

Decision D0092003 - Published in note form only

Re Cockburn and Department of Education and Training [2003] WAICmr 9

Date of Decision: 13 March 2003

Freedom of Information Act 1992; Schedule 1, clause 3(1)

In September 2002, the complainant made an application to the agency for access, under the FOI Act, to documents relating to her employment with the agency. The agency gave the complainant access to some of the requested documents, but refused her access to several others, on the ground that they were exempt under clauses 3(1) and 5(1)(b) of Schedule 1 to the FOI Act. The complainant lodged a complaint with the Information Commissioner seeking external review of the agency's decision.

The Information Commissioner examined the disputed documents and informed the parties that the disputed documents may not be exempt under clause 5(1)(b). However, the Information Commissioner was satisfied that three of the disputed documents contained personal information about third parties and were, *prima facie*, exempt under clause 3(1) of Schedule 1 to the FOI Act. The agency then released additional documents to the complainant and only one document remained in dispute.

Although the complainant was prepared to accept access to an edited copy of that one remaining document, the Information Commissioner decided that it contained exempt matter, being personal information about third parties and that it was not practicable for the agency to delete exempt matter from the document, because the degree of editing required was substantial and the balance of the document would make no sense if the exempt matter was deleted. The Information Commissioner decided that the public interest in protecting the privacy of the third parties outweighed the public interest in the complainant exercising her rights of access and the public interest in the complainant having access to personal information about her. The document contained some personal information about the complainant, which could not, in any event, be excised from the exempt matter in that document.

The Information Commissioner found the document exempt under clause 3(1) and varied the decision of the agency accordingly.