Office of the Information Commissioner
Queensland

Decision and Reasons for Decision

Citation:	***J30 and Department of State Development, Infrastructure and Planning (Office of Industrial Relations)* [2025] QICmr 62 (18 September 2025)**
Application Number:	**318334**
Applicant:	**J30**
Respondent:	**Department of State Development, Infrastructure and Planning (Office of Industrial Relations)**
Decision Date:	**18 September 2025**
Catchwords:	**ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO THE PUBLIC INTEREST INFORMATION - request for information about investigation of a workplace complaint - information supplied to inspector - personal information and privacy of other individuals - prejudice flow of information to a regulatory agency - 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)**

REASONS FOR DECISION

Summary

1. The applicant applied[1] to the Office of Industrial Relations (**OIR**)[2] under the *Right to Information Act 2009* (Qld) (**RTI Act**)[3] for access to Workplace Health and Safety Queensland documents relating to the investigation of a psychosocial hazard complaint he had made against his employer.[4]

2. OIR located an Employer History Report[5] and Improvement Notices[6] issued to the applicant's employer relevant to the complaint and investigation. OIR initially consulted with the applicant's employer to seek their views on disclosure and the applicant's

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[1] Access application dated 25 September 2024.
[2] OIR became part of the Department of State Development, Infrastructure and Planning following machinery of government changes on 18 December 2023.
[3] On 1 July 2025 key parts of the *Information Privacy and Other Legislation Amendment Act 2023* (Qld) (**IPOLA Act**) came into force, effecting significant changes to the RTI Act and the *Information Privacy Act 2009* (Qld) (**IP Act**). References in this decision to the RTI Act and IP Act, however, are to the those Acts **as in force prior to 1 July 2025**. This is in accordance with Chapter 7 Part 9 of the RTI Act and Chapter 8, Part 3 of the IP Act, comprising transitional provisions requiring that access applications on foot before 1 July 2025 are to be dealt with as if the IPOLA Act had not been enacted.
[4] The applicant confirmed this narrowed scope in correspondence to OIR on 25 October 2024. The complaint related to bullying, harassment and an assault in the workplace (the **Incident**).
[5] A document outlining an overview of the investigation conducted by the Inspector.
[6] Notices provided to the employer from OIR setting out the provisions of the *Work Health and Safety Act 2011* (Qld) (**WHS Act**) and the *Work Health and Safety Regulation 2011* (Qld) (**WHS Regulations**) contravened by the applicant's employer.

employer objected[7] to the disclosure of opinions provided to the Inspector during the investigation, as recorded in the Employer History Report.

3. OIR accepted the employer's disclosure objections and decided[8] to release the Employer History Report and Improvement Notices subject to the redaction of information that OIR decided would, on balance, be contrary to the public interest to disclose.

4. The applicant applied[9] to the Office of the Information Commissioner (**OIC**) for external review of OIR's decision and submitted[10] that he was particularly seeking access to information that the Inspector obtained from two individuals.

5. In making this decision, I have considered evidence, submissions, legislation and other material as set out in these reasons.[11] I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information,[12] and in doing so, have acted in accordance with section 58(1) of the HR Act.[13]

6. Based on the information available to me, and for the reasons set out below, I have decided to affirm OIR's decision that disclosure of the information would, on balance, be contrary to the public interest under section 47(3)(b) and 49 of the RTI Act.

Refused information

7. The information to which access was refused by OIR appears in four part pages of the Employer History Report and two part pages of Improvement Notices, and comprises:

   (a) information/opinions/versions of events provided by two individuals to the Inspector as part of the investigation, as recorded by the Inspector in the Employee History Report[14] (**Witness Statements**)
   (b) names and signatures of individuals other than the applicant (**Third Party Information**)[15]; and
   (c) signature and mobile phone number of the Inspector (**Inspector Information**).[16]

Relevant law

8. Under the RTI Act, a person has a right to be given access to documents of an agency.[17] However, this right of access is subject to certain limitations, including grounds upon which access to information may be refused.[18] The RTI Act requires the grounds for refusing access to be interpreted narrowly, and decisions on access to be made with regard to the pro-disclosure bias.[19]

9. Relevantly, access to information may be refused where its disclosure would, on balance, be contrary to the public interest.[20] The term '*public interest'* refers to considerations affecting the good order and functioning of the community and

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[7] In correspondence to OIR dated 18 November 2024.
[8] On 18 November 2024.
[9] 26 November 2024.
[10] On 31 May 2025.
[11] Including footnotes.
[12] Section 21 of the HR Act.
[13] 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].
[14] At page 3.
[15] Appearing throughout the Employee History Report and Improvement Notices at pages 1, 2, 3, 4, 5 and 8.
[16] Appearing at various instances in the Improvement Notices at pages 5 and 8.
[17] Section 23 of the RTI Act.
[18] Section 47(3) of the RTI Act.
[19] Section 47(2)(a) and 44 of the RTI Act.
[20] Sections 47(3)(b) and 49 of the RTI Act.

government affairs for the well-being of citizens. This means that in general, 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. There are, however, some recognised public interest considerations that may apply for the benefit of an individual.

10. The RTI Act explains the steps that the decision-maker must take in deciding the public interest.[21] It also identifies a non-exhaustive list of factors in Schedule 4 that may be relevant to deciding the balance of the public interest. I have considered all these factors, together with other relevant information in reaching my decision, and discuss relevant factors below.

Findings

11. In reaching my decision on each category of refused information, I have had regard to the RTI Act's pro-disclosure bias[22] and Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.[23] I have not taken any irrelevant public interest factors into account in making this decision.[24]

(a) Witness Statements

12. There is a public interest in OIR, as a regulator, being transparent and accountable in how it deals with workplace health and safety complaints and investigations. The circumstances of this matter give rise to several pro-disclosure factors relevant to enhancing government accountability and transparency[25] which I have discussed below.

13. I accept that disclosing information provided by witnesses to the Inspector would provide the applicant with further insight into the nature and extent of information that was before the Inspector for the purpose of making decisions in connection with the investigation. It would also provide context to the employer's approach to management of risks in the workplace, and the Inspector's findings regarding the Improvement Notices. However, I have also taken into account that OIR have already released most of the Employer History Report and that this sets out most of the steps undertaken during the investigation, and the Inspector's findings. OIR have also released the majority of the Improvement Notices which set out the Inspector's findings on the provisions contravened by the applicant's employer under the WHS Act and the WHS Regulations. The disclosure of that information in my view, has served to significantly discharge the relevant accountability and transparency factors by revealing how OIR managed the investigation and OIR's reasons for deciding to issue Improvement Notices. For these reasons, I afford these factors moderate weight.

14. A small amount of the applicant's personal information appears within the Witness Statements. This is inevitable given the applicant was the source of the complaint. There is a strong public interest in a person obtaining access to their own personal information held by government and this factor is generally afforded significant weight in favour of disclosure. Here, the references to the applicant are closely intertwined with the personal information of other individuals as they appear in the context of their versions of events/statements provided to the Inspector. For this reason, access cannot be given to the applicant's personal information without disclosing the personal information of those

[21] Section 49(3) of the RTI Act.
[22] Section 44 of the RTI Act.
[23] Section 47(2)(a) of the RTI Act.
[24] Section 49(3) of the RTI Act
[25] Schedule 4, part 2, item 1, 3 and 11 of the RTI Act.

other individuals. While I acknowledge the significant weight of this factor, it must be balanced against the competing nondisclosure factors discussed below.[26]

15. The applicant submitted he is entitled to access the Witness Statements as the '*workplace health and safety acts have been breached…*', he is '*still on workcover 1.5 years* [later] *with psychological issues and ha*[s] *not been able to start working',* and as there '*has been a breach of the fair work act*' and a '*criminal offence… lodged with Queensland police*'.[27] The applicant has also submitted that his employer knew of the workplace health and safety breaches, but did nothing to address them prior to the Incident. Given the applicant's submissions I have considered whether disclosing the Witness Statements could reasonably be expected to advance the applicant's fair treatment and/or contribute to the administration of justice for him personally, or generally in relation to procedural fairness.[28] As set out above, the Witness Statements contain the personal views of other involved individuals, as expressed to the Inspector. While I accept that they would supplement the information already held by the applicant, aid his understanding of what was available to the Inspector, and may inform his pursuit of further processes (to some degree), I do not consider these factors carry more than low weight in favour of disclosure.[29]

16. The applicant advised OIC that he has lodged a complaint with Queensland Police Service (**QPS**) about the assault that occurred during the Incident. As such, I have also considered whether disclosure of the Witness Statements could reasonably be expected to contribute to the enforcement of the criminal law.[30] The applicant's complaint related to contraventions of the WHS Act and WHS Regulation and the Witness Statements concern how the employer manages workplace health and safety concerns and background information leading up to the Incident, in an administrative, not criminal, context. While I accept that disclosure of the Witness Statements under the RTI Act may provide the applicant with additional information for him to convey to QPS in connection to his assault complaint, I also note QPS has broad powers to obtain information if it is relevant to the investigation of a criminal offence. For these reasons, I afford this factor low weight.

17. Turning to nondisclosure factors, the RTI Act recognises that disclosing an individual's personal information[31] to another person can reasonably be expected to cause a public interest harm.[32] There is also a nondisclosure factor that recognises the public interest in protecting a person's right to privacy.[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 the interference of others.[34] I consider these personal information and privacy considerations apply to the Witness Statements.

18. I am satisfied that the Witness Statements comprise the personal information of individuals who engaged with the Inspector during the investigation to provide their versions of events on the Incident, and other background information. The information '*contains opinions recorded by the attending inspector, which may, if released, identify*

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[26] Discussed at paragraphs [17]-[19] of these reasons.
[27] Submissions dated 31 May 2025.
[28] Schedule 4, part 2, items 10, 16 and 17 of the RTI Act.
[29] Given the information already released to the applicant. See paragraph [13].
[30] Schedule 4, part 2, item 18 of the RTI Act.
[31] *'Personal information' is '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'* – see definition in schedule 6 of the RTI Act and section 12 of the IP Act.
[32] Schedule 4, part 4, section 6(1) of the RTI Act.
[33] Schedule 4, part 3, item 3 of the RTI Act.
[34] 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, Vol 1, released 12 August 2008, at paragraph 1.56.

those individuals',[35] and was provided in the sensitive context of a workplace investigation into a psychosocial hazard complaint. Further, the individuals have not consented *'(either expressly or impliedly) to the personal information being disclosed to the public generally*'.[36] I am satisfied that even if the names were redacted prior to disclosure, the circumstances of the matter are such that the applicant would still be able to ascertain the identities of the other individuals. In this instance, I consider that disclosure could reasonably be expected to prejudice the protection of the third parties' right to maintain a level of privacy in relation to their involvement in a sensitive workplace investigation.[37] For these reasons, I affirm OIR's finding that these nondisclosure factors carry significant weight.

19. A factor favouring nondisclosure also arises where release of information under the RTI Act could reasonably be expected to prejudice the flow of information to OIR.[38] In this instance, the individuals were cooperating with the OIR Inspector who was performing the function of the workplace health and safety regulator. Releasing this type of information under the RTI Act, where there can be no restriction on its use, dissemination or republication,[39] could reasonably be expected discourage individuals from providing OIR with relevant information and cooperating with OIR investigations in the future. This, in turn, could affect OIR's ability to conduct its regulatory functions. As such, I am satisfied that disclosing the Witness Statements could reasonably be expected to adversely impact OIR's ability to effectively conduct these types of investigations in the future. On this basis, I afford significant weight to this nondisclosure factor.

20. In balancing the public interest factors, I have afforded moderate weight to the accountability and transparency factors, noting that OIR has already released a significant amount of information to the applicant about the investigation process. I have afforded significant weight to the applicant accessing his personal information and recognise that disclosure would contribute to the enforcement of the criminal law, advance the applicant's fair treatment, and contribute to the administration of justice and procedural fairness generally, but only to a low degree, given the circumstances of the case and the nature of the Witness Statements. On the other hand, I have afforded significant weight to the factors favouring nondisclosure regarding personal information and privacy of other individuals, and the flow of information to OIR in the context of a workplace health and safety investigation.

21. On balance, I am satisfied that the factors favouring nondisclosure outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Witness Statements would, on balance, be contrary to the public interest and access to that category of information may be refused.[40]

(b) Third Party Information

22. This category comprises names and signatures of private individuals (associated with the applicant's employer) who participated in the investigation. It does not contain the applicant's personal information.[41]

[35] Noted in OIR's 'Reasons for decision…Attachment A' at page 1.
[36] As outlined in OIR's 'Reasons for decision…Attachment A' at page 2.
[37] Schedule 4, part 3, item 3 of the RTI Act.
[38] Schedule 4, part 3, item 13 of the RTI Act.
[39] See *FLK v Information Commissioner* [2021] QCATA 46 at [17].
[40] Under sections 47(3)(b) and 49 of the RTI Act.
[41] Accordingly, the factor favouring disclosure at schedule 4, part 2, item 7 of the RTI Act does not apply.

23. As discussed above,[42] there is a public interest in disclosing information which demonstrates how OIR discharges their regulatory functions under the WHS Act.[43] I accept that disclosing the Third Party Information would enhance accountability and transparency to some extent as it would reveal to the applicant who the Inspector engaged with as part of the investigation, and who signed the Improvement Notices. However, given the extent of the released information about the investigation process, including the role of the signatory on the Improvement Notices, I am satisfied that the information already disclosed has served to discharge the relevant public interest factors by providing a significant level of accountability and transparency to OIR's investigation process. Also, given the investigation was in connection with the applicant's place of employment, it is reasonable to conclude that he has some level of knowledge of the involvement of other individuals in the investigation process. For these reasons, I consider the weight to be afforded to these factors as they relate to the Third Party Information is moderate.

24. Given the content of the Third Party Information – the names and signatures of private individuals (not public sector employees) involved in the investigation of the applicant's complaint – it inherently contains the personal information of those individuals. I am satisfied that disclosing the names and signatures of those who were involved in the investigation could reasonably be expected to prejudice the protection of their right to maintain a level of privacy in relation to their involvement in a sensitive workplace investigation into a psychosocial hazard complaint.[44] Further, I accept OIR's view that individuals who engage with OIR '*are entitled to a legitimate expectation that personal information about them which concerns their private affairs would be afforded protection from unreasonable disclosure'*.[45] I also consider that it would cause a public interest harm by disclosing their personal information in a sensitive workplace health and safety context.[46] On this basis, I agree with OIR that significant weight should be afforded to these two nondisclosure factors.

25. I also consider that disclosing the personal information of private individuals who have cooperated with an OIR Inspector could reasonably be expected to prejudice the flow of information to a regulatory agency.[47] Similar to the Witness Statements as discussed above,[48] routinely disclosing the personal information (such as names and signatures) of individuals who voluntarily engage with such investigations, could reasonably be expected to erode confidence in the investigation process. This in turn would prejudice the flow of information from individuals who would otherwise provide relevant information to the WHS regulatory authority. I am satisfied that it is reasonable to expect that this would adversely impact OIR's ability to effectively conduct investigations. On this basis, I afford significant weight to this nondisclosure factor.

26. With respect to the Third Party Information, I have afforded moderate weight to factors favouring disclosure concerning OIR's accountability and ensuring transparency in its operations and decision-making. On the other hand, I have afforded significant weight to safeguarding the personal information and privacy of other individuals and protecting the flow of information to OIR from prejudice. On this basis, I have found that the nondisclosure factors carry determinative weight in relation to the Third Party

[42] At paragraphs [12]-[13] of these reasons.
[43] Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.
[44] Schedule 4, part 3, item 3 of the RTI Act.
[45] That is, the information is used for the purpose that it was provided and disclosed only for the purposes of the investigation. As set out in OIR's 'Reasons for decision…Attachment A' at page 2.
[46] Schedule 4, part 4, section 6(1) of the RTI Act.
[47] Schedule 4, part 3, item 13 of the RTI Act. See *Setschnjak and Department of Justice and Attorney-General* (Unreported, Queensland Information Commissioner, 25 May 2012) at [24] and *Suskova and Council of the City of Gold Coast* [2015] QICmr 31 (27 November 2015) at [27]-[28].
[48] At paragraphs [18]-[19] of these reasons.

Information. On balance, I am satisfied that the factors favouring nondisclosure outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Third Party Information would, on balance, be contrary to the public interest and access to it may be refused on that basis.[49]

(c) Inspector Information

27. This category is limited to instances of the Inspector's signature and mobile phone number as they appear in the located documents. It does not contain the applicant's personal information.[50]

28. As discussed above, OIR released the large majority of the documents concerning the investigation process and findings including the name of the Inspector, and their title. I accept that releasing the signature and mobile number of the Inspector would provide the applicant with a more complete version of documents concerning his complaint. However, I do not consider disclosure would provide any further information or background for OIR's decisions[51] nor reveal anything further about the process undertaken by OIR in relation to its investigation of the applicant's complaint.[52] As such, I afford the accountability and transparency factor limited weight.

29. I accept that the Inspector's signature and mobile phone number appears in the context of a public sector employee performing their day-to-day work duties and therefore, constitutes their routine personal work information. Such information does not typically attract high privacy considerations and the harm arising from disclosure is considered to be low.[53] However, it is necessary to consider the circumstances of each case.

30. I have considered the duties, context and nature of the work performed by an OIR inspector. Given the nature of the information (signature and mobile number), the sensitive environment in which OIR inspectors operate, and the fact that there can be no limitation on further disclosure of information released under the RTI Act, I consider higher than usual weight should be afforded to protecting the Inspector's personal information in the form of their signature. I also consider higher than usual weight should be afforded to protecting the Inspector's privacy, to the extent that releasing the mobile number of the Inspector would allow them to be contacted directly and potentially outside of working hours. As such, in this instance I consider that disclosure of the Inspector Information would reveal some personal/private information about the Inspector. I give moderate weight to these factors.

31. In balancing the public interest, I am satisfied that the public interest in accountability and transparency would only be served to a limited degree by disclosure of the Inspector Information. On the other hand, I consider disclosure of the Inspector Information would reveal personal and private information and I have given moderate weight to those factors having regard to the sensitive complaint context and because there can be no control over further dissemination of information released under the RTI Act. Accordingly, while I consider the prejudice to privacy and the public interest harm resulting from disclosure of this personal information is not significant in this case, I have still decided to afford these factors moderate weight in favour of nondisclosure. As such, I am satisfied that disclosure of the Inspector Information would, on balance, be contrary to the public interest and access may, therefore, be refused to it on that basis.

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[49] Under sections 47(3)(b) and 49 of the RTI Act.
[50] Accordingly, the factor favouring disclosure at schedule 4, part 2, item 7 of the RTI Act does not apply.
[51] Schedule 4, part 2, item 11 of the RTI Act.
[52] Schedule 4, part 2, item 1 of the RTI Act.
[53] See, for example, *O52 and Queensland Ombudsman* [2020] QICmr 31 (11 June 2020) at [66].

DECISION

32. For the reasons set out above, I affirm[54] the reviewable decision to refuse access to the remaining information under section 47(3)(b) of the RTI Act on the basis that its disclosure would, on balance, be contrary to the public interest.[55]

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

[redacted]

Katie Shepherd
Assistant Information Commissioner

Date: 18 September 2025

[54] Under section 110(1)(a) of the RTI Act.
[55] Section 49 of the RTI Act.