



Decision and Reasons for Decision

Citation: *C26 and Brisbane City Council [2026] QICmr 14 (3 February 2026)*

Application Number: 318556

Applicant: C26

Respondent: Brisbane City Council

Decision Date: 3 February 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - closed circuit television recordings showing incident involving the applicant and other individuals in a public space - administration of justice and fair treatment - personal information and privacy - whether disclosure would, on balance, be contrary to the public interest - 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 - request for footage of specific time periods from four closed circuit television cameras - applicant submits further footage should exist - scope of request - whether access to further footage may be refused on the basis it is nonexistent - sections 47(3)(e) and 52(1)(a) of the *Right to Information Act 2009* (Qld)

REASONS FOR DECISION

Background

1. The applicant applied to Brisbane City Council (**Council**)¹ under the *Right to Information Act 2009* (Qld) (**RTI Act**) for access to closed circuit television (**CCTV**) footage showing incidents in which he was involved in Fortitude Valley in December 2024.²
2. Following negotiations as to the scope of the application,³ Council located CCTV recordings from four cameras within their CitySafe system relevant to the application and

¹ On 21 December 2024.

² On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the RTI Act. As the access application was made before this change, the RTI Act **as in force prior to 1 July 2025** remains applicable in accordance with transitional provisions in Chapter 7, Part 9 of the RTI Act. Accordingly, references to the RTI Act in this decision are to that Act **as in force prior to 1 July 2025** available online at [RTI Act](#).

³ Undertaken between 16 January 2025 and 14 February 2025. Council provided OIC with emails demonstrating these communications.

decided to release portions of those recordings that contained images of the applicant, subject to the redaction/blurring of images/identifying information of other individuals, on the basis that disclosure of that information would, on balance, be contrary to the public interest.⁴

3. The applicant applied to Council for internal review on the basis that he considered additional footage of him should have been located.⁵ On internal review, Council decided to partially release an additional four minutes of footage from one of the cameras.⁶
4. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of the internal review decision.⁷ The applicant submitted that he did not accept the level of blurring/redaction that Council had applied to the footage, and also submitted that further recordings should have been provided to him in response to his application.
5. In reaching my decision, I have taken into account 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 information⁸ and have acted in accordance with section 58(1) of the HR Act.⁹
6. For the reasons set out below, I vary the reviewable decision¹⁰ and find that:
 - access to information may be refused under section 47(3)(b) of the RTI Act on the basis that disclosure would, on balance, be contrary to the public interest; and
 - further information falling within the scope of the application does not exist and therefore, access to it may be refused under sections 47(3)(e) and 52(1)(a) of the RTI Act.

Issues for determination

7. Council located the following CitySafe CCTV recordings relevant to the scope¹¹ of the application (**Recordings**):
 - a. Brunswick intersection with Alfred Street (rotating camera) – 2.39am to 2.42am
 - b. Brunswick intersection with Alfred Street (fixed camera) – 2.35am to 2.43am¹²
 - c. Outside Valley Metro (rotating camera) – 2.23am to 2.44am
 - d. Outside Valley Metro (fixed camera) – 2.23am to 2.27am.
8. Images of the applicant appear within all the recordings and Council granted unrestricted access to the specific portions of the Recordings containing images of the applicant. The remaining footage was blurred/redacted by Council on the basis they contained identifying information of other individuals (**Blurred Footage**).
9. The issue for determination is therefore whether access to the Blurred Footage may be refused on the basis that disclosure would, on balance, be contrary to the public interest.

⁴ Decision dated 28 February 2025.

⁵ On 18 March 2025.

⁶ Internal review decision dated 2 April 2025. This is the *reviewable decision* for the purpose of this review.

⁷ On 10 April 2025.

⁸ Section 21 of the HR 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].

¹⁰ Under section 110(1)(b) of the RTI Act.

¹¹ This scope was agreed to following consultation with the applicant's legal representative in emails exchanged with Council between 16 January 2025 and 14 February 2025.

¹² This recording includes the additional four minutes released by Council on internal review.

10. On review, the applicant also raised concerns that additional footage relevant to the incidents should exist.¹³ Given the nature of the applicant's submissions, I have also made findings on whether Council has taken reasonable steps to locate footage *relevant* to the terms of the application and whether access to further footage falling *within* the terms of the application may be refused because it does not exist.

Relevant law

11. Under the RTI Act, an individual has a right to be given access to documents in the possession or under the control of an agency.¹⁴ While the legislation is to be administered with a pro-disclosure bias,¹⁵ the right of access is subject to certain limitations, including grounds for refusing access.¹⁶

Contrary to public interest

12. One ground for refusing access to information is where disclosure would, on balance, be contrary to the public interest.¹⁷ In assessing whether disclosure of information would, on balance, be contrary to the public interest, a decision-maker must take certain steps as set out in section 49(3) of the RTI Act, including, identifying and disregarding irrelevant factors, identifying factors for and against disclosure, and deciding whether, on balance, disclosure of the information would be contrary to the public interest.
13. The term public interest refers to considerations affecting the good order and functioning of the community and government affairs for the well-being of citizens. This means that, generally, a public interest consideration is one which is common to all members of, or a substantial segment of the community, as distinct from matters that concern purely private or personal interests.
14. Schedule 4 of the RTI Act contains factors that may be relevant in determining where the balance of the public interest lies in a particular case. I have considered these,¹⁸ together with all other relevant information, in reaching my decision. I have also applied the RTI Act's pro-disclosure bias¹⁹ and considered Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.²⁰

Nonexistent documents

15. Access to a document may also be refused if there are reasonable grounds to be satisfied it is nonexistent.²¹ To be satisfied that a document does not exist, the Information Commissioner has previously identified a number of key factors to consider, including the agency's structure, its recordkeeping practices and procedures and the nature and age of the requested documents.²² By considering relevant key factors, a decision-maker may conclude that a particular document was not created because, for example, the agency's processes do not require creation of that specific document. In

¹³ Submission to OIC dated 28 September 2025.

¹⁴ Section 23 of the RTI Act.

¹⁵ Section 44 of the RTI Act.

¹⁶ Section 67(1) of the IP Act and section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 67(2) of the IP Act.

¹⁷ Section 47(3)(b) of the RTI Act.

¹⁸ I have considered each of the public interest factors outlined in schedule 4 of the RTI Act, and any relevant factors are discussed below. Some factors have no relevance, for example, the factor concerning innovation and the facilitation of research. I note the lists in Schedule 4 are non-exhaustive.

¹⁹ Section 44 of the RTI Act.

²⁰ Section 47(2) of the RTI Act.

²¹ Sections 47(3)(e) and 52(1)(a) of the RTI Act.

²² These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July) at [19], which adopted the Information Commissioner's comments in *PDE and the University of Queensland* (Unreported, Queensland Information Commissioner, 9 February 2009) at [37]-[39].

such instances, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are adequately explained.

16. The Information Commissioner's external review functions include investigating and reviewing whether agencies have taken reasonable steps (as opposed to all *possible* steps)²³ to identify and locate documents applied for by applicants.²⁴ On an external review, the agency or Minister who made the decision under review has the onus of establishing that the decision was justified or that the Information Commissioner should give a decision adverse to the applicant.²⁵ However, where the issue of missing documents is raised, the applicant bears a practical onus of demonstrating that the agency has not discharged its obligation to locate all relevant documents.²⁶ Suspicion and mere assertion will not satisfy this onus.²⁷

Submissions

17. In his external review application²⁸ the applicant submitted as follows:

I have requested to review two cameras on Brunswick street related to 2 assaults happened on me. The rotating camera at train station on brunswick street has censored everything especially when I got jumped by a group of nearly 10 people as a result nothing can be seen in the footage its all blurred. At one scene theyre putting torch in my face and the video that I got is zooming in to an empty unrelated area while the assault on me is happening right in the corner so they prevent showing me the assault by zooming somewhere else. About the camera at corner of brunswick and alfred st, I can see myself with my friend walking towards alfred but my own face is censored again! Could you please check the footages and make the adjustments accordingly ...

18. In responding to OIC's preliminary view, the applicant made further written submissions²⁹ and provided a copy of an unsigned statement he had made to Queensland Police Service (**QPS**) in relation to the incidents.³⁰ In his submissions, the applicant pointed to particular time stamps which he was seeking '*footage from or unblurred faces of people assaulting*' and also submitted:³¹

... this night was the worst night in my life and still affecting all my aspects in personal life, i was the victim and got assaulted multiple times by different people, you helping me get the right footage is the only thing that will help me get justice on what happened to me, and what these people did to me. getting this footage will help me heal and finally give me peace.

19. Council explained to the applicant³² during the processing of the application that:

... we will only be providing footage that your client can be identified in, and I will be blurring the area surrounding him and the faces of any individuals in close proximity to him. There are

²³ *S55 and Queensland Police Service* [2023] QICmr 3 (30 January 2023) at [23], cited with approval in *W55 and Brisbane City Council* [2024] QICmr 13 (17 April 2024) at [19].

²⁴ Section 130 of the RTI Act. The Queensland Civil and Administrative Tribunal confirmed in *Webb* at [6] that the RTI Act 'does not contemplate that [the Information Commissioner] will in some way check an agency's records for relevant documents' and that, ultimately, the Information Commissioner is dependent on the agency's officers to do the actual searching for relevant documents.

²⁵ Section 87(1) of the RTI Act.

²⁶ See *Mewburn and Department Local Government, Community Recovery Resilience* [2014] QICmr 43 (31 October 2014) at [13].

²⁷ *Parnell and Queensland Police Service* [2017] QICmr 8 (7 March 2017) at [23]; *Dubois and Rockhampton Regional Council* [2017] QICmr 49 (6 October 2017) at [36]; *Y44 and T99 and Office of the Public Guardian* [2019] QICmr 62 (20 December 2019) at [38].

²⁸ Dated 10 April 2025.

²⁹ Email to OIC dated 28 September 2025.

³⁰ Attached to two emails to OIC dated 29 September 2025.

³¹ Email to OIC dated 28 September 2025.

³² Email dated 14 February 2025 sent to the applicant's legal representative at the time.

sections within these timeframes where he may not appear at all, and then re-appear. In those instances, the whole frame will be redacted until he reappears, where he will be unredacted.

20. Council explained³³ that some of the CitySafe cameras operate by rotating/panning the relevant area and due to the rotating nature of these cameras, the recorded footage from a particular time period may not always capture the incident/event in question.

Findings

Contrary to public interest information

21. In accordance with section 49(3) of the RTI Act, I have not identified any irrelevant factors that apply in relation to the Blurred Footage.³⁴
22. Taking into account the nature of the Blurred Footage and the applicant's submissions, I am satisfied that the following pro-disclosure public interest factors arise for consideration in this case:
- contribute to positive and informed debate on matters of serious interest³⁵
 - providing access to an applicant's personal information held by government³⁶
 - advance the fair treatment of individuals in accordance with the law and their dealings with agencies³⁷
 - contribute to the administration of justice for a person;³⁸ and
 - contribute to the enforcement of the criminal law.³⁹
23. On the other hand, I am also satisfied that the following nondisclosure factors arise in relation to the Blurred Footage:
- prejudice the protection of other individuals' right to privacy⁴⁰
 - prejudice the fair treatment of individuals in the context of unsubstantiated allegations of unlawful conduct⁴¹
 - impede the administration of justice for a person;⁴² and
 - cause a public interest harm by disclosing personal information of a person.⁴³
24. The Blurred Footage was recorded in the early hours of a weekend morning in the crowded entertainment precinct of Fortitude Valley, Queensland. It is undisputed that the applicant was involved in physical altercations with other individuals and that those incidents are captured in the Recordings taken from the Council CitySafe CCTV camera network (and have been released to him). I acknowledge that the occurrence of violent incidents in an entertainment precinct is a matter of serious interest to the community and that release of the Blurred Footage could reasonably be expected to contribute to debate on this issue. Taking into account the footage that the applicant has already received access to, I afford this factor moderate weight.

³³ In a phone call with OIC on 9 May 2025 undertaken in the course of OIC making preliminary inquiries with Council (under section 98 of the RTI Act) prior to accepting the application (which occurred on 13 May 2025).

³⁴ Including those set out in schedule 4, part 1 of the RTI Act.

³⁵ Schedule 4, part 2, item 2 of the RTI Act.

³⁶ Schedule 4, part 2, item 7 of the RTI Act.

³⁷ Schedule 4, part 2, item 10 of the RTI Act.

³⁸ Schedule 4, part 2, item 17 of the RTI Act.

³⁹ Schedule 4, part 2, item 18 of the RTI Act.

⁴⁰ Schedule 4, part 3, item 3 of the RTI Act.

⁴¹ Schedule 4, part 3, item 6 of the RTI Act.

⁴² Schedule 4, part 3, item 9 of the RTI Act.

⁴³ Schedule 4, part 4, item 6 of the RTI Act.

25. To the extent the applicant appears in the Recordings, he has been given access to the footage containing images of him. Having reviewed the Blurred Footage, I am satisfied that further images of him do not appear within the relevant time periods captured by the scope of his application.⁴⁴ I am satisfied this disclosure has served to discharge the public interest in the applicant accessing his personal information held by Council and therefore, I afford the factor⁴⁵ no weight.
26. The applicant's submissions demonstrate that the incident has had an ongoing distressing impact on him, and that he is seeking access to the Blurred Footage to assist him in dealing with the matter personally and in pursuing 'justice'. He also submits that by accessing the Blurred Footage he will be able to see the faces of people who 'assaulted' him. In view of these submissions, I am satisfied that disclosure of the Blurred Footage would contribute to the administration of justice for the applicant and advance his fair treatment to a moderate degree.
27. I have also reviewed the applicant's (unsigned) statement he made to QPS following the incident which he provided in support of his submissions in considering the factor relating to enforcement of the law. While it is clear the applicant gave a statement to QPS, further details of the QPS investigation into the matter are not available to me in this review, other than advice from the applicant's legal representative to Council during processing of the application that the '*criminal matter will shortly be discontinued by the prosecution*'.⁴⁶ In view of this discontinued proceeding, and taking into account that QPS would have been able to obtain a copy of any relevant CCTV footage for the purpose of their investigation at the time, I afford this factor limited weight.
28. Turning to nondisclosure factors, the Blurred Footage⁴⁷ contains images of many other individuals, including images of their faces, and also contains identifiers such as licence plates on passing motor vehicles. As outlined above, the Recordings were taken by CitySafe cameras in a busy entertainment precinct in the early hours of a weekend morning. Potentially hundreds of other individuals appear in the Blurred Footage, including specific individuals involved in the altercations with the applicant. As outlined in the previous paragraph, the full details of the QPS investigation or resulting charges/court proceedings are not available to me in this review, and it is not clear whether the applicant knows the identities of any of the other individuals involved.
29. In the particular circumstances of this case, I am satisfied that disclosing the images of other individuals who appear in the Blurred Footage would significantly prejudice their privacy. I am satisfied that people engaging in leisure pursuits in an entertainment precinct are entitled to a level of privacy. While the CitySafe camera network is clearly visible to users of the areas (ie. it is not covert), I do not consider people socialising in such an area, in the early hours of a morning, would reasonably anticipate unfettered disclosure of their images under information access legislation. I am also satisfied that disclosure would cause a public interest harm by disclosing their personal information. The images of other individuals' faces in the Blurred Footage are relatively clear, as are the number plates of passing vehicles; I am satisfied this constitutes other individuals' personal information as their identities could reasonably be ascertained from that information. In affording these factors significant weight, I have taken into account that there can be no control over further dissemination of information that is disclosed under the RTI Act.⁴⁸

⁴⁴ As set out in paragraph 7 above.

⁴⁵ Schedule 4, part 2, item 7 of the RTI Act.

⁴⁶ Email to Council dated 4 March 2025.

⁴⁷ Which I have reviewed in its entirety, in an unredacted format.

⁴⁸ *FLK v Information Commissioner* [2021] QCATA 46 at [17].

30. I also consider that, to the extent other individuals were involved in the QPS investigation, disclosure of their images in the context of physical altercations in a public place, and which were the subject of a discontinued prosecution, could reasonably be expected to prejudice their fair treatment and impede the administration of justice, to a limited degree.
31. For completeness, to the extent the applicant has raised concerns about the level of blurring/redaction applied to the Recordings by Council, I have considered the operation of section 75 of the RTI Act. That provision allows an agency to give partial access to a document with contrary to the public interest information deleted, where it is practicable to do so. Given the significant number of other individuals who appear in the footage, I consider that the approach adopted by Council in applying a blurred lens across the entirety of the footage, except for instances where the applicant appears (those images are shown clearly in the released Recordings) is consistent with section 75 of the RTI Act and represents a practicable way to give access to the recordings with contrary to public interest information deleted.⁴⁹
32. On balance, I am satisfied that the public interest in protecting the personal information and privacy of other individuals in the Blurred Footage are the determining factors in this case and that they, combined with the other nondisclosure factors discussed above, serve to outweigh the factors favouring disclosure. While I acknowledge the significant impact the incident had on the applicant, I do not consider the administration of justice, fair treatment, enforcement of the law and public debate factors to carry sufficient weight to favour disclosure of the Blurred Footage. Accordingly, I find that disclosure of the Blurred Footage would, on balance, be contrary to the public interest and access to it may be refused on that basis.⁵⁰

Nonexistent information

33. The applicant raised general concerns that images of him that he was expecting to have released to him did not appear in the released Recordings. In part, I consider the applicant's submissions seek to access information outside the scope of the access application that was processed by Council.⁵¹ Specifically, the applicant submitted that he was seeking access to all footage between 2am and 2.23am from the CitySafe fixed camera outside valley metro (item (d) in paragraph 7 above). To the extent the applicant is seeking access to additional footage that falls outside the scope of the application (ie. from an earlier timestamp on camera (d)), I am satisfied that it does not fall within the scope of the application and therefore, it would not be reasonable for Council to undertake any further steps to locate it.⁵²
34. The applicant also raised concerns about the zooming and rotating function of some of the cameras and submitted that the rotating camera was '*zooming somewhere else*'.⁵³ As set out in paragraph 20, Council explained to OIC that some of the CitySafe cameras⁵⁴ operate by rotating/swivelling in various directions, and that due to the rotating nature of these cameras, the recordings that are created may unfortunately miss an event in question.⁵⁵

⁴⁹ The prospect of inspection access was discussed with Council during the review, however, this was not accepted by Council to be a suitable informal resolution option due to the extent of other people appearing in the footage.

⁵⁰ Section 47(3)(b) of the RTI Act.

⁵¹ As stated in paragraph 7 above.

⁵² If the applicant is seeking additional footage beyond the scope that was processed by Council, it is open to him to make a fresh application.

⁵³ External review application.

⁵⁴ Relevantly in this review, cameras (a) and (c) as described in paragraph 7 above.

⁵⁵ For example, the camera may be angled towards one area and recording what is occurring in that area, when an incident is occurring concurrently at another point, that falls outside of the camera lens recording area.

35. Having examined the Blurred Footage in its entirety, it is clear that the rotating cameras swivel, tilt and zoom to cover a wide area. Given the rotating functionality, I accept that events occurring in one area may be missed while the camera traverses another area and for this reason, recordings of such missed incidents are not created by the CCTV system. While I have no reason to doubt the applicant's assertion that incidents were occurring while the camera was *'zooming somewhere else'*, I am satisfied that the rotating nature of the cameras provides a reasonable explanation for why no further footage of the applicant is contained within the Blurred Footage, and also serves to explain why additional footage does not exist.
36. For the reasons outlined in the preceding three paragraphs, I am satisfied that Council has taken reasonable steps to locate footage relevant to the scope of the application. I am also satisfied that additional footage does not exist either because it falls outside the scope of the application, or because it was not captured due to the rotating functionality of the relevant CCTV cameras.

DECISION

37. For the reasons set out above, I vary the reviewable decision⁵⁶ and find that:
- access to the Blurred Footage may be refused under section 47(3)(b) of the RTI Act on the basis that disclosure would, on balance, be contrary to the public interest; and
 - further information falling within the scope of the application does not exist and therefore, access to it may be refused under section 47(3)(e) and 52(1)(a) of the RTI Act.
38. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



K Shepherd
Assistant Information Commissioner

Date: 3 February 2026

⁵⁶ Under section 110(1)(b) of the RTI Act.