



Decision and Reasons for Decision

Citation:	<i>I40 and Sunshine Coast Hospital and Health Service [2025] QICmr 50 (4 August 2025)</i>
Application Number:	318562
Applicant:	I40
Respondent:	Sunshine Coast Hospital and Health Service
Decision Date:	4 August 2025
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST INFORMATION - medical records - information provided by other individuals regarding the applicant - personal information and privacy - whether information would, on balance, be contrary to the public interest to disclose under section 67(1) of the <i>Information Privacy Act 2009</i> (Qld) and sections 47(3)(b) and 49 of the <i>Right to Information Act 2009</i> (Qld)

REASONS FOR DECISION

Summary

1. The applicant applied to the Sunshine Coast Hospital and Health Service (**SCHHS**) under the *Information Privacy Act 2009* (Qld) (**IP Act**) for access to their medical records for the period 1 May 2022 to 10 February 2025.¹
2. SCHHS located 623 relevant pages and granted the applicant access to the majority of the information. With respect to the remainder, SCHHS decided² to refuse access on the basis that disclosure would, on balance, be contrary to the public interest under section 47(3)(b) of the *Right to Information Act 2009* (Qld) (**RTI Act**).³
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of SCHHS's decision.⁴
4. For the reasons set out below, I affirm SCHHS's decision and find that access to the remaining information may be refused on the basis that it comprises information the disclosure of which would, on balance, be contrary to the public interest.⁵

¹ Application dated 6 February 2025.

² Decision dated 11 April 2025.

³ On 1 July 2025 key parts of the *Information Privacy and Other Legislation Act 2023* (Qld) (**IPOLA Act**) came into force, effecting changes to the IP Act and RTI Act. As the applicant's application was made before this change, the IP Act and RTI Act **as in force prior to 1 July 2025** remain applicable to it. This is in accordance with transitional provisions in Chapter 8, Part 3 of the IP Act and 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 IP Act and RTI Act in this decision are to those Acts **as in force prior to 1 July 2025**.

These may be accessed at <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-014> and <https://www.legislation.qld.gov.au/view/html/inforce/2024-12-31/act-2009-013> respectively.

⁴ External review application dated 14 April 2025.

Background

5. Evidence, submissions, legislation and other material I have considered in reaching this decision are identified in these reasons (including footnotes).
6. I have had regard to the *Human Rights Act 2019* (Qld) (**HR Act**)⁶ particularly the right to seek and receive information.⁷ In observing and applying the law prescribed in the IP 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 IP Act.⁸ I have acted in this way in making this decision in accordance with section 58(1) of the HR Act.
7. In making my decision in this external review, I have considered the applicant’s submissions to the extent they are relevant to the issues for determination in the context of this external review.
8. The decision under review is the decision of SCHHS dated 11 April 2025.

Information in issue

9. The information to which the applicant has been refused access appears in 3 full pages and parts of 76 pages⁹ of the applicant’s medical records.¹⁰ The IP Act¹¹ prohibits me from including specific details about the information in these reasons, however, it generally comprises information provided by third parties (other than SCHHS staff) and recorded in the applicant’s medical records, in connection with the applicant’s treatment (**Third Party Information**).

Relevant law

10. An individual has a right, under the IP Act, to be given access to documents to the extent they contain the individual’s personal information.¹² However, this right is subject to the provisions of the IP Act and the RTI Act, including grounds for refusing access to information.¹³
11. Access to a document may be refused where its disclosure would, on balance, be contrary to the public interest.¹⁴ In deciding where the balance of the public interest lies, a decision-maker is required to take specific steps¹⁵ and consider relevant factors

⁵ Under section 67 of the IP Act and section 47(3)(b) of the RTI Act.

⁶ Relevant provisions of which commenced on 1 January 2020.

⁷ Section 21(2) of the HR Act.

⁸ See *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; and *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111]. 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]).

⁹ Based on SCHHS’s decision and copy of the documents provided to OIC by SCHHS, reflecting the redactions.

¹⁰ The documents are comprised within the applicant’s medical records, including Integrated Electronic Medical Records (**ieMR**) and Consumer Integrated Mental Health and Addiction (**CIMHA**) records.

¹¹ Section 121(3) of the IP Act.

¹² Section 40 of the IP Act.

¹³ Section 67(1) of the IP Act provides that an agency may refuse access to a document in the same way and to the same extent it could refuse access to the document under section 47 of the RTI Act were the document to be the subject of an access application under that Act.

¹⁴ Section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.

¹⁵ Section 49(3) of the RTI Act. The steps include disregarding any irrelevant factors, identifying relevant factors favouring disclosure and nondisclosure and balancing the relevant factors.

for and against disclosure.¹⁶ I have set out below my assessment of, and findings in relation to, the public interest factors which I consider are relevant in this case.¹⁷

Findings

Factors favouring disclosure

12. The applicant has made submissions in support of disclosure of the Third Party Information. In summary, the applicant contends that:¹⁸
 - the information provided by third parties is false and the applicant requires the information to review its veracity
 - the information is about the applicant and therefore access should be given; and
 - the applicant needs to know who has contacted SCHHS and has provided information that is incorrect and misleading.
13. These submissions give rise to the following public interest factors favouring disclosure:
 - disclosure could reasonably be expected to promote open discussion of public affairs and enhance SCHHS's accountability¹⁹
 - the information is the applicant's personal information²⁰
 - disclosure of the information could reasonably be expected to reveal the reason for a decision and any background or contextual information that informed the decision; and
 - disclosure could reasonably be expected to reveal that the information is incorrect.²¹
14. The Third Party Information is mostly intertwined with the applicant's own personal information. It records the observations and opinions of third parties in relation to the applicant and is provided for the purpose of assisting in the applicant's medical assessment, care and treatment. I consider that given the context in which it appears, that it is the applicant's own medical records and accept that this particular factor in favour of disclosure is deserving of significant weight.
15. However, I also note that the segments of the applicant's personal information are intertwined with the personal information of other individuals to such an extent that they cannot be disclosed without also disclosing the personal information of others. Disclosing the personal information of other individuals gives rise to strong public interest factors favouring nondisclosure, which I will discuss below.
16. The applicant contended that disclosure of the Third Party Information would enhance the accountability and transparency of SCHHS. However, the applicant has been granted access to a vast majority of documents in the medical records. I am satisfied the information already released largely satisfied SCHHS accountability and therefore I afford low to no weight to this factor.

¹⁶ Including the non-exhaustive list of factors in schedule 4 of the RTI Act.

¹⁷ No irrelevant factors arise in the circumstances of this case. I have however, taken into account the pro-disclosure bias in section 64 of the IP Act.

¹⁸ Email correspondence dated 31 May 2025, 4 June 2025, 14 July 2025, 17 and 18 July 2025, and phone call on 05 June 2025 and 18 July 2025.

¹⁹ Schedule 4, part 2, item 1 and 11 of the RTI Act.

²⁰ Schedule 4, part 2, item 7 of the RTI Act. 'Personal information' is defined in section 12 of the IP Act: *Personal information is information or an opinion ...whether true or not ...about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.*

²¹ Schedule 4, part 2, item 12(a) of the RTI Act.

17. I accept that disclosing parts of the Third Party Information would give the applicant background information that would provide a more comprehensive understanding of information that may have been considered by doctors when making decision about the applicant's healthcare. However, I consider that the weight of this factor is reduced by the volume and nature of the information that has already been released to the applicant by SCHHS. The Third Party Information provides minimal, if any, information about the SCHHS's actions and decision-making processes and is limited to the information that is about or provided by third parties. On that basis, I afford this factor only low weight.
18. The RTI Act recognises that where disclosure of information could reasonably be expected to reveal that the information was incorrect or misleading, this will establish a public interest factor favouring disclosure. I have reviewed the Third Party Information and am satisfied that it reflects the opinions of those third parties and is shaped by their perspectives and subjective impressions. This inherent subjectivity does not mean that the Third Party Information is necessarily incorrect or misleading, however, I acknowledge that its disclosure may allow further enquiry into the veracity of information provided to the SCHHS by third parties. On this basis, I have attributed low weight to this factor favouring disclosure.

Factors favouring nondisclosure

19. As part of the public interest balancing test,²² I have also evaluated the factors favouring nondisclosure that arise in the circumstances. The Third Party Information largely contains the personal information of other individuals, both solely and intertwined with the personal information of the applicant. It comprises information sensitive in nature, provided in the context of health concerns about the applicant. This gives rise to two factors favouring nondisclosure relating to protecting the personal information²³ and safeguarding the right to privacy of those individuals.²⁴ I am satisfied that if the Third Party Information were disclosed, the public interest harm and prejudice that would arise would be significant. I afford significant weight to each of these nondisclosure factors.
20. I have also considered whether disclosure of the Third Party Information could reasonably be expected to prejudice the health service's ability to obtain confidential information relevant to the treatment of its patients.²⁵ I am satisfied that people who provide information to healthcare professionals, particularly in the mental health context, do so with an expectation of confidentiality. Even in circumstances where the applicant disputes the veracity of the information provided, as in this matter, disclosure could reasonably be expected to discourage other individuals from coming forward with confidential information to healthcare providers in future, and this could be particularly detrimental to patient care in the mental health context.
21. I have considered the Third Party Information and the specific context in which it appears and am satisfied it was provided in circumstances where the individuals would reasonably expect that the information would be treated confidentially. Disclosure of this type of information could reasonably be expected to prejudice the supply of information to healthcare professionals. Consequently, I consider that a public interest harm is also reasonably expected to result from disclosure of the Third Party

²² Section 49(3) of the RTI Act.

²³ Schedule 4, part 4, section 6 of the RTI Act.

²⁴ Schedule 4, part 3, item 3 of the RTI Act.

²⁵ Schedule 4, part 3, item 16 of the RTI Act.

Information²⁶ in addition to the prejudice to the agency's ability to obtain confidential information.

22. Given the importance of healthcare professionals obtaining information from the community in order to make informed assessments and provide appropriate care to individuals, I afford each of these nondisclosure factors high weight.

Balancing the factors

23. In determining the balance of the public interest in this case, I acknowledge the pro-disclosure bias contained in the IP and RTI Acts. I have also attributed significant weight in favour of the public interest in the applicant accessing their own personal information. I have also attributed some, albeit low, weight to the public interest factors to provide background information and to allow further enquiries regarding the veracity of the information.
24. On the other hand, I have attributed substantial and high weight to the factors favouring nondisclosure that seek to protect the personal information and privacy of third parties. I have also attributed high weight to the nondisclosure and public interest harm factors relating to the SCHHS's ability to obtain confidential information and prejudice to public safety particularly in the context of mental health care, if the Third Party Information is disclosed.
25. On balance, the significant weight I have attributed to the factors favouring nondisclosure, including the identified public interest harm factors, outweighs the weight attributed to the factors in favour of disclosure. Accordingly, I am satisfied that disclosure of the Third Party Information would, on balance, be contrary to the public interest and access may be refused on this basis.²⁷

DECISION

26. For the reasons set out below, I affirm SCHHS's decision and find that access to the Third Party Information may be refused, as its disclosure would, on balance, be contrary to the public interest.
27. I have made this decision as a delegate of the Information Commissioner, under section 139 of the IP Act.



K Zaidiza
Acting Principal Review Officer

Date: 4 August 2025

²⁶ Schedule 4, part 4, section 8(1) of the RTI Act; see *B7TG4G* at [35]-[37].

²⁷ Section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act.