

**Decision D0192011 - Published in note form only**

***Re E and Royal Perth Hospital [2011] WAICmr 19***

**Date of Decision: 31 May 2011**

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

In June 2010, the complainant lodged a grievance claim with her employer, Royal Perth Hospital, ('the agency'). The agency engaged an external consultant to investigate that claim and prepare a report. At the completion of the investigation, the agency gave the complainant a copy of the investigation report ('the Report') but not its attachments, which were records of interviews with the complainant's co-workers. In November 2010, the complainant applied to the agency under the *Freedom of Information Act 1992* ('the FOI Act') for access to those attachments. The agency refused access to those documents and claimed exemption under clause 3(1) (personal information) of Schedule 1 to the FOI Act. Following internal review, the agency confirmed its decision and also claimed that the disputed documents were exempt under clause 8(2) because they were confidential communications.

In February 2011, the complainant applied to the Information Commissioner for external review of the agency's decision. Having considered the information before him, the Commissioner, on 6 May 2011, advised the parties, in writing, of his preliminary view, which was that the disputed documents were exempt under clause 3(1) and that none of the limits on the exemption in clauses 3(2)-3(6) applied. In light of that, it was not necessary to consider whether the documents were also exempt under clause 8(2).

Favouring disclosure, the Commissioner recognised, among other things, that there is a public interest in persons, such as the complainant, who make complaints to proper authorities being informed of the outcome of their complaints and any action taken. The Commissioner also considered that there is a public interest in the accountability of agencies for their actions and decisions. In the circumstances, the Commissioner considered that those public interests were satisfied because the agency gave the complainant access to an unedited copy of the Report.

In favour of non-disclosure, the Commissioner took the view that, where information is given to investigators voluntarily and steps are taken to ensure that such information is given in confidence, there is a real risk that disclosure of that information would dissuade some staff from volunteering information in similar situations in future. In addition, the Commissioner considered that there was a strong public interest in the protection of personal privacy.

In balancing the competing public interests, the Commissioner considered that the public interests favouring non-disclosure outweighed those favouring disclosure in this case.

The complainant was invited to provide the Commissioner with submissions in response to his preliminary view. The complainant made no further submissions but did not withdraw her complaint. The A/Commissioner examined all of the material, including the disputed document, and agreed with the preliminary view provided to the parties. Since the complainant had provided no new evidence for the A/Commissioner's determination, the A/Commissioner confirmed the agency's decision to refuse the complainant access to the disputed documents on the ground that those documents were exempt under clause 3(1) of Schedule 1 to the FOI Act.