



Decision and Reasons for Decision

Citation:	<i>N39 and James Cook University [2026] QICmr 111 (25 June 2026)</i>
Application Number:	318713
Applicant:	N39
Respondent:	James Cook University
Decision Date:	25 June 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - information about applicant's employment - personal information of other individuals - complaints - management function - contrary to public interest - sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld) ADMINISTRATIVE LAW - RIGHT TO INFORMATION - whether an agency has conducted all reasonable searches - whether access may be refused on the basis further documents are nonexistent - sections 47(3)(e) and 52(1)(a) of the <i>Right to Information Act 2009</i> (Qld)

DECISION

1. I vary the reviewable decision¹ of James Cook University (**University**) and find that access to the Remaining Information² may be refused under section 47(3)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**).³ I also find that access to further documents may be refused on the basis they are nonexistent under sections 47(3)(e) and 52(1)(a) of the RTI Act.
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



Katie Shepherd
Assistant Information Commissioner

Date: 25 June 2026

¹ As defined in footnote 6 below.

² As defined in paragraph 6 below.

³ Under section 110(1)(b) of the RTI Act as a delegate of the Information Commissioner under section 145 of the RTI Act.

REASONS FOR DECISION

Summary

4. The applicant applied to the University under the RTI Act⁴ for access to documents regarding their suspension and then deregistration from a University Register (**Register**).⁵
5. The University located 118 pages (**Original Documents**) and decided to release them to the applicant in full.⁶
6. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review on the basis that the University had not located all responsive documents.⁷ During the review:
 - the University conducted two rounds of further searches⁸ which resulted in the location of 451 additional pages (**Additional Documents**),⁹ including documents responding to specific concerns raised by the applicant, and provided OIC with copies of the Original Documents and Additional Documents and submissions and records of its searches¹⁰
 - OIC sought¹¹ and obtained the University's agreement to disclose 32 pages to the applicant, subject to the redaction (deletion) of certain information on the basis disclosure was, on balance, contrary to the public interest (**Released Pages**)¹²
 - OIC conveyed a preliminary view to the applicant that:¹³
 - access to 419 full pages and parts of 24 pages¹⁴ of the Additional Documents (**Remaining Information**) could be refused under section 47(3)(b) of the RTI Act; and
 - the University had conducted all reasonable searches and access to further documents could be refused under sections 47(3)(e) and 52(1)(a) of the RTI Act; and
 - the applicant submitted that access to the Remaining Information should be granted and raised concerns that further documents involving their line manager should exist.¹⁵

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 and *Information Privacy Act 2009* (Qld) (**IP Act**). As the applicant's application was made before this change, the RTI Act and IP Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in chapter 7, part 9 of the RTI Act and chapter 8, part 3 of the IP Act. Accordingly, references to the RTI Act and IP Act in this decision are to those Acts.

⁵ Access application dated 7 April 2025.

⁶ Decision dated 23 May 2025. This is the *reviewable decision* for the purpose of this review.

⁷ External review application dated 13 June 2025.

⁸ Following requests from OIC dated 15 December 2025 and 18 February 2026.

⁹ The Additional Documents were provided to OIC on 21 January 2026 (14 pages) and 27 March 2026 (437 pages).

¹⁰ Submissions dated 8 August 2025, 21 January 2026 and 27 March 2026, each attaching records of searches.

¹¹ Requests dated 18 February 2026 and 29 May 2026.

¹² Submissions dated 27 March 2026 and 2 June 2026. The University disclosed the Released Pages to the applicant on 2 June 2026.

¹³ Letter dated 29 May 2026.

¹⁴ Comprising pages 1, 3–4, 6–24 and 26–27 of the Released Pages.

¹⁵ Submissions dated 23 July 2025, 1 September 2025, 15 November 2025 and 21 June 2026.

7. The issues for determination are whether:
 - access to the Remaining 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
 - all reasonable searches have been conducted by the University and access to further documents may therefore be refused under sections 47(3)(e) and 52(1)(a) of the RTI Act on the basis they are nonexistent.
8. In making my decision, I have considered evidence, submissions, legislation and other material set out in these reasons (including footnotes). I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to freedom of expression,¹⁶ which includes the right to seek and receive information. I consider a decision-maker will be acting compatibly with this right when applying the law prescribed in the RTI Act and, therefore, I have acted in accordance with section 58(1) of the HR Act.

Issue – Remaining Information

Relevant law

9. The RTI Act provides individuals with a right to be given access to documents held by a Queensland government agency.¹⁷ While the legislation is to be administered with a pro-disclosure bias,¹⁸ the right of access is subject to certain limitations, including grounds for refusing access, as set out in the RTI Act.¹⁹
10. 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 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.
11. 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.
12. Schedule 4 of the RTI Act contains factors that may be relevant in determining where the balance of public interest lies in a particular case I have considered these,²¹ together with all other relevant information, in reaching my decision. I have also

¹⁶ Section 21 of the HR Act.

¹⁷ Section 23 of the RTI Act.

¹⁸ Section 44 of the RTI Act.

¹⁹ Section 47 of the RTI Act. Those grounds are however, to be interpreted narrowly: section 47(2)(a) of the RTI Act.

²⁰ Sections 47(3)(b) and 49 of the RTI Act.

²¹ I have 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.

applied the RTI Act's pro-disclosure bias²² and considered Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.²³

Submissions

13. In summary, the applicant submits (applicant's emphasis):²⁴

- the *'need to redact student details is likely to be minimal'*
- the information disclosed to them already reveals that their line manager **'has the responsibility to seek further management guidance and make a determination as well as communicate that with'** them
- the lack of consent from third parties and reluctance on the part of the University's staff to provide frank advice and/or seek support **'does not apply nor take precedence over the right of natural justice'**
- *'any response from HR individuals can easily be redacted';* and
- the University has not redacted *'the names of administrative and management individuals associated with communications from the GRS or HR previously.'*

Findings

14. The Remaining Information can generally be described as:

- personal information of students and other individuals, including names, contact details, signatures, opinions and statements made by or about them (**Third-party Information**); and
- communications regarding the seeking and giving of advice about the management of staff and students (**Management Information**).

15. I have not taken any irrelevant public interest factors into account in making this decision.

Factors favouring disclosure

16. The RTI Act recognises that public interest factors favouring disclosure will arise where the information is the applicant's personal information²⁵ and where disclosing the information could reasonably be expected to:

- promote open discussion of public affairs and enhance the Government's accountability²⁶
- inform the community of the Government's operations including, in particular, the policies, guidelines and codes of conduct followed by the Government in its dealings with members of the community;²⁷ and

²² Section 44 of the RTI Act.

²³ Section 47(2)(a) of the RTI Act.

²⁴ Submission dated 21 June 2026.

²⁵ Schedule 4, part 2, item 7 of the RTI Act.

²⁶ Schedule 4, part 2, item 1 of the RTI Act.

²⁷ Schedule 4, part 2, item 3 of the RTI Act.

- reveal the reason for a government decision and any background or contextual information that informed the decision.²⁸
17. To the extent that the Third-party information and Management Information contains the applicant's personal information, I afford significant weight to this factor favouring disclosure. However, due to the nature of the information, the applicant's personal information is intertwined with the personal information of other individuals. Having considered the Third-party Information and Management Information, I am satisfied that it is not possible to disclose the applicant's personal information without also disclosing the personal information of the other individuals, giving rise to public interest factors favouring nondisclosure, which I discuss below at paragraph 20.
 18. I accept that the University must be transparent and accountable in how it handles matters relating to the management of its staff and students. In relation to the Third-party Information, I accept that disclosure of this information would provide the applicant with a more fulsome account of the information before the University regarding decisions made relating to them. However, given it comprises information about other individuals arising in the context of complaints made by or about the applicant, rather than details about the University's actions in dealing with those complaints, I am satisfied that disclosure is unlikely to advance these factors favouring disclosure to any significant degree. Accordingly, I afford these factors favouring disclosure low weight in relation to the Third-party Information.
 19. The Management Information relates to public sector employees seeking support and guidance from managers and human resources to enable them to effectively manage complaints by or about the applicant. I acknowledge that disclosure of the Management Information would provide the applicant with further information about the University's complaints management processes. However, I note that the information already disclosed to the applicant during the complaint handling processes and the information which the University has disclosed to the applicant in response to their application provides the applicant with some details of the University's actions, providing a level of transparency to the University's processes. Accordingly, I afford these factors favouring disclosure moderate weight in relation to the Management Information.

Factors favouring nondisclosure

20. The RTI Act seeks to safeguard other individuals' right to privacy and recognises a public interest harm in disclosing the personal information of other individuals.²⁹ Whilst the Third-party Information and Management Information contains the applicant's personal information, it also contains the personal information of other individuals involved in the complaints by and about the applicant. As noted at paragraph 13, the applicant submits that identifying information of other individuals should be redacted to enable disclosure of their personal information. However, due to the nature of the Third-party Information and Management Information, which includes information provided to the University by students and communications

²⁸ Schedule 4, part 2, item 11 of the RTI Act.

²⁹ Schedule 4, part 3, item 3 and part 4, section 6 of the RTI Act.

regarding the seeking and giving of advice about the management of staff and students, it is not possible to give access to any further information within the Third-party Information and Management Information without also disclosing the personal information of other individuals, and therefore disclosing their personal information and prejudicing their right to privacy. Given the nature of the Third-party Information and Management Information, and the sensitive context in which it appears, I am satisfied that the two factors favouring nondisclosure relating to safeguarding personal information and the protection of privacy of other individuals should be afforded significant weight. In affording weight to these factors, I have also taken into account that under the RTI Act, where information is disclosed, there can be no limitation or control over further dissemination.³⁰

21. As noted at paragraph 19, the Management Information relates to public sector employees seeking support and guidance from managers and human resources to enable them to effectively manage complaints by or about the applicant, raising a factor favouring nondisclosure.³¹ I consider that if the Management Information were to be disclosed, staff may be reluctant to provide frank assessments or seek support which in turn would compromise the University's complaint handling processes regarding its staff and students, diminish its capacity to effectively manage complaints in the future and adversely affect employee welfare by discouraging staff from seeking support. I am therefore satisfied that disclosure of the Management Information would prejudice the University's ability to effectively manage its staff and students. Accordingly, I afford this factor favouring nondisclosure significant weight in relation to the Management Information.

Balancing the public interest

22. For the reasons set out above, I am satisfied that the public interest considerations relating to privacy, the protection of other individuals' personal information and the University's ability to effectively manage its staff and students warrant significant weight. On the other hand, I have afforded significant weight to the applicant gaining access to their own personal information and low or moderate weight to the University being transparent and accountable in their operations and decision making regarding the Third-party Information and Management Information respectively.
23. On balance, I am satisfied that the factors favouring nondisclosure of the Third-party Information and Management Information outweigh the factors favouring disclosure. Accordingly, I find that disclosure of the Third-party Information and Management Information would, on balance, be contrary to the public interest and access may therefore be refused under section 47(3)(b) of the RTI Act.
24. I acknowledge the applicant's submission that the University has not redacted '*the names of administrative and management individuals associated with communications from the GRS or HR previously.*' External review by the Information Commissioner is a merits review.³² This process involves an administrative

³⁰ FLK and Information Commissioner [2021] QCATA 46 at [17].

³¹ Schedule 4, part 3, item 19 of the RTI Act.

³² O'Connor v Department of Child Safety, Seniors and Disability Services [2024] QCATA 34 at [2].

reconsideration of a case which can be described as ‘stepping into the shoes’ of the primary decision maker to determine the correct and preferable decision³³ based on the information that is available, at the time of making a decision on review.³⁴ For the reasons set out at paragraphs 14 to 23, I consider the correct and preferable decision in the circumstances of this matter is that disclosure of the Third-party Information and Management Information would, on balance, be contrary to the public interest and access may be refused on that basis.

Issue – Further documents

Relevant law

25. Access to a document may be refused if it is nonexistent or unlocatable.³⁵ A document will be nonexistent if there are reasonable grounds to be satisfied it does not exist.³⁶ A document will be unlocatable if it has been or should be in the agency’s possession and all reasonable steps have been taken to find the document, but it cannot be found.³⁷
26. 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 requested documents.³⁸ 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 such a case, it is not necessary for the agency to search for the document, but sufficient that the circumstances to account for the nonexistence are explained. Where searches are relied on to justify a decision that the documents do not exist, all reasonable steps must be taken to locate the documents. What constitutes reasonable steps will vary from case to case, depending on which of the key factors are most relevant in the circumstances.
27. The Information Commissioner’s external review functions include investigating and reviewing whether agencies have taken reasonable steps to identify and locate documents applied for by applicants.³⁹ The Information Commissioner also has the power to require additional searches be conducted on an external review.⁴⁰ However, the RTI Act ‘does not contemplate that [the Information Commissioner] will in some way check an agency’s records for relevant documents’, rather, the Information Commissioner relies on the agency’s officers to search for relevant documents.⁴¹

³³ *M39 and Queensland Police Service* [2023] QICmr 66 at [12].

³⁴ *Palmer and Townsville City Council* [2019] QICmr 43 at [21].

³⁵ Sections 47(3)(e) and 52 of the RTI Act.

³⁶ Section 52(1)(a) of the RTI Act.

³⁷ Section 52(1)(b) of the RTI Act.

³⁸ These factors are identified in *Pryor and Logan City Council* (Unreported, Queensland Information Commissioner, 8 July 2010) 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]–[38].

³⁹ Section 130(2) of the RTI Act.

⁴⁰ Under section 102 of the RTI Act.

⁴¹ *Webb v Information Commissioner* [2021] QCATA 116 at [6].

28. On 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.⁴² 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.⁴³ Suspicion and mere assertion will not satisfy this onus.⁴⁴

Searches and submissions

29. As set out at paragraph 4, the access application sought access to documents regarding the applicant's suspension and then deregistration from the Register.
30. In seeking an external review, the applicant raised concerns that specific documents had not been located, as well as general concerns that not all documents had been located relating to nominated individuals or *'the wave of student complaints' documents held in the GRS [Graduate Research School] student files'*.⁴⁵
31. As set out at paragraph 6, the University conducted further rounds of searches which resulted in the location of the Additional Documents, including documents responding to the specific concerns raised by the applicant, and provided OIC with copies of the Original Documents and Additional Documents and submissions and records of its searches. In summary, the submissions and search records provided by the University reveal:⁴⁶
- search requests were initially sent to the individuals and teams at the University named in the access application and to the TS Outlook team regarding individuals who were no longer employed at the University
 - additional searches were undertaken by the TS Outlook team, Legal Services and Human Resources
 - across all rounds of searches, the locations searched included Content Manager (holds records across Academy, Colleges, Human Resources teams, Secretariat, Student Services, Legal, Policy, Research and Workplace Health and Safety), TRIM, File Explorer – the University's R Drive, external hard drives, Dropbox, OneDrive, University email accounts (including email archives), OneNote, hard copy files and shared Graduate Research School student files
 - search terms used include variations of the applicant's first and/or surname and title, and relevant terms such as *'complaint'*, *'suspension'*, *'deregistration'*, *'non disclosure'*, *'accusations'* and names of other involved individuals
 - some of the individuals nominated in the access application responded stating that they had no knowledge of, or involvement with, the matter the subject of the requested documents

⁴² Section 87(1) of the RTI Act.

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

⁴⁴ *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].

⁴⁵ External review application dated 7 April 2025, and submissions dated 23 July, 1 September and 15 November 2025.

⁴⁶ Submissions dated 8 August 2025, 21 January 2026 and 27 March 2026, each attaching records of searches.

- regarding complaints, the University explained *‘there is little put in writing with most cases discussed via face to face meetings and when there are notes, generally people do not list names’*, therefore *‘whilst there may be notes taken about matters, no names are mentioned and hence it is hard to confirm what parties were involved in matters’* and all information is only collected if a matter is progressed to a formal case
 - the relevant School Dean confirmed that *‘management of staff files is communicated to HR via Microsoft Outlook’* and while there is a spreadsheet listing academics qualified to support students, it *‘is a live document with no historical information’*, *‘only lists the Academic’s name and whether or not they have met the requirements to supervise’*, and any *‘cases that arise are communicated with HR via Microsoft Outlook only’*; and
 - some of the documents located related to course work, reports or mid-candidature review rather than complaints and therefore fall outside the scope of the applicant’s request.
32. The University’s submissions were conveyed to the applicant along with OIC’s view that all reasonable searches had been conducted and access to further documents responding to the application could be refused on the basis they were nonexistent.⁴⁷
33. In response, the applicant submitted, in summary (applicant’s emphasis):⁴⁸
- the Released Pages include *‘multiple references ... that indicate my line manager, [named], is solely responsible for deciding disciplinary action (if any) regarding my advisor deregistration’* and a reference to *‘an acknowledgement by [the applicant’s line manager] that he will take things forward with the help of HR’*
 - their line manager *‘has **NOT COOPERATED** in providing the requested information or has chosen to withhold important relevant documents’*; and
 - as such, their line manager *‘**should again be requested to provide relevant documentation or make a written statement denying any such documentation exists to their knowledge or possession.**’*

Findings

34. I have examined the Original Documents and Additional Documents and submissions made by the University during the review regarding the searches undertaken. I am satisfied that in undertaking searches in response to the access application and during the external review, the University contacted the relevant areas and individuals responsible for managing the complaints relating to the applicant and the applicant’s suspension and deregistration from the Register. I am also satisfied that the searches were undertaken in relevant record keeping systems that the University maintains in relation to the management of staff and student and the Register.
35. Having considered the content of the Original Documents and Additional Documents and the University’s submissions, I consider it was reasonable for the University to undertake searches of the locations identified at paragraph 31 based

⁴⁷ By letter dated 29 May 2026.

⁴⁸ Submission dated 21 June 2026.

on the scope of the application and this is further confirmed by the fact that relevant documents were located through those searches. Of note, searches were conducted by the applicant's line manager which resulted in the location of relevant documents which have been disclosed to the applicant either within the Original Documents or the Released Pages. I am also satisfied that the University has provided reasonable explanations, including by referring to its recordkeeping practices, as to why further documents do not exist, including documents involving the applicant's line manager. There is also no material before me to suggest that any further documents exist which would provide a reasonable basis for requesting the University undertake the further searches by the applicant's line manager as requested by the applicant at paragraph 33.⁴⁹

36. I acknowledge that the documents located by the University have not met the applicant's expectations regarding the records they consider the University should hold about the University's decision-making processes regarding the applicant's suspension and deregistration from the Register. However, OIC does not have jurisdiction to interrogate the University's record keeping practices, nor the actions taken by the University regarding complaints made by or about the applicant and the applicant's suspension and deregistration from the Register. The issue for me to consider is whether the University has taken reasonable steps to locate all relevant documents responding to the application.
37. Taking into account the scope of the application, the documents located by the University, and the University's searches and record keeping practices, I am satisfied that the University has undertaken reasonable searches in this case, and that access to further documents can be refused on the basis they do not exist, in accordance with sections 47(3)(e) and 52(1)(a) of the RTI Act.

Conclusion

38. Paragraphs 4 to 37 are the reasons for my decision set out at paragraph 1.

⁴⁹ I am also satisfied that in the circumstances of this case, searches of the University's backup systems were not required under section 52(2) of the RTI Act.