

**Decision D0122013 – Published in note form only**

***Re Kitto and Department of Planning* [2013] WAICmr 12**

**Date of decision: 10 May 2013**

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

In November 2012 Ms Nola Kitto ('the complainant') applied to the Department of Planning ('the agency') under the *Freedom of Information Act 1992* ('the FOI Act') for access to documents involving third parties and the agency.

The agency identified two documents within the scope of the application and provided edited access to those documents, deleting certain information. The agency claimed that the deleted information consisted of personal information about third parties and was exempt under clause 3(1) of Schedule 1 to the FOI Act.

The complainant applied for internal review of the agency's decision to delete certain information in one of the two documents ('the disputed information'). On internal review, the agency confirmed its initial decision.

In January 2013, the complainant applied to the Information Commissioner for external review of the agency's decision. Following the receipt of the complaint, the Commissioner obtained the disputed documents from the agency, together with the agency's FOI file related to the complainant's access application.

On 23 January 2013, after considering the information before him, the Commissioner's office provided the parties with a letter setting out his preliminary view of the complaint. It was the Commissioner's preliminary view that the disputed information was exempt as claimed by the agency under clause 3 of Schedule 1 to the FOI Act.

The complainant was invited to reconsider whether she wished to pursue her complaint or to provide further submissions. The complainant did not withdraw from the complaint and made further submissions.

The Commissioner considered those further submissions and reviewed all of the information before him but was not dissuaded from his preliminary view.

The Commissioner was satisfied that the disputed information would, if disclosed, reveal personal information, as defined in the FOI Act, about people other than the complainant. Accordingly, the Commissioner considered that the disputed information was prima facie exempt under clause 3(1).

In weighing the public interests pursuant to clause 3(6), the Commissioner found that, in this case, the public interest factors in favour of disclosure of the disputed matter were not sufficient to outweigh the strong public interest in the protection of personal privacy.

Accordingly, the Commissioner found that the disputed information was exempt under clause 3 of Schedule 1 to the FOI Act and confirmed the agency's decision.