

Decision D0022003- Published in note form only

Re East and East and Water Corporation [2003] WAICmr 2

Date of Decision: 3 January 2003

Freedom of Information Act 1992 s. 102(1); Schedule 1, clause 6(1)

The complainants made an application to the Department of Health for access, under the FOI Act, to documents relating to effluent discharged from the Manjimup Wastewater Treatment Plant ('the Plant'). The Department of Health partially transferred the application to the Water Corporation, which granted access to a number of documents, but refused access to ten other documents on the ground that they were exempt under clauses 6(1) and 10(4) of Schedule 1 to the FOI Act.

The complainants lodged a complaint with the Information Commissioner seeking external review of the agency's decision. Subsequently, both parties made various concessions. As a result, the only information remaining in dispute consisted of two paragraphs on page 3 of one document, Document 15 on the agency's schedule. The agency claimed exemption for that matter under clause 6(1).

The agency submitted that it would be contrary to the public interest to disclose those two paragraphs because it would reveal the agency's internal deliberations for dealing with the management of the Manjimup Wastewater Treatment Plant; part of the agency's deliberative processes in the management of the complainants' claim and the ongoing litigation; and commercial management strategies relating to the agency's capital investment program for dealing with the compensation claim and the litigation.

The agency also claimed that disclosure of the agency's strategies for dealing with compensation claims could influence future claimants to submit extravagant and possibly false claims, which may reduce the funds available to the Government. However, the Information Commissioner considered that claim to be mere speculation, which was unsupported by any objective material placed before her.

The Information Commissioner recognised a public interest in the accountability of an agency for its decision-making and a public interest in an applicant being able to exercise his or her right of access to documents of an agency. The agency did not identify any public interest factors that weigh against disclosure and none was apparent to the Information Commissioner. Accordingly, the agency did not discharge the onus on it under s.102(1) of the FOI Act, to establish that its decision to refuse access was justified.

The Information Commissioner found the first two paragraphs on page 3 of Document 15 are not exempt under clause 6(1) of Schedule 1 to the FOI Act and set aside the agency's decision.