

**Decision D0132009 - Published in note form only**

***Re J and Office of the Public Sector Standards Commissioner (No.2) [2009]*  
WAICmr 13**

**Date of Decision: 14 May 2009**

***Freedom of Information Act 1992: Schedule 1: clauses 14(5)(a) and (b)***

This is the second of two separate, but related, complaints sought by the complainant against decisions of the Office of the Public Sector Standards Commissioner ('the agency'). For the reasons given in paragraph 1 of *Re J and Office of the Public Sector Standards Commissioner [2009] WAICmr 12*, I have decided not to identify the complainant by name in this decision.

The complainant, applied to the agency for certain documents relating to a specific report prepared for the agency in connection with the restructure of another named body. The agency's principal officer refused the complainant access to the requested documents under clauses 11(1)(a) and (b) and 14(5)(a) and (b) of Schedule 1 to the *Freedom of Information Act 1992* ('the FOI Act'). The agency did not identify any of the requested documents with any particularity because to do so would, in its opinion, have revealed exempt matter. As the decision was made by the agency's principal officer, internal review is not available pursuant to s.39(3) of the FOI Act. The complainant applied directly to the Information Commissioner for external review of the agency's decision.

The A/Information Commissioner ('A/Commissioner') obtained the agency's FOI file from the agency and one of the A/Commissioner's officers made inquiries with the agency regarding its claims for exemption. On 18 March 2009, the A/Commissioner provided the parties with a letter setting out his preliminary view of the complaint and findings of fact and reasons for the view, which was that the requested documents are exempt under clauses 14(5)(a) and (b) of Schedule 1 to the FOI Act. The complainant was invited to withdraw the complaint, or to provide any further submissions to support the complainant's claim that the requested documents are not exempt documents under clauses 14(5)(a) and (b).

The complainant did not accept the A/Commissioner's preliminary view and made further submissions. After considering those submissions, the A/Commissioner remained of the view that the requested documents are exempt under either or both clauses 14(5)(a) and (b). The A/Commissioner confirmed the agency's decision to refuse the complainant access to the requested documents under clauses 14(5)(a) and (b) of Schedule 1 to the FOI Act, because, based on an examination of them, disclosure of the disputed documents was found would reveal or tend to reveal the identity of a person or persons who had made an appropriate disclosure of public interest information under the *Public Interest Disclosure Act 2003* ('the PID Act') and would reveal or tend to reveal the identity of a person or persons in respect of whom a disclosure of public interest information has been made under the PID Act.