



Decision and Reasons for Decision

Citation:	<i>D17 and Department of Health [2026] QICmr 16 (5 February 2026)</i>
Application Number:	318496
Applicant:	D17
Respondent:	Department of Health
Decision Date:	5 February 2026
Catchwords:	ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - CONTRARY TO PUBLIC INTEREST - request for access to an audio recording of a triple zero emergency call - eligible family member - personal information and privacy - whether disclosure would, on balance, be contrary to public interest - 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 Department of Health (**Department**) under the *Right to Information Act 2009* (Qld) (**RTI Act**)¹ for access to various documents held by the Queensland Ambulance Service (**QAS**)² regarding their adult son, who had been located deceased at his residence.³
2. The Department located 18 pages and 4 audio recordings and decided to refuse access to part of 1 page, and 1 audio recording in its entirety, on the basis that disclosure would, on balance, be contrary to the public interest.⁴
3. The applicant applied to the Office of the Information Commissioner (**OIC**) for external review of the Department's decision specifically in relation to the part of the decision refusing access to the audio recording comprising a call made to the triple zero emergency service by the applicant's son (**Recording**), and also raised concerns that the Department had not located any QAS radio transmissions.⁵ During the review, the Department located relevant QAS radio transmissions which it agreed to disclose in full

¹ 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, 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 and IP Act in this decision are to those Acts **as in force prior to 1 July 2025**.

² Under Administrative Arrangements Order (No. 1) 2025, the Minister for Health and Ambulance Services is responsible for services provided by the Queensland Ambulance Service through the Director General, Department of Health.

³ Access application dated 30 December 2024.

⁴ Decision dated 25 February 2025. This is the *reviewable decision* in this review. The Department also deleted irrelevant information from 2 pages but that information has not been pursued by the applicant and is therefore, not addressed in the decision.

⁵ External review application dated 6 March 2025. The applicant did not seek review of the information refused in part of 1 page, nor the Department's decision to delete irrelevant information from within 2 pages.

to the applicant.⁶ The applicant provided a submission to OIC in support of her position that access to the Recording should be granted.⁷ As the applicant continues to seek access to the Recording, the issue I must determine is whether access may be refused to the Recording on the basis that disclosure would, on balance, be contrary to the public interest.⁸

4. In reaching my decision in this review, 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 information⁹ and in doing so, I have acted in accordance with section 58(1) of the HR Act.¹⁰
5. For the reasons set out below, I affirm the Department's decision that access may be refused under section 47(3)(b) of the RTI Act to the Recording on the basis that its disclosure would, on balance, be contrary to the public interest.

Relevant law

6. The RTI Act provides individuals with a general right to access documents held by a Queensland government agency, subject to certain limitations, including grounds for refusing access.¹¹
7. Access to information may be refused where its disclosure would, on balance, be contrary to the public interest.¹² 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.
8. In deciding whether disclosure of information would, on balance, be contrary to the public interest, section 49 of the RTI Act sets out the process a decision-maker must take, namely:
 - identify any irrelevant factors and disregard them
 - identify relevant public interest factors favouring disclosure and nondisclosure
 - balance the relevant factors favouring disclosure and nondisclosure; and
 - decide whether disclosure of the information would, on balance, be contrary to the public interest.
9. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of public interest lies. I have considered these factors, together with other relevant information and discuss my findings below. I have also kept in mind the pro-disclosure bias of the RTI Act and that the refusal grounds are to be interpreted narrowly.¹³

⁶ Email to OIC dated 3 October 2025. The Department confirmed to OIC by email dated 22 October 2025 that the radio transmissions had been disclosed to the applicant. Disclosure of this information addressed the sufficiency of search concerns raised in the application and as such, they are not dealt with in this decision.

⁷ Submission dated 9 November 2025.

⁸ Under section 47(3)(b) of the RTI Act.

⁹ Section 21 of the HR Act.

¹⁰ 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].

¹¹ Section 23 of the RTI Act. Section 47 sets out the grounds on which access to information may be refused.

¹² Sections 47(3)(b) and 49 of the RTI Act.

¹³ Section 47(2)(a) of the RTI Act.

Submissions

10. In summary, the applicant submits:¹⁴

- while a detailed copy of the incident report has been provided, the Department *'would not release the actual call which appears to hold some very important information regarding the QAS response at the time of [her son's] death'*
- the family *'know [her son's] personal details ... and given he is now deceased they believe they should be entitled to receive the requested information'*
- the Recording is significant as it *'provides information of a serious failure by the QAS to provide suitable care to [her son] and the QAS appear to be covering up the information about what [her son] said at the time'*
- releasing the Recording *'would provide a higher level of knowledge regarding [her son's] demurer, tone, medical situation and his ability to have left the house as implied by the QAS'*
- she is concerned that *'the search by the QAS for a seriously ill person was very cursory and potentially negligent'*
- whilst *'the family got together a few times a year'* and her son would ring and *'talk for hours on the phone about family and his life'*, she accepts that her son *'was a very private person and would not discuss any of his medical issues'* and that he *'declined to talk to [her] about his health'*
- she is *'simply looking for answers as to whether her Son could have survived this incident had the appropriate response been given to his calls for help'*
- she accepts that *'the recordings may have personal information'* removed; and
- she believes that *'everything so far points towards the failure of the QAS to respond to [her son] who was non-mobile, incoherent and lapsing in and out of a conscious state'* and *'QAS have been and are continuing to cover up such failings when an appropriate medical response could have potentially saved [his] life'*

Findings

Factors favouring disclosure

11. Information about the applicant's son in the Recording comprises his personal information.¹⁵ Based on the information before OIC, the applicant is an *'eligible family member'*¹⁶ which raises a factor favouring disclosure.¹⁷ This factor specifically recognises that there is a public interest in the eligible family member being given access to their deceased family member's information. Disclosing information under this factor enhances the public interest in the eligible family member being provided with information about the deceased's health and wellbeing. However, the weight given to this factor will vary depending on the circumstances, for example:¹⁸

- the extent to which the eligible family member was in contact with and/or had a relationship with the deceased and the extent to which that overlaps with the time the information covers
- the nature and sensitivity of the information; and
- the extent to which the information is or may be known to the applicant.

¹⁴ External review application dated 6 March 2025, and submission dated 9 November 2025.

¹⁵ Section 12 of the *Information Privacy Act 2009* (Qld) defines 'personal information' as *'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'*.

¹⁶ As that term is defined in schedule 5 of the RTI Act.

¹⁷ Schedule 4, part 2, item 9 of the RTI Act.

¹⁸ *WEU27L and Mackay Hospital and Health Service* [2017] QICmr 44 (11 September 2017).

12. While I acknowledge the applicant's submissions that *'the family got together a few times a year'* and she spoke with her son *'for hours on the phone'*, the extent to which the applicant was in contact with her son at the time of his death is not apparent from the information before OIC. I note that the applicant is aware of the nature of her son's medical conditions and some of the circumstances surrounding his death given the information which has been disclosed in response to her access application. However, I have not considered these aspects of this factor in more detail as I consider the nature and sensitivity of the deceased's information is such that this factor favouring disclosure nevertheless carries only moderate weight.
13. I agree that the Department must be transparent and accountable in relation to how it responds to requests for QAS assistance. This raises factors favouring disclosure¹⁹ As indicated at paragraph 3, the Recording comprises the deceased's call to triple zero seeking medical assistance from QAS. While I accept that disclosing this type of information would advance these factors to some degree, considering the nature of the information I do not consider this would be to any significant degree, particularly given the information which the Department has already disclosed to the applicant, including the incident detail report relating to the triple zero call. I am satisfied that the information which the Department has released will further the applicant's understanding of how QAS responded to the request for medical assistance, thereby reducing the weight to be afforded to these factors. Accordingly, I afford these two factors favouring disclosure low weight.
14. The public interest will be favoured where disclosure could reasonably be expected to allow or assist inquiry into possible deficiencies in the conduct of an agency.²⁰ I consider that disclosure of the Recording would, to some degree, allow or assist inquiry into possible deficiencies in the conduct of the Department, including QAS, in terms of how it responded to the request for medical assistance. I therefore afford this factor moderate weight.
15. The Information Commissioner has recognised that there is a public interest in the social and economic well-being of the community, which relevantly includes assisting bereaved family members in their grieving process.²¹ This factor will most often arise where the applicant is a close family member of the deceased. The benefit does not need to be guaranteed to result from the information being disclosed; it is only necessary that disclosure could have a positive effect. I acknowledge that the applicant is seeking access to information to assist in understanding the circumstances of her son's death. I consider that providing access to the Recording would allow the applicant to assess any further courses of action that she may wish to pursue to achieve closure. Having had regard to the particular circumstances of this matter, the nature of the Recording and the applicant's submissions, I consider disclosure would contribute to the applicant's grieving process and afford the community wellbeing factor moderate weight.

¹⁹ Schedule 4, part 2, items 1, 3 and 11 of the RTI Act.

²⁰ Schedule 4, part 2, item 5 of the RTI Act.

²¹ *OKP and Department of Communities* (Unreported, Queensland Information Commissioner, 9 July 2009) and *G37 and Queensland Police Service* [2025] QICmr 58 (28 August 2025).

Factors favouring nondisclosure

16. As the applicant is an *'eligible family member'*, a factor favouring nondisclosure will apply where the information (1) relates to a person who has died (2) the information would, if the person were alive, be their personal information and (3) the applicant is the eligible family member of the person.²² I have taken into account that the applicant is aware of the nature of her son's medical conditions and the circumstances surrounding his death from information she has obtained through other avenues and the information which the Department has disclose through this process. I consider this information operates to reduce the weight to be applied to the eligible family member nondisclosure factor. However, despite the applicant's existing knowledge, I still consider that there would be a significant impact on her son's right to privacy, if he were alive, given the highly sensitive nature of the information contained within the Recording.
17. The RTI Act recognises that disclosure of information could reasonably be expected to cause a public interest harm if disclosure would disclose personal information of a person, whether living or dead.²³ As indicated above, the Recording comprises the deceased's call to triple zero seeking medical assistance. During the call, the deceased is in a vulnerable state, and I consider such a recording is of an inherently personal and private nature which would lead to significant public interest harm if disclosed. I have also considered the applicant's submission that her son *'was a very private person and would not discuss any of his medical issues'* and that he *'declined to talk to [her] about his health'*.
18. When considering the personal information harm factor, I am required to take into account the principle that information released under the RTI Act is done so on the basis that there can be no control over or limitation placed on its further dissemination, and there are no legal mechanisms by which I can impose limits on the future use or dissemination of the material.²⁴ This is unlike a court which has powers to issue orders or directions controlling the use or dissemination of information or documents before the court. Taking this into account, I must afford this factor significant weight.

Balancing the public interest

19. I have taken into account the pro-disclosure bias and the factors favouring disclosure outlined at paragraphs 11 to 15. I accept that the public interest in the Department's accountability and assisting inquiry into possible deficiencies are relevant in this case and support the applicant's right of access to the Recording to a moderate degree. I have also afforded moderate weight to the applicant, as an eligible family member, accessing information about her deceased son, and the public interest in fostering community wellbeing through such disclosure. However, given the highly sensitive nature of the information in the Recording, I am satisfied that the public interest in protecting the personal information and privacy of the deceased (in the context of an application by an eligible family member) carry significantly higher weight in favour of nondisclosure.
20. On balance, I consider that the nondisclosure factors outweigh the disclosure factors and therefore, I am satisfied that the Recording would, on balance, be contrary to the public interest to disclose, and access to it may therefore, be refused under section 47(3)(b) of the RTI Act.

²² Schedule 4, part 3, item 5 of the RTI Act.

²³ Schedule 4, part 4, item 6(1) of the RTI Act.

²⁴ *FLK v Information Commissioner* [2021] QCATA 46 at [17].

DECISION

21. For the reasons set out above, I affirm the reviewable decision²⁵ and find that access may be refused to the Recording under section 47(3)(b) of the RTI Act on the basis that its disclosure would, on balance, be contrary to the public interest.
22. I have made this decision as a delegate of the Information Commissioner, under section 145 of the RTI Act.



Katie Shepherd
Assistant Information Commissioner

Date: 5 February 2026

²⁵ Under section 110(1)(a) of the RTI Act.