

Decision D0082010 - Published in note form only

***Re Ravlich and Treasurer* [2010] WAICmr 8**

Date of Decision: 24 March 2010

***Freedom of Information Act 1992*: sections 15(1) and 26(1).**

On 15 October 2008, the complainant applied to the Treasurer for access to documents dating from 23 September 2008 in relation to a Tax Reform and Reduction Strategy, which was part of the Liberal Party's election platform prior to the 2008 State election. The Treasurer, after conducting searches for the requested documents, transferred the application in full to the Department of Treasury and Finance ('the Department') pursuant to s.15(1) of the *Freedom of Information Act 1992* ('the FOI Act').

The complainant sought external review by the Information Commissioner because she considered that documents of the kind requested should exist and should be held by the Treasurer. The Commissioner accepted the complaint as a review of a deemed decision to refuse access to documents under s.26 of the FOI Act, referring to the decision of the former Information Commissioner in *Re Campbell and Ministry of the Premier and Cabinet and Others* [2002] WAICmr 6. Section 26 provides that an agency may refuse access to a document if the agency is satisfied that all reasonable steps have been taken to find the document, and the document is either in the agency's possession but cannot be found or does not exist.

Following the receipt of the complaint, the Commissioner obtained the file maintained in respect of the complainant's access application from the Treasurer's office and made further inquiries with the Treasurer. On 5 March 2010, the Commissioner provided both parties with a letter setting out his preliminary view of the complaint. The Commissioner's preliminary view was that, on the information before him and for the reasons set out in that letter, he was not satisfied that the requested documents exist or should exist and are, or should be, held by the Treasurer. Consequently, the Commissioner's preliminary view was that the Treasurer's deemed decision to refuse access to documents under s.26 was justified.

The complainant was invited to provide the Commissioner with further submissions or withdraw her complaint. The complainant did not withdraw the complaint but made no further submissions. Since no new evidence was provided to the Commissioner, the Commissioner was not dissuaded from his preliminary view of the complaint. The Commissioner confirmed the Treasurer's deemed decision to refuse access to the requested documents under s.26.