



Decision and Reasons for Decision

Citation: Q87 and Metro South Hospital and Health Service [2026]
QICmr 155 (20 August 2026)

Application Number: 00022890

Applicant: Q87

Respondent: Metro South Hospital and Health Service

Decision Date: 20 August 2026

Catchwords: ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - medical information - information communicated in confidence - exempt information - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(a) and 48 and schedule 3, section 8(1) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - medical information - prejudice system or procedure - exempt information - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(a) and 48 and schedule 3, section 10(1)(i) of the *Right to Information Act 2009* (Qld)

ADMINISTRATIVE LAW - RIGHT TO INFORMATION - REFUSAL OF ACCESS - personal information and privacy of other individuals - contrary to the public interest - section 67(1) of the *Information Privacy Act 2009* (Qld) and sections 47(3)(b) and 49 of the *Right to Information Act 2009* (Qld)

1. I affirm¹ the reviewable decision² of Metro South Hospital and Health Service (MSHHS) and find that:

¹ Under section 123(1)(a) of the *Information Privacy Act 2009* (Qld).

² See paragraph 8 below.

- a) access to the Collateral Health Information³ and the Examination Authority Information⁴ may be refused under section 67(1) of the *Information Privacy Act 2009* (Qld) (**IP Act**) and sections 47(3)(a) and 48 of the *Right to Information Act 2009* (Qld) (**RTI Act**) because it is exempt information; and
 - b) access to the Third Party Information⁵ may be refused under section 67(1) of the IP Act and sections 47(3)(b) and 49 of the RTI Act because its disclosure would, on balance, be contrary to the public interest.⁶
2. This means that no further information is to be released to the applicant.
3. My reasons for the decision follow.



R Moss
Principal Review Officer

Date: 20 August 2026

³ As defined in paragraph 11 below.

⁴ As defined in paragraph 11 below.

⁵ As defined in paragraph 11 below.

⁶ 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 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 7, part 9 of the RTI Act and chapter 8, part 3 of the IP 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.

REASONS FOR DECISION

Summary

4. The applicant applied to MSHHS under the IP Act for access to medical records in the following terms:⁷

All data on record regarding events of 2025 involving Queensland Health, Redland Hospital and Yugaipa Redlands Mental Health. Every document, doctors and nurses notes, every report, admission documents, discharge summary, emails, letters, correspondence with MHRT [Mental Health Review Tribunal], any footage or notes from appointments made with doctors, any recordings made of appointments with doctors. Every piece of material surrounding myself from the admission, including contact with family members regarding myself. The entire record. Recording of appointment/footage of appointment on 6/05/2025 with [names of medical staff] and others.

5. MSHHS located 432 responsive pages and one bodycam recording. It decided⁸ to grant access to 340 pages in full, 81 pages in part, and to refuse access in full to 11 pages. In respect of the bodycam footage, it decided to release the footage with some identifying information refused/pixelated. Access to information was refused on exemption or public interest grounds.
6. The applicant applied⁹ to MSHHS for internal review of this initial decision. The initial decision was affirmed on internal review.¹⁰
7. The applicant applied¹¹ to Office of the Information Commissioner (**OIC**) for external review of MSHHS's decision.

Reviewable decision

8. The decision under review is MSHHS's internal review decision dated 19 September 2025.

Evidence considered

9. The evidence, submissions, legislation and other material I have considered in reaching my decision are set out in these reasons (including footnotes). I have taken account of the applicant's submissions¹² to the extent they are relevant to the issues for determination in this review.
10. I have also had regard to the *Human Rights Act 2019* (Qld) (**HR Act**), particularly the right to seek and receive information. I consider a decision maker will be '*respecting and acting compatibly with*' that right and others prescribed in the HR Act, when

⁷ Access application dated 16 June 2025 and made compliant on 1 July 2025.

⁸ Decision dated 13 August 2025.

⁹ On 26 August 2025.

¹⁰ Decision dated 19 September 2025.

¹¹ On 2 October 2025.

¹² In the external review application and in an email received on 18 February 2026.

applying the law prescribed in the IP and RTI Acts.¹³ I have acted in this way in making this decision, in accordance with section 58(1) of the HR Act. I also note the observations made by Bell J on the interaction between equivalent pieces of Victorian legislation: *'it is perfectly compatible with the scope of that positive right in the Charter for it to be observed by reference to the scheme of, and principles in, the Freedom of Information Act'*.¹⁴

Information in Issue

11. The information in issue may be categorised as follows:

- *Collateral Health Information* – contained on 81 part pages¹⁵ and three full pages¹⁶ and comprising information provided by third parties in connection with the applicant's health and medical treatment
- *Examination Authority Information* – contained in eight full pages¹⁷ and comprising applications for an Examination Authority under the *Mental Health Act 2016* (Qld) (**MH Act**); and
- *Third Party Information* – contained in the bodycam footage and comprising images of other individuals.

Issues for determination

12. The issues for determination are:

- whether access to the Collateral Health Information may be refused because it is exempt information under schedule 3, section 8(1) of the RTI Act (breach of confidence)
- whether access to the Examination Authority Information may be refused because it is exempt information under schedule 3, section 10(1)(i) of the RTI Act (prejudice a system or procedure for the protection of persons); and
- whether access to the Third Party Information may be refused under section 47(3)(b) of the RTI Act because its disclosure would, on balance, be contrary to the public interest.

Relevant law – breach of confidence

13. Under the IP Act, an individual has a right to be given access to documents to the extent they contain the individual's personal information.¹⁸ The IP Act must be applied and interpreted to further this primary object,¹⁹ and is to be administered with a pro-disclosure bias.²⁰

¹³ *XYZ v Victoria Police (General)* [2010] VCAT 255 (16 March 2010) (**XYZ**) at [573]; *Horrocks v Department of Justice (General)* [2012] VCAT 241 (2 March 2012) at [111].

¹⁴ *XYZ* at [573].

¹⁵ As marked on the pages released to the applicant.

¹⁶ Pages 158–160.

¹⁷ Pages 3–11.

¹⁸ Section 40 of the IP Act.

¹⁹ Section 3(2) of the IP Act.

²⁰ Section 64 of the IP Act.

14. However, this right is subject to the provisions of the IP Act and the RTI Act, including grounds for refusing access to information.²¹ These grounds are to be interpreted narrowly.²²
15. Access may be refused to information to the extent the information comprises exempt information.²³ Where information satisfies the criteria for any of the categories of exempt information set out in schedule 3 of the RTI Act, Parliament has determined that the disclosure of this information is contrary to the public interest, and access may therefore be refused without further consideration of public interest arguments.²⁴
16. The test for exemption under schedule 3, section 8(1) of the RTI Act must be evaluated by reference to a hypothetical legal action in which there is a clearly identifiable plaintiff, with appropriate standing to bring an action to enforce an obligation of confidence said to be owed to that plaintiff by an agency such as MSHHS.²⁵ The cause of action can arise in either contract or equity.²⁶
17. An equitable obligation of confidence arises where information with the necessary quality of confidence is imparted in circumstances importing an obligation of confidence. The cumulative requirements to establish an equitable obligation of confidence are as follows:
 - 1) the information in question must be identified with specificity
 - 2) it must have the necessary quality of confidence
 - 3) it must have been received in circumstances importing an obligation of confidence; and
 - 4) there must be an actual or threatened misuse of the information.²⁷

Submissions

18. In the decision under review, MSHHS decided that the Collateral Health Information satisfied the cumulative requirements to establish an equitable obligation of confidence.
19. In his application for external review, the applicant did not address the specifics of MSHHS's decision but submitted as follows:

²¹ 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.

²² Section 67(2)(a) of the IP Act and section 47(2)(a) of the RTI Act.

²³ Sections 47(3)(a) and 48, and schedule 3 of the RTI Act.

²⁴ Section 48(2) of the RTI Act.

²⁵ *B and Brisbane North Regional Health Authority* (1994) 1 QAR 279 (**B and BNRHA**).

²⁶ *Ramsay Health Care v Office of the Information Commissioner & Anor* [2019] QCATA 66 (**Ramsay**).

²⁷ *Ramsay* at [94], adopting previous formulations in *Optus Networks Pty Ltd v Telstra Corporation Ltd* (2010) 265 ALR 281 and *Smith Kline & French Laboratories (Aust) Ltd v Secretary, Department of Community Services & Health* (1990) 22 FCR 73. There will generally be a fifth element where the entity claiming to be owed the confidence is another government body. It is unlikely to apply in other circumstances.

Record contains false information, information on record is slanderous/detrimental to character/reputation, information needs removing from record and therefore access is required to such information, information on record is not confidential to myself.

Psychiatrist has falsified information, this has been stated by the person/persons that provided information.

20. During the external review, OIC communicated a preliminary view to the applicant²⁸ that MSHHS's decision in respect of the Collateral Health Information was correct and should be affirmed on external review. The applicant did not accept this preliminary view and provided a submission in response on 18 February 2026. His submissions may be summarised as follows:

- he is concerned about false information provided both to, and by, Redland Hospital and that he considers is detrimental to himself, mentally, physically and legally
- he requires access to the information to allow him to '*get the necessary safeguards in place*' such as '*restraining orders, complaints to human rights and possibly a formal complaint to the QPS*'
- by refusing access to the information, OIC is complicit in perverting the course of justice
- he was not a patient and no treatment was provided to him yet the doctor deprived him of his liberties by a misuse of authority
- the Examination Authority is another misuse of authority and involved false information, showing extreme negligence by the persons involved and a possible crime being committed
- it is in the interest of the public for him to have the information and breaches of legislation brought to light; and
- '[he] require[s] everything to be kept official as [his] intention is to make official complaints and take action against the persons involved'.

Findings

21. Having considered the Collateral Health Information, I am satisfied that the cumulative requirements necessary to establish an equitable obligation of confidence (set out in paragraph 17 above) are met. I am satisfied that the information in question can be identified with specificity, and that it has the necessary quality of confidence. I consider that information provided by third parties to medical staff in connection with a person's care, treatment and welfare is sensitive information that has the necessary quality of confidence.

22. As to the third requirement, I am satisfied that MSHHS received the Collateral Health Information in circumstances importing an obligation of confidence. I note that some of the entries expressly note that the conversations in question between third parties and medical staff will remain confidential. But even without that express assurance of confidentiality, I am satisfied that, given the sensitive nature of the information, the relationship between the parties, and the circumstances under

²⁸ Letter dated 4 February 2026.

which the information was communicated, it was reasonable for the parties to expect that the information would be treated as confidential.

23. In respect of the final requirement, I am satisfied that disclosure of the Collateral Health Information to the applicant under the IP Act would be inconsistent for the purpose for which it was received, and would therefore constitute a misuse of the information.
24. In summary, and for the reasons explained above, I find that that the four cumulative requirements to establish an equitable obligation of confidence are satisfied by the Collateral Health Information and that it is therefore exempt information under schedule 3, section 8(1) of the RTI Act. Access under the IP Act may be refused on that basis.
25. I have considered the applicant's submissions, however, I am satisfied that they do not impact the findings I have made above. I acknowledge the applicant's belief that the information provided about him is false and that there is a strong public interest in its disclosure so to allow him to take various actions, including against those who provided it. However, as noted at paragraph 15 above, public interest considerations are not relevant to the application of the exemption provisions contained in the RTI Act and cannot be taken into account. This is because Parliament has already decided that disclosure of exempt information would, on balance, be contrary to the public interest.

Relevant law – prejudice a system or procedure for the protection of persons

26. Information is also exempt if its disclosure could reasonably be expected to prejudice a system or procedure for the protection of persons.²⁹ For this exemption to apply, the following requirements must be satisfied:
 - 1) there must exist an identifiable system or procedure
 - 2) it is a system or procedure for the protection of persons; and
 - 3) disclosure of the information in issue could reasonably be expected to prejudice that system or procedure.

Findings

27. In respect of the first requirement, I find that MSHHS collected the Examination Authority Information under identifiable systems established by the MH Act in connection with mental health assessments and examination authorities. The MH Act establishes a specific process for applying for mandatory mental health assessments, or examination authorities, in Queensland. As to the second requirement, I am satisfied that these systems exist for the protection of persons who may be suffering mental illness, and for the community more broadly.³⁰

²⁹ Schedule 3, section 10(1)(i) of the RTI Act.

³⁰ See section 3(1)(a) and chapter 12, part 8 of the MH Act. This system requires an application in a specific form to be submitted to the Mental Health Review Tribunal. In practice, such an application may be made following concerns raised by a member of the public to a doctor or mental health practitioner.

28. I consider that disclosure of the Examination Authority Information could reasonably be expected to prejudice these systems. The Examination Authority Information identifies third parties and the information supplied by those third parties in support of an application for examination authorities. The Information Commissioner has found previously that granting access to this kind of information under the IP or RTI Acts could reasonably be expected to impede its future flow to relevant agencies, and the willingness of parties to engage with the system, thereby prejudicing the operation and efficacy of the system.³¹ I also consider it is likely that the quality of information provided by individuals may be impacted if they are not able to communicate full and frank information to mental health services because of concerns as to the consequences of its disclosure.³² This, in turn, would negatively impact patient care and treatment where these health assessment systems are central to achieving improved health outcomes.
29. While I accept the applicant holds concerns about the accuracy of the Examination Authority Information, and the conduct of MSHHS in acting on it, I do not consider the applicant's submissions impact my finding that there is a reasonable expectation that disclosure of the Examination Authority Information could prejudice a system or procedure as per the third requirement above. The required prejudice relates to the system as a whole, and not to an individual case. I am satisfied that the applicant's contentions about the accuracy of the Examination Authority Information do not negate the prejudice to the system or procedure that could reasonably be expected to result from disclosure of the information.
30. While the applicant's reasons for seeking access to the Examination Authority Information are understandable and raise public interest considerations, I again note that there is no scope to consider public interest arguments where information is found to be exempt information. I acknowledge that the applicant is concerned by the circumstances and events relating to the examination authority. However, the Information Commissioner has no discretion under the IP Act to give access to information where it satisfies the requirements for exemption.³³
31. In summary, and for the reasons explained above, I find that the requirements to establish the exemption under schedule 3, section 10(1)(i) of the RTI Act are satisfied by the Examination Authority Information. Access under the IP Act may therefore be refused on that basis.

³¹ *E33 and Metro South Hospital and Health Service* [2021] QICmr 50 (12 October 2021) at [23]–[25]; *D77 and Gold Coast Hospital and Health Service* [2020] QICmr 28 (22 May 2020) (**D77**); *VA6Q6J and Sunshine Coast Hospital and Health Service* [2015] QICmr 18 (14 August 2015) at [17]–[19].

³² *D77* at [18].

³³ Section 118(2) of the IP Act.

Relevant law – public interest balancing test

32. Another ground for refusal of information under the IP Act is where disclosure of the information would, on balance, be contrary to the public interest.³⁴
33. In determining whether disclosure of information would, on balance, be contrary to the public interest, the steps to be followed are prescribed in section 49 of the RTI Act. In summary, a decision maker must:
 - 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.
34. Schedule 4 of the RTI Act contains non-exhaustive lists of factors that may be relevant in determining where the balance of the public interest lies in a particular case. I have considered these,³⁵ together with all other relevant information, in reaching my decision. I have also applied the pro-disclosure bias³⁶ and considered Parliament's intention that grounds for refusing access to information are to be interpreted narrowly.³⁷
35. In making this decision, I have not taken into account any irrelevant factors.³⁸

Findings

36. The Third Party Information consists of images of two individuals contained in bodycam footage of the applicant's appointment with medical staff. The remainder of the footage (including audio) has been released to the applicant.
37. To the extent that the Third Party Information comprises the personal information of the applicant,³⁹ it also comprises the personal information of the third parties and is inextricably intertwined. As such, its disclosure automatically gives rise to a public interest harm.⁴⁰ While I afford strong weight to the public interest in the applicant accessing his own personal information under the IP Act, I also afford strong weight to the public interest in protecting the personal information of the third parties from disclosure under the IP Act, and the associated public interest in protecting their

³⁴ 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. However, there are some recognised public interest considerations that may apply for the benefit of an individual.

³⁵ I have considered each of the public interest factors outlined in schedule 4 of the RTI Act, and any relevant factors are discussed below.

³⁶ Section 64 of the IP Act.

³⁷ Section 67(2) of the IP Act and section 47(2) of the RTI Act.

³⁸ Including any set out in schedule 4, part 1 of the RTI Act.

³⁹ Schedule 4, part 2, item 7 of the RTI Act. Section 12 of the IP Act 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.'

⁴⁰ Schedule 4, part 4, section 6 of the RTI Act.

right to privacy.⁴¹ I afford these factors strong weight in recognition of the sensitive nature of the circumstances under which the information was recorded, as well as the fact that there are no restrictions on the use, dissemination or republication of information disclosed under the IP or RTI Acts.⁴²

38. I recognise that there is a public interest in the accountability and transparency of MSHHS for the way in which it dealt with the applicant.⁴³ However, I am not satisfied that disclosure of the Third Party Information, given its limited nature, would enhance these factors favouring disclosure in any meaningful way. I afford them only low weight in the public interest balancing test.
39. The applicant has submitted that he requires access to what he contends is false information to enable him to take (unspecified) legal action against those who supplied and acted upon the information, and to make complaints to other relevant entities about his treatment. However, again, because of the limited nature of the Third Party Information, I am not satisfied that its disclosure could reasonably be expected to:
- allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or official⁴⁴
 - reveal or substantiate that an agency or official has engaged in misconduct or negligent, improper or unlawful conduct⁴⁵
 - advance the fair treatment of individuals and other entities in accordance with the law in their dealings with agencies⁴⁶
 - contribute to the administration of justice generally, including procedural fairness;⁴⁷ or
 - contribute to the administration of justice for a person,⁴⁸

and I find that none of these factors apply in favour of disclosure of the Third Party Information. Nor could its disclosure reasonably be expected to reveal that it was incorrect.⁴⁹

40. In summary, I afford strong weight to the public interest in the applicant accessing his own personal information under the IP Act and low weight to the public interest in the accountability and transparency of MSHHS. I am unable to identify any other public interest factors that apply in favour of disclosure of the Third Party Information. I afford strong weight to the public interest in protecting both the

⁴¹ Schedule 4, part 3, item 3 of the RTI Act. The concept of 'privacy' is not defined in the IP Act. It can, however, be viewed as the right of an individual to preserve their 'personal sphere' free from interference from others (as discussed in 'For your information: Australian Privacy Law and Practice' Australian Law Reform Commission Report No. 108, 12 August 2008, at 1.56).

⁴² As Judicial Member McGill SC of the Queensland Civil and Administrative Tribunal observed '... the effect of the IP Act is that, once information has been disclosed, it comes under the control of the person to whom it has been disclosed. There is no provision of that Act which contemplates any restriction or limitation on the use which that person can make of that information, including by way of further dissemination.' *FLK v Information Commissioner* [2021] QCATA 46 (FLK) at [17].

⁴³ Schedule 4, part 2, items 1 and 3 of the RTI Act.

⁴⁴ Schedule 4, part 2, item 5 of the RTI Act.

⁴⁵ Schedule 4, part 2, item 6 of the RTI Act.

⁴⁶ Schedule 4, part 2, item 10 of the RTI Act.

⁴⁷ Schedule 4, part 2, item 16 of the RTI Act.

⁴⁸ Schedule 4, part 2, item 17 of the RTI Act.

⁴⁹ Schedule 4, part 2, item 12 of the RTI Act.

personal information of the third parties, and their associated right to privacy. After balancing the factors favouring both disclosure and nondisclosure of the Third Party Information, I am satisfied that those favouring nondisclosure outweigh those favouring disclosure such that disclosure of the Third Party Information would, on balance, be contrary to the public interest. Access under the IP Act may be refused on that basis.

Conclusion

41. The above are the reasons for my decision set out in paragraph 1.
42. I have made this decision as a delegate of the Information Commissioner under section 139 of the IP Act.

--End--