

**Decision D0012010 - Published in note form only**

***Re Kolo and Water Corporation [2010] WAICmr 1***

**Date of Decision: 13 January 2010**

***Freedom of Information Act 1992: Section 26***

The complainant applied to the Water Corporation ('the agency') for documents relating to the testing and maintenance of a sewerage pumping station in Walpole including documents relating to the inspection and testing of the soakwells at the pumping station. The agency identified 18 documents as within the scope of the application and gave access to 16 documents in full and access to edited copies of 2 documents, after deleting a small amount of information as exempt under clause 3 of Schedule 1 to the FOI Act (personal information).

The complainant sought internal review of the agency's decision, claiming that additional documents should exist in relation to the soakwells at the pumping station ('the soakwells'). The agency confirmed on internal review that it did not hold further documents. Thereafter, the complainant applied to the Information Commissioner for external review of the agency's decision, claiming that additional documents should exist at the agency in relation to the inspection and testing of the soakwells ('the requested documents').

The Commissioner obtained the agency's FOI file and other relevant material from the agency and made various inquiries with the agency about the searches and inquiries it had conducted for the requested documents, pursuant to s.26 of the FOI Act, which relates to documents that cannot be found or do not exist. The complainant provided further material and made detailed submissions to the Commissioner during the course of the external review.

After reviewing the searches and inquiries undertaken by the agency for the requested documents and considering all of the information provided by the agency and by the complainant, the Commissioner was satisfied that the agency had taken all reasonable steps to locate the requested documents and that those documents are either in the agency's possession but cannot be found or do not exist. Accordingly, the Commissioner confirmed the agency's decision to refuse the complainant access to the requested documents under section 26 of the FOI Act.