

**Decision D0312010 – Published in note form only**

***Re Glasson and Department of Commerce [2010] WAICmr 31***

**Date of decision: 3 December 2010**

***Freedom of Information Act 1992: Schedule 1, clauses 3(1), 4(3) and 7(1)***

The complainant applied to the agency for access under the *Freedom of Information Act 1992* ('the FOI Act') to certain documents in relation to complaints made by her to the agency. The agency identified 168 documents as coming within the scope of the complainant's application and, following a number of agreed extensions of time, gave the complainant access in full to 132 documents but refused access to the remainder. On 30 August 2009, the complainant applied to the Information Commissioner for external review of the agency's decision to refuse access to 23 documents.

In the course of dealing with the external review, the agency agreed to disclose further documents and information. As a result, the matter remaining in dispute was one document in full and certain information deleted from another 17 documents ('the disputed information').

On 7 October 2010, the Commissioner provided the parties with a letter setting out his preliminary view of the matter, which was that the full disputed document was exempt under clause 7(1) (legal professional privilege) and that, except for a small amount of information, most of the rest of the disputed information was exempt under clauses 3(1) (personal information), 4(3) (commercial or business information) and 7(1) of Schedule 1 to the FOI Act, as claimed by the agency. The Commissioner invited the agency to give the complainant access to the information that, in his preliminary view, was not exempt and invited the complainant to provide him with further submissions in relation to matters relevant to his determination.

In response, the agency accepted the Commissioner's preliminary view and disclosed the information that the Commissioner considered was not exempt to the complainant. The complainant was given additional extensions of time in which to respond to the Commissioner's letter and made a number of further submissions, primarily in relation to the question of whether disclosure would, on balance, be in the public interest, pursuant to clauses 3(6) and 4(7).

Having considered all of the material before him, including those submissions, the Commissioner was not persuaded that any of the limits on the exemptions in clauses 3 and 4 applied in this case and was not dissuaded from his preliminary view. The Commissioner varied the agency's decision to refuse access to documents and found that the full disputed document was exempt in full under clause 7(1) and that the rest of the disputed information was exempt under clauses 3(1), 4(3) and 7(1) of Schedule 1 to the FOI Act.