



Decision and Reasons for Decision

Citation: *S27 and Department of the Premier and Cabinet [2026] QICmr 102 (15 June 2026)*

Application Number: 318847

Applicant: S27

Respondent: Department of the Premier and Cabinet

Decision Date: 15 June 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - EXEMPT INFORMATION - DISCLOSURE PROHIBITED BY ACT - application for all documents related to a public interest disclosure lodged by the applicant - whether documents sought are prohibited from disclosure by a listed Act - sections 47(3)(a), 48, and schedule 3, section 12(1) of the *Right to Information Act 2009* (Qld) and section 65(1) of the *Public Interest Disclosure Act 2010* (Qld)

DECISION

1. For the below reasons, I affirm¹ the reviewable decision of Department of the Premier and Cabinet (the **Department**) and find that access to the remaining refused information can be refused because it is exempt.²
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



Stephanie Davis
Assistant Information Commissioner

Date: 15 June 2026

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

² Sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld).

REASONS FOR DECISION

Summary

4. The applicant applied³ to the Department under the *Right to Information Act 2009* (Qld) (**RTI Act**)⁴ for access to correspondence and documents relating to a public interest disclosure he made in 2004.
5. In response to the application, the Department located 24 pages and decided to refuse access to all of this information on the basis that it was exempt or its disclosure would, on balance, be contrary to the public interest.⁵
6. The applicant then applied⁶ to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision. Further information was located and released to the applicant during the review.
7. For the reasons set out below, I affirm the Department's decision and find that access may be refused on the ground it is exempt information, namely information prohibited from disclosure by the *Public Interest Disclosure Act 2010* (Qld) (**PID Act**).

Background

8. During the review, OIC conveyed a preliminary view to the Department.⁷ This resulted in the Department releasing one full page and parts of six pages to the applicant.⁸
9. OIC also conveyed preliminary views to the applicant during this review.⁹ The applicant confirmed that he considers some of the issues arising in this review to be resolved.¹⁰ He did, however, not accept OIC's view with respect to the information refused as exempt.

Evidence considered

10. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes).
11. I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**)¹¹ particularly the right to seek and receive information.¹² In observing and applying the law prescribed in the RTI Act, a decision-maker will be 'respecting' and 'acting compatibly with' this right and others prescribed in the HR Act when applying the law prescribed in the RTI Act.¹³ I have acted in this way in making this decision in accordance with section 58(1) of the HR Act.

³ On 28 May 2025.

⁴ 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 applicant's application was made before this change, the RTI Act **as in force prior to 1 July 2025** remains applicable to it. This is in accordance with transitional provisions in 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 RTI Act in this decision are to that Act, which may be accessed at <<https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013>>.

⁵ Decision 18 July 2025. While the Department's decision refers to '20 pages', this appears to have been a typographical error.

⁶ On 15 August 2025.

⁷ On 11 March 2026.

⁸ On 8 April 2026.

⁹ On 12 March and 1 and 30 April 2026.

¹⁰ Email dated 5 May 2026.

¹¹ Relevant provisions of which commenced on 1 January 2020.

¹² Section 21(2) of the HR Act.

¹³ See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) at [573]; and *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. OIC's approach to the HR Act has been considered and endorsed by QCAT Judicial Member McGill in *Lawrence v Queensland Police Service* [2022] QCATA 134, noting that he saw 'no reason to differ' from our position ([23]).

Issue for determination

12. The remaining issue for me to determine in this review is whether access to the information in issue¹⁴ can be refused because it is exempt information.

Relevant law

13. The RTI Act provides a right of access to documents of government agencies such as the Department.¹⁵ This right is subject to other provisions of the RTI Act, including grounds on which access may be refused.¹⁶
14. Access to a document can be refused to the extent it comprises exempt information.¹⁷ Schedule 3 of the RTI Act sets out the types of information that are exempt.¹⁸ The refusal grounds in the RTI Act are to be interpreted narrowly,¹⁹ and it is Parliament's intention that the Act be administered with a pro-disclosure bias.²⁰ However, where information meets the criteria for any of the categories of exempt information set out in schedule 3 of the RTI Act, Parliament has determined that disclosure of this information is contrary to the public interest and, therefore, access can be refused without further consideration of public interest arguments.²¹
15. Relevantly, schedule 3, section 12(1) of the RTI Act provides that information is exempt if its disclosure is prohibited by specific provisions of other legislation, including section 65(1) of the PID Act. That section provides:
- (1) If a person gains confidential information because of the person's involvement in this Act's administration, the person must not make a record of the information, or intentionally or recklessly disclose the information to anyone, other than under subsection (3).*
16. While the *Whistleblowers Protection Act 1994* (Qld) (**Whistleblower Act**) was the relevant legislation governing public interest disclosures at the time the requested documents were created, the transitional provisions of the PID Act provide that confidential information gained under the Whistleblower Act is taken to have been gained under the PID Act.²²
17. The main purpose of the PID Act is to facilitate the disclosure, in the public interest, of information about wrongdoing in the public sector and provide protection from reprisals for persons who make public interest disclosures.²³ Part of that protection lies in section 65(1) of the PID Act which, as set out above, prohibits disclosing '*confidential information*' gained through a person's involvement with the PID Act's administration.
18. The PID Act defines confidential information as follows:²⁴

confidential information—
(a) includes—

¹⁴ Comprising 17 pages and parts of four pages.

¹⁵ Section 23 of the RTI Act.

¹⁶ Section 47 of the RTI Act.

¹⁷ Sections 47(3)(a) and 48 of the RTI Act.

¹⁸ Section 48(2) of the RTI Act.

¹⁹ Section 47(2)(a) of the RTI Act.

²⁰ Section 44 of the RTI Act.

²¹ Section 48(2) of the RTI Act.

²² Section 77 of the PID Act.

²³ See preamble to PID Act.

²⁴ Section 65(7) of the PID Act.

- (i) information about the identity, occupation, residential or work address or whereabouts of a person—
 (A) who makes a public interest disclosure; or
 (B) against whom a public interest disclosure has been made; and
 (ii) information disclosed by a public interest disclosure; and
 (iii) information about an individual's personal affairs; and
 (iv) information that, if disclosed, may cause detriment to a person; and
 (b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.
19. The term '*personal affairs*' is not defined in the PID Act or the *Acts Interpretation Act 1954* (Qld). The relevant dictionary definitions for '*affair/s*' are '*matters of interest or concern*' and '*a private or personal concern*'.²⁵
 20. Section 65(2) of the PID Act provides that a person gains confidential information because of their involvement in the PID Act's administration '*[i]f [the] person gains information because the person is a public officer who receives a public interest disclosure for a proper authority*'.
 21. Section 65(3) of the PID Act sets out certain exceptions to the prohibition in section 65(1) of the PID Act including, for example, to discharge functions under the PID Act or another Act, for a proceeding in a court or tribunal, or if the written consent of relevant persons has been obtained.
 22. Schedule 3, section 12(2) of the RTI Act also sets out an exception, providing that information is not exempt information under schedule 3, section 12(1) if it is only personal information of the applicant.
 23. In summary, to be protected information under the PID Act and thus exempt from disclosure under the RTI Act, the refused information must:²⁶
 - be confidential information as defined in section 65(7) of the PID Act
 - have been received by a person involved in the PID Act's administration as explained in section 65(2) of the PID Act; and
 - not be subject to an exception listed in section 65(3) of the PID Act or schedule 3, section 12(2) of the RTI Act.

Findings

24. The documents the Department located for this application comprised:
 - the public interest disclosure itself;²⁷ and
 - correspondence and documents relating to the public interest disclosure.²⁸
25. I have reviewed the refused information in these documents. While the RTI Act prevents me from disclosing or revealing any of the refused information,²⁹ I confirm that it consists of:

²⁵ Macquarie Dictionary Online at <www.macquariedictionary.com.au>. See also *X49 and Department of State Development, Infrastructure and Planning* [2026] QICmr 32 (26 February 2026) at [24].

²⁶ *U04ENJ and Queensland Health* (Unreported, Queensland Information Commissioner, 9 March 2012) (U04ENJ) at [14].

²⁷ Pages 6-24 of the located documents.

²⁸ Pages 1-5 of the located documents.

²⁹ Section 108(3) of the RTI Act.

- information about the identity, occupation, residential or work address of the subject officer for the public interest disclosure
 - information disclosed by the public interest disclosure
 - information about individuals' personal affairs; and
 - information that, if disclosed, may cause detriment to a person—including, as defined in the PID Act, damage to reputation.³⁰
26. The applicant submits that '[t]here is no identifying personal information about the [individual] concerned'.³¹ Having reviewed the information, I do not agree that this is the case. The refused information identifies a subject officer by name and otherwise includes information that describes this individual with a reasonable degree of specificity to enable that person to be identified. To the extent the refused information is not about the subject officer, I am satisfied it is otherwise confidential information because it is about other peoples' personal affairs, was disclosed by a public interest disclosure or could cause detriment to a person.
27. Accordingly, I am satisfied that the refused information meets the definition of confidential information at section 65(7) of the PID Act.
28. I am satisfied that the refused information was received by Department staff because of their involvement in the administration of the Whistleblower Act and, as such, the information is taken to have been received under the PID Act.³²
29. I have considered the exceptions to the prohibition on disclosure at section 65(3) of the PID Act and find that none apply.
30. I am also satisfied the exception at schedule 3, section 12(2) of the RTI Act does not apply for the refused information. To the extent the located information contains information only about the applicant, that information was released during the review.
31. The applicant submits³³ a number of factors listed in schedule 4, part 2 of the RTI Act apply to favour the disclosure of the refused information³⁴ and that irrelevant factors should be disregarded.³⁵ However, once I am satisfied that the relevant information is exempt, as is the case here, there is no scope for me to take into account public interest factors that may favour disclosure. This is because Parliament has already determined that disclosure of the kinds of information listed in schedule 3 of the RTI Act is contrary to the public interest, regardless of any types of public interest that may arise in particular circumstances.³⁶
32. The applicant also submits³⁷ that, despite the Department being able to refuse access to information under section 47(3)(a), the Department should exercise its discretion to release that information. While an agency may decide to release information despite it qualifying as exempt information,³⁸ the Information Commissioner cannot direct an agency to do so.³⁹ For the reasons I have discussed, it was open to the Department to refuse access to the refused information.

³⁰ See definition of '*detriment*' at schedule 4 of the PID Act.

³¹ Submission dated 23 April 2026.

³² Section 77 of the PID Act.

³³ Submission dated 23 April 2026.

³⁴ Namely, items 1, 2, 3, 5, 6, 11, 17 and 18.

³⁵ Namely, the factors listed in schedule 4, part 1, items 1 and 2 of the RTI Act.

³⁶ Section 48(2) of the RTI Act.

³⁷ Submission dated 23 April 2026.

³⁸ Section 48(3) of the RTI Act.

³⁹ Section 105(2) of the RTI Act.

33. Accordingly, I am satisfied that the refused information is subject to the prohibition against disclosure in section 65(1) of the PID Act and is exempt under schedule 3, section 12(1) of the RTI Act. I find that the Department can refuse access.

Conclusion

34. The above are the reasons for my decision set out at paragraph 1.
35. 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.