

Decision D0032014 - Published in note form only

***Re Corr and Western Australia Police* [2014] WAICmr 3**

Date of Decision: 26 February 2014

Freedom of Information Act 1992: Section 24; Schedule 1, clauses 3(1), and 3(6)

In April 2012, Mr Brian Corr (**the complainant**) applied to the Western Australia Police (**the agency**) for access under the *Freedom of Information Act 1992* (**the FOI Act**) to certain documents in relation to an alleged assault.

The agency initially granted the complainant access in full to certain documents; refused access in full to three documents and provided access to edited copies of the majority of the disputed documents. The agency claimed that the documents were refused in full or in part because they consist of personal information about third parties and were exempt under clause 3(1) of Schedule 1 to the FOI Act. On internal review, the agency confirmed its initial decision. On 11 May 2013, the complainant applied to the Information Commissioner for external review of the agency's decision to refuse access to the disputed documents.

On 29 January 2014, the Commissioner provided the parties with a letter setting out his preliminary view of the matter, which was that the disputed documents were exempt under clause 3(1), as claimed by the agency, because they contain information which if disclosed would reveal personal information about third parties. The complainant was invited to make further submissions to the Commissioner, in particular as to why disclosure of the disputed information would, on balance, be in the public interest, pursuant to clause 3(6).

In response, the complainant withdrew his complaint with respect to all but two of the disputed documents. The complainant submitted that there was a public interest in disclosing information to the complainant which may be contained in the two disputed documents. In addition, the complainant submitted that it was in the public interest for the disputed documents to be disclosed in order to establish that elected representatives are held accountable for the manner in which they interact with ratepayers. The complainant also submitted that the disputed documents could be edited to delete the personal information and the balance of the documents disclosed.

The Commissioner accepted that there is a public interest in a party who has lodged a complaint with a body such as the agency, being informed of the investigation and outcome into their complaint. That is a key requirement of procedural fairness. The Commissioner also accepted that there is a public interest in ensuring that the agency is open and accountable in conducting investigations appropriately.

In addition, the Commissioner accepted that there is a public interest in the agency properly processing and scrutinizing the evidence obtained in such investigations and ensuring the evidence is considered thoroughly and the parties in such matters are dealt with fairly and lawfully.

The Commissioner found that those public interests were satisfied to a significant extent in the circumstances of this matter, by the agency providing the complainant with access to edited copies of the majority of the documents the subject of his access application.

The Commissioner accepted that the disputed documents contain ‘personal information’ about third parties as defined in the FOI Act. The Commissioner considered whether it would be practicable to give access to edited copies of the disputed documents. However, the Commissioner found that it was not practicable to edit the disputed documents.

In the circumstances of this complaint, the Commissioner did not consider that the strong public interest in privacy was outweighed by any other public interest that required the disclosure of personal information about third parties to the complainant. The Commissioner found that the disputed documents were exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the decision of the agency.