



Decision and reasons for decision

Citation:	L29 and Department of Families, Seniors, Disability Services and Child Safety [2026] QICmr 161 (31 August 2026)
Application number:	00022126
Applicant:	L29
Respondent:	Department of Families, Seniors, Disability Services and Child Safety
Decision date:	31 August 2026
Catchwords:	ADMINISTRATIVE LAW – RIGHT TO INFORMATION – REFUSAL OF ACCESS – EXEMPT INFORMATION – DISCLOSURE OF INFORMATION PROHIBITED BY PROVISION – information comprising the identity of a person who made a child protection notification, or information from which the identity of the notifier could be deduced – whether disclosure is prohibited by section 186A(1) of the <i>Child Protection Act 1999</i> (Qld) – child protection function information – shared personal information – whether disclosure is prohibited by sections 186A(1) or 187(2) of the <i>Child Protection Act 1999</i> (Qld) – section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) – sections 47(3)(a) and 48 and schedule 3, section 12(1) of the <i>Right to Information Act 2009</i> (Qld)

DECISION

I affirm¹ the reviewable decision of the Department of Families, Seniors, Disability Services and Child Safety (**Department**) and find:²

- the Category A Information comprises information prohibited from disclosure by section 186A of the *Child Protection Act 1999* (Qld) (**CP Act**) and therefore may be refused on the ground it is exempt information;³ and

¹ Under section 110(1)(a) of the *Right to Information Act 2009* (Qld) (**RTI Act**).

² I have made this decision as a delegate of the Information Commissioner under section 145 of the RTI Act.

³ Under section 47(3)(a) and schedule 3, section 12(1) of the RTI Act

- the Category B Information comprises information prohibited from disclosure by section 187 of the CP Act and therefore may also be refused on the ground it is exempt information.⁴

This means that no further information is to be released to the applicant.

My reasons for the decision follow.



A Rickard
Assistant Information Commissioner

Date: 31 August 2026

⁴ Ibid.

REASONS FOR DECISION

Summary

1. The applicant applied under the RTI Act⁵ to the Department for all documents in relation to a referral concerning the applicant and their child made in about August 2025. The applicant stated they sought information about the contents and substance of the referral, but not the notifier's identity.
2. The Department located 22 pages responding to the application. It decided⁶ to give full access to 11 pages and to refuse parts of 11 pages on the basis the information was exempt information, namely information prohibited from disclosure by sections 186A or 187 of the CP Act.
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision,⁷ and provided a submission with their application.
4. OIC conveyed a preliminary view to the applicant,⁸ in response to which the applicant maintained that further information should be released.⁹

Information in issue and issues for determination

5. The information in issue comprises parts of 11 pages. With respect to this information, the issues for determination are:
 - **Category A Information** – whether a small amount of the information in issue is prohibited from disclosure by section 186A of the CP Act and therefore may be refused on the ground it is exempt information; and
 - **Category B Information** – whether the remaining information in issue is prohibited from disclosure by section 187 of the CP Act and therefore may also be refused on the ground it is exempt information.

Evidence considered

6. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
7. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the rights to seek and receive information and privacy and reputation.¹⁰ I consider a decision-maker will be '*respecting, and acting compatibly with*' those rights, and

⁵ By application received on 9 September 2025.

⁶ Decision dated 9 October 2025. This is the **reviewable decision** in this matter.

⁷ External review application received on 9 October 2025. The applicant also made an internal review application on 9 October 2025; however, they withdrew this on 15 October 2025.

⁸ On 19 May 2026.

⁹ By two emails to OIC dated 19 May 2026 and a further email to OIC dated 20 May 2026.

¹⁰ Sections 21(2) and 25 of the HR Act

others prescribed in the HR Act, when applying the law prescribed in the RTI Act.¹¹ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act.

Category A Information

Relevant law

8. Under the RTI Act, an individual has a right to be given access to government held documents containing their personal information.¹² The RTI Act is to be administered with a pro-disclosure bias;¹³ however, the right of access is subject to a number of exclusions and limitations, including grounds of refusal of access.
9. Relevantly, section 47(3)(a) of the RTI Act permits an agency to refuse access to documents to the extent they exempt information.
10. Schedule 3, section 12(1) of the RTI Act lists a number of Acts which contain provisions prohibiting the disclosure of information. Such information will be exempt information unless it is only the personal information of the access applicant.¹⁴
11. The Department's exercise of its child safety functions is governed by the CP Act. The CP Act provides for the protection of children, promotes the safety of children and, to the extent it is appropriate, supports families caring for children.
12. Section 5 requires the CP Act be administered under the principles stated in that Act. Section 5A states the paramount principle for administering the CP Act is *'the safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount'*.
13. Section 186A(1) of the CP Act prohibits disclosure of a notifier's identity, or information from which their identity could be deduced. For section 186A(1) to apply, the following elements must be satisfied:
 - a. a person has notified a specified person¹⁵ of harm or suspected harm to a child or unborn child
 - b. release of the information could disclose the identity of the notifier, or information from which their identity could be deduced; and
 - c. none of the exceptions in section 186A(2) apply.

¹¹ 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]. I also note the following observations made by Bell J in XYZ at [573], on the interaction between equivalent pieces of Victorian legislation (namely, 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 FOI Act.* I further note that this approach to the HR Act was considered and endorsed by the Queensland Civil and Administrative Tribunal in Lawrence v Queensland Police Service [2022] QCATA 134 at [23] and Judicial Member DJ McGill SC saw *'no reason to differ'* from OIC's position.

¹² Section 23 of the RTI Act.

¹³ Section 39 of the RTI Act.

¹⁴ Schedule 3, section 12(2) of the RTI Act.

¹⁵ That is, the chief executive, an authorised officer, a police officer, a doctor or a nurse – see section 186 of the CP Act.

14. If the above three conditions are met, the information will be exempt information under schedule 3, section 12(1) of the RTI Act (unless, as mentioned at paragraph 10 above, it is only the personal information of the access applicant, in which case the exception in schedule 3, section 12(2) of the RTI Act applies).

Findings

15. Some of the information in issue comprises information which relates to the identity of individual/s who made a notification/s to the Department.¹⁶
16. I have carefully considered this Category A Information and can confirm:
- the individual/s in question notified a specified person of harm or suspected harm to a child
 - release of the information would disclose the identity of the notifier/s, or information from which their identity could reasonably be deduced; and
 - therefore the criteria in section 186A(1) of the CP Act are satisfied.
17. I have considered the exceptions listed in section 186A(2) of the CP Act, and the exception in schedule 3, section 12(2) of the RTI Act. I am satisfied that none of these apply.
18. I must therefore conclude:
- Section 186A(1) of the CP Act prohibits disclosure of the Category A Information.
 - Accordingly, this information is a type of exempt information, as listed in schedule 3, section 12(1) of the RTI Act.
 - Therefore, access to the Category A Information under the RTI Act may be refused on the ground it is exempt information under section 47(3)(a) of the RTI Act.
19. I have carefully considered the applicant's submission with their external review application and submissions made during the review.
20. The applicant's submissions made during the review acknowledged that some of the Category A Information was exempt information – but went on to contend that the breadth of the information characterised as exempt went beyond information that qualified as exempt, and therefore '*severability and edited access under section 74*' should be given. In support of this position, the applicant described how relevant provisions should operate and assumed that OIC had taken a more generous approach, which had led to inclusion of information which did not qualify as exempt among the Category A Information. They provided no cogent reasoning for this assumption.

¹⁶ All portions of redacted information on pages 2 and 3 of the 22 pages located by the Department and small portions of the redacted information on pages 4, 6 and 11 of those 22 pages.

21. Generally, I concur with the applicant's description about how relevant provisions operate – but, having carefully reviewed the Category A Information, I do not agree with their assumption that not all of the Category A Information qualifies as exempt. For the reasons outlined above, I am satisfied that the entirety of the Category A Information is exempt information. Therefore, the entirety of it may be deleted (i.e. redacted) under section 74 of the RTI Act.
22. Some of the applicant's submissions may be construed as raising public interest arguments favouring disclosure of the Category A Information. For example, the applicant contended that the Department denied them procedural fairness by failing to confirm or deny the identity of the notifier, and failing to tell them more about the reported concern which prompted the referral.
23. Where information meets the requirements of an RTI Act exemption, it is not necessary to also carry out a public interest balancing exercise.¹⁷ This is because Parliament has considered that it is contrary to the public interest to disclose such information in all circumstances.¹⁸ This means that OIC has no power under the RTI Act to proceed to consider public interest considerations beyond those which Parliament has deemed relevant, and no power to reach a different conclusion.
24. On external review, the applicant acknowledged that procedural fairness cannot be taken into account as a public interest consideration, but asserted that it *'remains relevant to characterisation and severability'* (i.e. to determining the extent of information to be characterised as exempt and therefore deleted under section 74 of the RTI Act). The applicant also raised the RTI Act's pro-disclosure bias, and contended that it too required that the extent of information characterised as exempt be as narrow as possible.
25. Again, the applicant did not provide anything to support the assumption implicit in these submissions – that is, the assumption that OIC had included information which did not qualify as exempt among the Category A Information. As such, I repeat and rely on my comments at paragraph 21 above.
26. Also on external review, the applicant contended that access was necessary to address *'unresolved administrative issues'*, as the Department's complaints processes had directed the applicant to access and amendment applications, and access to the refused information was necessary so that they could identify incorrect information and have it amended.¹⁹ In effect, this contention also makes public interest arguments related to matters such as ensuring the accuracy of records, preserving reputation and advancing fair treatment.

¹⁷ This was confirmed by QCAT in *Dawson-Wells v Office of the Information Commissioner & Anor* [2020] QCATA 60 at [10] and *Mokbel v Queensland Police Service* [2023] QCATA 158 at [30].

¹⁸ Section 48(2) of the RTI Act.

¹⁹ In this regard, the applicant referred to *'incorrect data about my age and cultural/ethnic background'* among the information in the 22 pages disclosed to them, and confirmed they had made an amendment application to correct this data.

27. I again confirm that when information qualifies as exempt, public interest considerations cannot be taken into account. I also observe that being advised of the option to make access and amendment applications in the context of a complaint cannot be equated with a subsequent entitlement to full access (or all amendments) regardless of the RTI Act's provisions.
28. Finally, all four of the applicant's submissions contended that various human rights as identified in the HR Act required a less restrictive interpretation of applicable provisions. As stated at paragraph 7 above, I have had regard to the HR Act and given particular consideration to the rights to seek and receive information and privacy and reputation. I acknowledge that affirming the Department's decision could be seen as limiting these and other human rights. However, I am satisfied that where such a decision is made consistently with, and in observation of, the relevant law – that is, in this case, the RTI Act – I am respecting and acting compatibly with applicable rights prescribed by the HR Act.
29. Having considered all of the applicant's submissions, I confirm that they raise nothing which precludes or changes my finding about the Category A Information at paragraph 18 above.

Category B Information

Relevant law

30. The provisions of the IP and RTI Acts and sections 5 and 5A of the CP Act, as noted above, are again relevant.
31. Section 187(2) of the CP Act prohibits disclosure of certain information acquired by the Department in carrying out its functions under that Act. For this section to apply, the information must:
- be about a person's affairs,²⁰ as required by section 187(1)(b) of the CP Act (**First Condition**)
 - have been acquired by a person performing functions under or relating to the administration of the CP Act, as listed in section 187(1)(a) of the CP Act (**Second Condition**); and
 - not be subject to an exception in section 187(3) or (4) of the CP Act (**Third Condition**).
32. As for section 186A of the CP Act, if the above three conditions are met, the information will be exempt information under schedule 3, section 12(1) of the RTI Act unless section 12(2) applies. Schedule 3, section 12(2) provides that information is not exempt information under section 12(1) *if it is only personal information of the*

²⁰ The term 'person's affairs' is not defined in the CP Act or the *Acts Interpretation Act 1954* (Qld). Accordingly, the *Macquarie Dictionary Online* (Ninth Edition) definition of 'affair/s' (matters of interest or concern) (a private or personal concern), adopted in *7CLV4M and Department of Communities* (Unreported, Queensland Information Commissioner, 21 December 2011) at [30], is considered relevant.

applicant'. If this further exception does *not* apply, the information is exempt information and access may be refused.

Findings

33. I have carefully considered the balance of the refused information on the 11 pages – that is the Category B Information. The Category B Information comprises information that is solely about other individuals in their personal capacity, or 'shared personal information' that is about the applicant as well as such individuals.
34. I am satisfied that the Category B Information was acquired by individuals who, in their capacity as persons listed in section 187(1)(a) of the CP Act, were performing functions under or relating to the administration of the CP Act. I am also satisfied that the information is about the affairs of individuals other than the applicant, as required by section 187(1)(b) of the CP Act. Therefore, the First and Second Conditions necessary for section 187(2) of the CP Act are satisfied.
35. I have considered the exceptions listed in section 187(3) and (4) of the CP Act, and the exception in schedule 3, section 12(2) of the RTI Act.
36. I have particularly considered the exception in section 187(4)(a) of the CP Act, which provides that disclosure of information to another person is not prohibited under section 187(2) of the CP Act *'to the extent the information... is about the other person'*. However, this exception is limited to an applicant's personal information *only*, and information which is solely about the applicant is already among the disclosed information. This exception cannot apply to information that is about both the applicant and others,²¹ and therefore cannot apply to the shared personal information component of the Category B Information. This is also the case for the exception in schedule 3, section 12(2) of the RTI Act.
37. I have also considered the exception in section 187(3)(e) of the CP Act, which enables a person other than an applicant to consent in writing to the disclosure of their information. However, this exception can only apply when the person to whom the information relates is or becomes an adult. In the present matter, the information largely relates to a child. Regardless of whether it relates solely to them, or to both them and the applicant or others, this particular exception cannot apply, and the prohibition in section 187(2) remains.
38. Having carefully considered the entirety of the applicant's submissions with their external review application and during the review, I cannot identify any circumstances which give rise to any of the exceptions. Having considered all possible exceptions, I am satisfied that none of these apply. Therefore, the Third Condition is satisfied.

²¹ *Hughes and Department of Communities, Child Safety and Disability Services* (Queensland Information Commissioner, 17 July 2012) at [23]–[27]; applied recently in *X30 and Department of Families, Seniors, Disability Services and Child Safety; and Other* [2026] QICmr 21 (12 February 2026) at [56]–[70] and *I31 and Department of Families, Seniors, Disability Services and Child Safety* [2026] QICmr 41 at [32]–[44].

39. I therefore conclude:

- section 187(2) of the CP Act prohibits disclosure of the child protection function information
- this information is a type of exempt information, as listed in schedule 3, section 12(1) of the RTI Act; and
- accordingly, access to the Category B Information under the RTI Act may be refused on the ground it is exempt information under section 47(3)(a) of the RTI Act.

40. I confirm I have carefully considered the applicant's submission with their external review application and submissions made during the review. In general terms, the applicant made the same submissions regarding the Category B Information as they did regarding the Category A Information. Accordingly, my consideration of such submissions and my conclusions regarding them, as set out at paragraphs 20 to 28 above, are apposite.

41. Having considered all of the applicant's submissions, I confirm that they raise nothing which precludes or changes my finding regarding the Category B information at paragraph 39 above.

Summary

42. In summary, I find that both of the abovementioned categories of information may be refused on the ground they comprise exempt information, namely information prohibited from disclosure by sections 186A or 187 of the CP Act.

43. The above are the reasons for my decision set out at pages 1–2.