



Decision and Reasons for Decision

Citation: H45 and WorkCover Queensland [2026] QICmr 57 (8 April 2026)

Application Number: 318729

Applicant: H45

Respondent: WorkCover Queensland

Decision Date: 8 April 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - applicant seeking access to audio recordings and transcripts of agency - further access to redacted audio refused as contrary to public interest - right to privacy - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - NONEXISTENT OR UNLOCATABLE DOCUMENTS - applicant contends additional documents exist - whether agency has taken all reasonable steps to locate documents - whether agency has explained why documents do not exist - whether there are reasonable grounds to be satisfied the requested documents do not exist - whether access to documents can be refused on the ground that they are nonexistent or unlocatable - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(e) and 52 of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied¹ to WorkCover Queensland (**WorkCover**) under the *Information Privacy Act 2009* (Qld) (**IP Act**)² for:

¹ On 13 May 2025.

² 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.

...access to all audio recordings and/or transcripts of telephone conversations between WorkCover Queensland and my employer, that relate to me or my WorkCover claim. This includes any discussions regarding my capacity to work, injury, return to work planning, or any other matter involving me personally during or after the course of my claim.

2. WorkCover did not decide the application within the prescribed statutory timeframe³ and was therefore, taken to have made a 'deemed decision' refusing access to all requested documents.⁴
3. The applicant applied⁵ to the Office of the Information Commissioner (**OIC**) for external review of WorkCover's deemed decision.
4. During the external review, WorkCover located one audio recording responsive to the applicant's request and partially released this to them. Certain information was redacted from the audio file on the grounds that its disclosure would, on balance, be contrary to the public interest.
5. The applicant submitted that the located audio should be disclosed without redactions and that further documents should have been located.⁶
6. For the reasons set out below, I vary WorkCover's deemed decision and find that:
 - a. access to parts of the audio recording may be refused on the basis that its disclosure would, on balance, be contrary to the public interest;⁷ and
 - b. access to any additional documents may be refused on the grounds they are non-existent.⁸

Evidence considered

7. In making this decision, I have also taken into account the evidence, submissions, legislation and other material as set out in these reasons (including footnotes). I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information and in doing so, have acted in accordance with section 58(1) of the HR Act.⁹

Information in issue

8. The information in issue is one audio recording of a telephone call between a WorkCover employee and a representative of the applicant's employer, discussing the applicant's claim.

Issues for determination

9. The issues for determination in this review are:

³ A decision was due by the end of the processing period on 17 June 2025.

⁴ Under section 66 of the IP Act.

⁵ On 13 May 2025.

⁶ By way of written submissions dated 16 October 2025, 19 November 2025, 1 December 2025 and 4 December 2025.

⁷ Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act. Section 67(1) of the IP Act allows an agency or Minister to refuse access to information in the same way and to the same extent as section 47 of the RTI Act.

⁸ Under section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.

⁹ OIC's approach to the HR Act set out in this paragraph has been considered and endorsed by the Queensland Civil and Administrative Tribunal in *Lawrence v Queensland Police Service* [2022] QCATA 134 at [23].

- whether access to the information in issue may be refused on the grounds that its disclosure would, on balance, be contrary to the public interest (**Category A Information**);¹⁰ and
- whether access to any additional information responsive to the access request, may be refused on the grounds that it is nonexistent or unlocatable (**Category B Information**).¹¹

Applicant's submissions

10. The applicant's application for external review¹² raised concern that WorkCover had failed to decide their application within the processing period.
11. Following WorkCover's disclosure of one audio recording with redactions, the applicant submitted¹³ that the redactions applied appeared to conceal information relevant to how WorkCover approached aspects of their claim and as such, they sought disclosure of the file without redaction. The applicant also submitted that an additional recording ought to have been located, as they had previously received an email summarising an additional discussion, which occurred on a different date. The applicant noted that this additional meeting was attended by the same parties as the located audio recording, with the addition of a third participant.
12. A preliminary view¹⁴ was conveyed to the applicant by a delegate of the Information Commissioner, that they were inclined to affirm WorkCover's position, that is, that certain information should be refused from the audio recording on the grounds that it is contrary to the public interest information. The preliminary view also advised the applicant that OIC was satisfied with an explanation provided by WorkCover, as to why no additional recordings were located, including regarding the additional discussion known to have taken place.
13. While the applicant appeared to accept the preliminary views, their further submissions¹⁵ expressed dissatisfaction with the limited reasoning provided by WorkCover and the applicant requested the matter proceed to a formal decision.

WorkCover's submissions

14. During the review, the OIC requested¹⁶ WorkCover to provide a copy of all information located as responsive to the access application and a submission concerning its disclosure position, including any grounds for refusals to disclose information.
15. WorkCover submitted¹⁷ that certain information in the recording should not be disclosed on the grounds that it is contrary to the public interest information. In particular, WorkCover submitted that the names and personal opinions of individuals other than the applicant should be redacted because:
 - If the name of an individual is slightly unusual, disclosing it in combination with the name of the agency and their voice biometrics could enable identification of that individual and prejudice their right to privacy;

¹⁰ Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

¹¹ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

¹² By email dated 22 June 2025.

¹³ By email dated 16 October 2025.

¹⁴ By emails dated 10, 19 and 20 November 2025.

¹⁵ By emails dated 19 November, 1 and 4 December 2025.

¹⁶ By email dated 9 July 2025.

¹⁷ Submission dated 6 August 2025.

- Disclosing the personal opinion of an individual other than the applicant would prejudice their right to privacy; and
 - In this age of digital technology, disclosing a voice recording of an identified individual (whether a public official or a private individual) could prejudice their private and financial affairs, particularly for security purposes (using voice identity for telephone banking etc).
16. Subsequently, OIC requested WorkCover¹⁸ to conduct additional searches for the further recording contended to exist by the applicant and for additional information on how it carried out its searches in relation to the OIC's initial request.
17. WorkCover submitted¹⁹ that:
- The additional discussion held between WorkCover and the representative of the applicant's employer referenced by the applicant was held via Microsoft Teams.
 - While a recording function is available for Teams meetings, WorkCover's IT Department has confirmed that this is not the default. A participant to the meeting confirmed that this Teams meeting was not recorded.
 - Telephone recordings are stored and accessed via a program called Dubber.
 - When WorkCover previously searched for telephone recordings, this was done through Dubber as is their usual practice. Only one audio recording was located and provided to OIC.

Relevant law

18. The IP Act provides a right to access an applicant's personal information held by government. This is not an absolute right but subject to certain limitations including grounds of refusal.²⁰ Relevantly, access to information may be refused if:
- its disclosure would, on balance, be contrary to the public interest;²¹ or
 - the document is nonexistent or unlocatable.²²
19. The term 'public interest' is not defined within the RTI Act, however it has been found to refer to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens.²³ This means that, in general, a public interest consideration is one which is common to all members, 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.
20. In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision-maker must (as a summary):²⁴
- identify factors irrelevant to the public interest and disregard them;
 - identify factors in favour of disclosure of information;
 - identify factors in favour of non-disclosure of information; and

¹⁸ By email dated 4 November 2025.

¹⁹ By email dated 7 November 2025.

²⁰ Section 40(1) of the IP Act.

²¹ Section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

²² Section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

²³ Refer to the Guideline entitled *How to balance the public interest* <https://www.oic.qld.gov.au/guidelines/for-government/access-and-amendment/decision-making/public-interest-balancing-test>

²⁴ Section 49(3) of the RTI Act.

- decide whether, on balance, disclosure of the information would be contrary to the public interest.
21. A document is nonexistent if there are reasonable grounds to be satisfied the document does not exist.²⁵ To be satisfied that a document is nonexistent, the Information Commissioner has previously recognised that a decision-maker must rely on their particular knowledge and experience and have regard to a number of key factors, including:²⁶
- the administrative arrangements of government;
 - the agency structure;
 - the agency's functions and responsibilities (particularly with respect to the legislation for which it has administrative responsibility and the other legal obligations that fall to it);
 - the agency's practices and procedures (including but not exclusive to its information management approach); and
 - other factors reasonably inferred from information supplied by the applicant including the nature and age of the requested document/s and the nature of the government activity to which the request relates.
22. Previous decisions of the Information Commissioner have found that when proper consideration is given to relevant factors, it may not be necessary for searches to be conducted. This is the case in circumstances where it is ascertained that a particular document was not created because, for example, the agency's processes do not involve creating that specific document. Rather, it is sufficient that the relevant circumstances to account for the nonexistent document are adequately explained by the agency.²⁷

Findings

Category A Information

23. While I must not disclose information claimed to be contrary to the public interest in this decision;²⁸ I will describe the Category A Information as including the names and opinions of the two participants to the audio recording.
24. While the names of the participants are not the applicant's personal information; the opinions expressed by the participants arise within the context of a discussion about the applicant's claim and therefore, are the applicant's personal information.²⁹ The RTI Act recognises this as a factor favouring disclosure.³⁰ I consider this factor warrants significant weight.
25. However, the opinions within the Category A Information comprise the thoughts and feelings of the individuals recorded. Accordingly, I consider this aspect of the Category

²⁵ Section 52(1)(a) of the RTI Act.

²⁶ *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) (**Pryor**) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* [2009] QICmr 7 (9 February 2009) (**PDE**). The decision in PDE concerned the application of section 28A of the now repealed *Freedom of Information Act 1992* (Qld). Section 52 of the RTI Act is drafted in substantially the same terms as the provision considered in PDE and, therefore, the Information Commissioner's findings in PDE are relevant here.

²⁷ *Abbot and Marohasy and Central Queensland University* [2017] QICmr 54 (21 November 2017) at [92].

²⁸ Under section 121(3) of the IP Act.

²⁹ As defined in section 12 of the IP Act.

³⁰ Schedule 4, part 2, item 7 of the RTI Act. Section 12 of the IP Act defines *personal information* 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.'

A Information is the other individuals' personal information³¹ as well and I have considered this further below.

26. The public interest will also favour disclosure of information which could reasonably be expected to enhance government accountability and transparency.³² To this end, the applicant confirmed their 'intention in seeking the unredacted audio was simply to understand the full context of the discussion relating to the handling of [their] claim'.³³
27. However, considering the limited extent and nature of the information withheld in the recording by WorkCover, while noting the applicant separately received detailed findings and outcome advice in relation to their claim; I consider these factors have significantly been discharged.
28. I consider that disclosure of the Category A information would not further advance these factors, for example by providing any additional information, context or reasons explaining the outcome to their claim. As such, I afford them very low weight.
29. I have identified the following factors favouring nondisclosure in the public interest:
 - disclosure of the information could reasonably be expected to prejudice the protection of an individual's right to privacy;³⁴ and that
 - disclosure of the information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.³⁵
30. In assessing the nondisclosure factors, I note the identities of the participants to the audio recording are known to the applicant. However, I also note there is no limitation on further disclosure of information, including personal information, when it is released under the RTI and IP Acts.
31. I note also that one of the participants in the recording is a public officer and as such, I have considered whether, in the circumstances, any of the refused Category A Information is routine personal work information.³⁶
32. With respect to the name of the public officer, I have taken into account the particular context and nature of the work they performed in the context of handling the applicant's claim. I note the public officer was not the decision maker with respect to the applicant's claim and the purpose of the discussion was to provide an update regarding its outcome. Therefore, I consider weight should be afforded to protecting the personal information and privacy of that individual.³⁷
33. The concept of 'privacy' is not defined in the IP Act or the RTI Act. It can, however, essentially be viewed as the right of an individual to preserve their 'personal sphere' free from interference from others.³⁸

³¹ As defined in section 12 of the IP Act.

³² Schedule 4, part 2, items 1, 3, and 11 of the RTI Act.

³³ Submission dated 19 November 2025.

³⁴ Schedule 4, part 3, item 3 of the RTI Act.

³⁵ Schedule 4, part 4, section 6 of the RTI Act.

³⁶ The concept of routine personal work information applies to employees of agencies which are subject to the RTI Act or IP Act. The concept does not apply to private sector employees, as found in *Underwood and Department of Housing and Public Works* (Unreported, Queensland Information Commissioner, 18 May 2012) at [67] and *Y46 and Queensland Police Service* [2020] QICmr 3 (4 February 2020) at [34] – [35].

³⁷ This is consistent with previous decisions of the Information Commissioner including *O52 and Queensland Ombudsman* [2020] QICmr 31 (11 June 2020) at [66], as applied in *E24 and Department of Justice* [2025] QICmr 6 (27 February 2025) at [32].

³⁸ Paraphrasing the Australian Law Reform Commission's definition of the concept in 'For your information: Australian Privacy Law and Practice' Australian Law Reform Commission Report No. 108 released 12 August 2008, at paragraph 1.56.

34. With respect to the opinion/s they expressed, I am satisfied this information is not wholly related to the officer's routine day to day work duties and responsibilities. Rather, the thoughts and feelings expressed, fall within the officer's personal sphere and are sensitive in nature.³⁹
35. I accept the submission of WorkCover that disclosure of the Category A Information, particularly where names are unique and in conjunction with their voices on the audio recording, could reasonably be expected to prejudice the individuals' right to privacy.
36. Further, I note the Information Commissioner has recognised that when an individual's voice is recorded, the recording captures more than just words, but other non-lexical information⁴⁰ such as tone, cadence, emphasis, reactions and their emotional state; all of which is sensitive and highly personal in nature.⁴¹
37. Given the information comprises the personal thoughts and feelings of both the public officer and the private sector officers, is not routine personal work information, and captures other non-lexical information; I am satisfied disclosure of the information could also reasonably be expected to cause a public interest harm. I have decided to afford these factors significant weight in favour of nondisclosure in the circumstances of this case.
38. In balancing the factors for and against disclosure in the public interest, I have taken into account the pro-disclosure bias of the IP Act⁴² and the applicant's right to obtain access to their personal information held by Workcover, to which I have afforded significant weight. I acknowledge that though afforded very low weight, pro-disclosure factors concerning Government accountability and transparency apply in this matter.
39. However, the personal information of the applicant cannot be released without also releasing the personal information of others.⁴³ Therefore, I must also take into account the substantial weight of the nondisclosure factors which safeguard the personal information of other individuals and protect their privacy.
40. In the circumstances of this case, given the nature of the Category A Information, I find that that the nondisclosure factors are determinative against disclosure. Accordingly, I find that disclosure of the remaining information in the audio recording would, on balance, be contrary to the public interest.⁴⁴

Category B Information

41. As noted above, during the review, OIC requested WorkCover to search for documents responsive to the applicant's access application. Following location of the one audio recording, OIC requested additional information from WorkCover about its searches and why it had not located an audio recording of an additional meeting held.

³⁹ As was found in *8RS6ZB and Metro North Hospital and Health Service* [2015] QICmr 3 (13 February 2015) at [29].

⁴⁰ *New York Times Co. v. National Aeronautics & Space Administration*, 920 F.2d 1002, 1006 (D.C. Cir. 1990), cited with approval in *Robert & Perlita Williamson and Queensland Police Service; "A" Third Party* (Information Commissioner Qld, Decision No. 04/2005, 20 April 2005), decided under the now repealed *Freedom of Information Act 1992*.

⁴¹ *McKean and Department of Justice and Attorney-General; Carmody* (Third Party) [2016] QICmr 25 (27 June 2016).

⁴² Section 64 of the IP Act.

⁴³ The information is properly characterised as 'shared' or 'mutual' personal information, which has previously been considered by the Information Commissioner in *E9IH9N and Metro South Hospital and Health Service* [2016] QICmr 18 (27 May 2016) at [37]-[39] and *RKE and Department of Child Safety* (Unreported, 31 January 2008) at [40]-[43].

⁴⁴ Section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

42. WorkCover provided OIC with details of how it conducted searches of the program it uses to record telephone calls. Further, WorkCover provided the OIC with an explanation as to why the additional meeting was not recorded, as it was attended by three participants and held via Teams, without the recording functionality engaged. I am satisfied, given WorkCover's explanation and the supporting evidence it provided, that the additional meeting did occur via Teams and was not recorded.
43. In the absence of independent evidence pointing to the existence of further documents, I am satisfied that all reasonable searches for documents responding to the access application, have been conducted, and that it is not necessary for any further searches to be conducted. On this basis, I find that access to further documents responsive to the access application may be refused on the ground that the documents sought are nonexistent.⁴⁵

DECISION

44. For the reasons set out above, I vary the reviewable decision⁴⁶ and find that:
- access to parts of the audio recording may be refused on the basis that disclosure would, on balance, be contrary to the public interest;⁴⁷ and
 - access to further documents responsive to the access application may be refused on the basis they are nonexistent.⁴⁸
45. 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: 8 April 2026

⁴⁵ Under section 67(1) of the IP Act and sections 47(3)(e) and 52 of the RTI Act.

⁴⁶ Under section 123(1)(a) of the IP Act.

⁴⁷ Under section 67(1) of the IP Act and section 47(3)(b) of the RTI Act.

⁴⁸ Under section 67(1) of the IP Act and sections 47(3)(e) and 52(1)(a) of the RTI Act.