ Section 121(1) of the RTI Act.

13. WorkCover's decision stated that, if these documents existed, *'they would be documents to which access would be refused on the grounds that ... they would contain personal information the release of which would be contrary to the public interest'*.
14. I have carefully reviewed the access application, the decision under review and the applicant's submissions on external review. As I am making findings in relation to a 'neither confirm nor deny' issue, I am limited in the level of detail I can provide, and so I have been necessarily circumspect in detailing the information before me.
15. The applicant applied for access to a worker's compensation claim made by an individual, including statements and other documents. Worker's compensation claims usually record employment details, description of injuries, financial and claim assessment information and medical records. This information is inherently personal and sensitive and accordingly – if such information did exist – it would comprise that individual's personal information and disclosure would be contrary to the public interest.
16. I note that the Information Commissioner has previously decided¹² to neither confirm nor deny the existence of the documents of relatively similar nature and sensitivity which, if they existed, would disclose personal information, the disclosure of which is contrary to the public interest under section 47(3)(b) of the RTI Act.
17. In this matter, I am satisfied that revealing whether (or not) such an individual has had dealings with WorkCover, or has lodged (or not) a claim, would disclose that individual's personal information and would have a detrimental impact on their privacy.¹³ Whether a named person has even made a worker's compensation claim is itself personal information and there is a strong public interest in protecting the personal information and privacy of other individuals.¹⁴
18. I am therefore satisfied that, if the documents sought by the applicant did exist, they would contain personal information the disclosure of which would, on balance, be contrary to the public interest under section 47(3)(b) of the RTI Act.

DECISION

19. For the reasons set out above, I affirm the reviewable decision¹⁵ and find that WorkCover is entitled, under section 55 of the RTI Act, to neither confirm nor deny the existence of the documents sought by the applicant.
20. 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: 7 April 2026

¹² *Nadel and Queensland Police Service* [2020] QICmr 19 (6 April 2020).

¹³ Schedule 4, part 3, item 3 and part 4, section 6 of the RTI Act.

¹⁴ *Ibid.*

¹⁵ Under section 110(1)(a) of the RTI Act.