

Title: Access to Employee Record	Number: IRM 3.3-2
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INTRODUCTION

A current employee of Queensland Health will be provided with access to any employee record, which relates to their interests as an employee, under an administrative access scheme in accordance with this policy. This policy incorporates the rights afforded to public service employees by sections 15 to 16D of the *Public Service Regulation 1997*, and provides equivalent entitlements to employees of Health Service Districts.

WHO CAN ACCESS AN EMPLOYEE RECORD UNDER THIS POLICY?

- a “public service employee”, which includes:
 - a “public service officer”;
 - a “general employee”; and
 - a “temporary employee”
 (see sections 8-9 of the *Public Service Act 1996*)

- a “health service employee”, which includes:
 - a “tenured health service employee”;
 - a “contracted health service employee”;
 - a “temporary health service employee”; and
 - a “casual health service employee”.
 (see sections 24-25 of the *Health Services Act 1991*)

MEANING OF “EMPLOYEE RECORD”

Each of the following documents, to the extent it contains information about a public service employee or health service employee, is an **employee record** about the employee:

- (a) a report, correspondence item or other document about the employee’s work performance, work conduct or work history;
- (b) a medical report about the employee;

- (c) a written allegation of misconduct by the employee.

Exceptions: * See Glossary (attached) for relevant definitions

None of the following documents is an **employee record** about a public service employee or health service employee:

- (a) a medical report about the employee indicating disclosure of information in it to the employee might be prejudicial to the employee's mental or physical health or well being;
- (b) an employee assistance provider document about the employee;
- (c) a Whistleblowers Protection Act document about the employee;
- (d) a document about the employee concerning suspected official misconduct within the meaning of the *Crime and Misconduct Act 2001*, section 15 to 17 or its investigation;
- (e) a document about the employee concerning a suspected criminal offence or its investigation;
- (f) a document to which legal professional privilege applies.

POSSESSION OF EMPLOYEE RECORD

An employee record is in an entity's '**possession**' if the entity has the record in its possession or under its control.

An employee record is also in an entity's **possession** if the record is in the possession, or under the control, of an employee of the entity in the employee's official capacity.

In conjunction with the above paragraph:

- If the entity is the Premier, a person is an employee of the entity if the person is an employee of the department administered by Premier.
- If the entity is the chief executive of a department, a person is an employee of the entity if the person is an employee of the department, including health service district employees.

DETRIMENTAL EMPLOYEE RECORD

“**Detrimental employee record**” means an employee record about a public service employee or health service employee that could reasonably be considered to be detrimental to the employee’s interests.

(a) Detrimental employee record with employing authority

If a detrimental employee record about a public service employee or health service employee is in the possession of the employee’s employing authority, the employing authority must ensure that within 14 days after the record comes into the employing authority’s possession –

- (a) the employee is given the opportunity to read the record and to acknowledge having read the record by initialling it; and
- (b) the employee is given a copy of the record; and
- (c) if the employee has refused to take the opportunity to read the record or to acknowledge having read the record by initialling it, the refusal is noted on the record; and
- (d) the employee is given the opportunity to respond in writing at any time to the record’s contents; and
- (e) any written response by the employee is attached to the record.

However, if the employing authority reasonably considers that giving the employee access to the record, under the access procedure above, would be likely to prejudice an existing relevant investigation or inquiry, that access procedure does not apply until the end of whichever of the following periods ends first –

- (a) the period ending when the employing authority no longer reasonably considers that giving the employee access to the record, under the access procedures outlined above, would be likely to prejudice a relevant investigation or inquiry; or
- (b) the period of 6 months after the record comes into the employing authority’s possession.

(b) Detrimental employee record with another chief executive

If a detrimental employee record about a public service employee or health service employee is in the possession of a chief executive of a department, and the chief executive is not the employee's employing authority, the chief executive must promptly give possession of the record to the employee's employing authority.

However, that requirement does not apply to a referee's report or other document received for a selection process to fill an employment vacancy in the department.

ACCESS TO EMPLOYEE RECORD

If an employee record about a public service employee or health service employee is in the possession of –

- (a) the employee's employing authority; or
- (b) a chief executive of a department who is not the employee's employing authority

the employee may, on request –

- (a) inspect the record; or
- (b) take extracts from, or obtain a copy of details in, the record.

The inspection, extract or copy must be given at a time and place convenient to the employing authority or chief executive no later than 21 days after the request.

However, if the employing authority or chief executive reasonably considers inspection, taken extracts or obtaining a copy of details by the employee would be likely to prejudice an existing relevant investigation or inquiry, the access procedure set out above does not apply until whichever of the following periods ends first –

- (a) the period ending when the employing authority or chief executive no longer reasonably considers inspection, taking extracts or obtaining a copy of details would be likely to prejudice a relevant investigation or inquiry; or

- (b) the period of 6 months after the employee requests the inspection, extracts or copy.

In obtaining the inspection, extract or copy the employee must not remove anything from the record.

Procedure for seeking access

Applications for access to an employee record must be made in writing (to enable arrangements to be made) without limiting employee rights to access records under this policy.

For employees of Corporate Office, Queensland Health, such applications should be directed to the Manager, Corporate Office Human Resource Management Unit.

For employees of health service districts, such applications should be directed, in the first instance, to the human resource management unit within the particular health service district.

Where necessary, the human resource management unit may refer the application to an appropriate unit where relevant documentation may be held.

NOTE: Access under this administrative arrangement does not affect an employee's right to seek access to documents under the *Freedom of Information Act 1992*.

GLOSSARY OF RELEVANT DEFINITIONS

“employee assistance provider” means a person with a qualification to provide professional counselling services.

“employee assistance provider document” means a document about a public service employee or health service employee created by an employee assistance provider for the primary purpose of providing a professional counselling service to the employee.

“misconduct” means –

- (a) disgraceful or improper conduct in an official capacity; or
- (b) disgraceful or improper conduct in a private capacity that reflects seriously and adversely on the public service or a Health Service District.

“relevant investigation or inquiry”, for a public service employee or health service employee, means an investigation or inquiry into-

- (a) an allegation of conduct that, if proved, may make the employee liable to disciplinary action; or
- (b) a grievance involving the employee made under a ruling or industrial determination.

“Whistleblowers Protection Act document” means a document that-

- (a) is a public interest disclosure, or record of a public interest disclosure, made under the *Whistleblowers Protection Act 1994*, or
- (b) was brought into existence for that Act’s administration.

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