

Decision D0052011 - Published in note form only

***Re Subiaco's Past Players' and Officials' Association (Inc) and Department of Commerce*
[2011] WAICmr 5**

Date of Decision: 3 March 2011

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

The complainant – an incorporated association – applied to the agency for access under the *Freedom of Information Act 1992* ('the FOI Act') to certain documents in relation to an inquiry being conducted by the agency into another incorporated association. The agency granted the complainant access to edited copies of the requested documents deleting certain information which it claimed was exempt under clause 3(1) (personal information) of Schedule 1 to the FOI Act. On 9 June 2010, the complainant applied to the Information Commissioner for external review of the agency's decision to give access to edited copies of the requested documents.

On 24 January 2011 the Commissioner's Investigations Officer provided the parties with a letter setting out her view of the matter, which was that the disputed information was exempt under clause 3(1), as claimed by the agency, because that information would disclose 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 submitted that there was a public interest in disclosing information to the complainant about members of the complainant which may be contained in the disputed documents. In addition, the complainant submitted that it was in the public interest for the deleted information to be disclosed in order to establish that the personal information about the complainant's members was accurate. The Commissioner accepted that there is a public interest in persons being given access to personal information about them, a right enshrined in s.21 of the FOI Act. However, an applicant's right of access to documents under the FOI Act is not an unfettered right. The FOI Act provides that a person or organisation has a right to be given access to the documents of an agency (other than an exempt agency) subject to and in accordance with the FOI Act, including the exemption clauses in Schedule 1.

The Commissioner accepted that the information deleted from the documents given to the complainant was 'personal information' as defined in the FOI Act about third parties, including the complainant's members, who are private individuals. With one exception, those persons had not consented to the disclosure of that information to the complainant. Even if they had consented, the Commissioner considered that it would not be practicable to give access to the small amount of personal information about the complainant's members because it was inextricably intertwined with personal information about other third parties.

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. There was nothing before the

Commissioner other than the complainant's suggestion to indicate that the disputed information may contain inaccurate information. The Commissioner found that the disputed information was exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the decision of the agency.