

Decision D0092010 - Published in note form only

Re Ravlich and Minister for Regional Development; Lands; Minister Assisting the Minister for Transport; Minister Assisting the Minister for State Development [2010] WAICmr 9

Date of Decision: 30 March 2010

Freedom of Information Act 1992: sections 20 and 39(3)

On 6 March 2009, the complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the Minister for Regional Development; Lands; Minister Assisting the Minister for Transport; Minister Assisting the Minister for State Development ('the Minister') - for access to the Minister's diary, daily itinerary documents and documents detailing the expenditure on the Minister's Ministerial credit card, including all related documents from 23 September 2008, being the date the Minister was appointed to office. Following discussions between the parties, the complainant amended the scope of her application so that she now sought access to the Minister's electronic diary; day sheets; contentious issues briefing; requests for contentious issue notes; credit card acquittal spreadsheets (excluding credit card number, cardholder limit and signatures); and meetings with stakeholders. The complainant also advised that information about third parties could be deleted from the requested documents.

The Minister's decision was to refuse to deal with the access application under s.20 of the FOI Act, which permits an agency to take that action if - after taking reasonable steps to help the access applicant to change the application to reduce the amount of work required to deal with it - the agency considers that the work involved in dealing with it would divert a substantial and unreasonable portion of the agency's resources away from its other operations. As there is no right of internal review from the decision of a Minister - who is the 'principal officer' of an agency for the purposes of the FOI Act (s.39(3)(a)) - the complainant applied to the Information Commissioner for external review of the Minister's decision.

Following the receipt of the complaint, the Commissioner obtained the file maintained in respect of the complainant's access application from the Minister's office, which included a sample of documents identified as coming within the scope of the application, and made further inquiries with the Minister.

On 12 March 2010, the Commissioner provided both parties with a letter setting out his preliminary view of the complaint, which was that the Minister's decision was justified for similar reasons to those given in *Re Ravlich and Attorney General; Minister for Corrective Services* [2009] WAICmr 17.

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 was satisfied that the Minister had taken reasonable steps to help the complainant to change the application to reduce the amount of work needed to deal with it and also that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the Minister's resources away from his office's other operations. The Commissioner confirmed the Minister's decision to refuse to deal with the complainant's access application under s.20 of the FOI Act.