

Decision D0242002 – Published in note form only

***Re ‘E’ and Town of Bassendean and Another* [2002] WAICmr 24**

Date of Decision: 12 July 2002

Freedom of Information Act 1992; clause 3(1)

In February and March 2002, the complainant (‘E’) complained to the agency about certain building work being carried out on an adjoining property. The agency notified the developer (‘the third party’) of the complaint and sought a response. The third party then applied to the agency for access, under the *Freedom of Information Act 1992* (‘the FOI Act’), to the letters of complaint.

The agency initially refused access to the requested documents on the ground that the documents are exempt under clause 3(1) of Schedule 1 to the FOI Act. Following an internal review, the agency decided to grant access to edited copies of the documents with some personal information deleted. However, the agency deferred giving access to allow E to exercise his rights of review under the FOI Act.

After receiving E’s complaint, the Information Commissioner obtained the disputed documents and, in the course of dealing with this complaint, both E and the third party were consulted. The Information Commissioner examined the disputed documents and the editing proposed by the agency and considered the submissions made by E. The Information Commissioner proposed that some additional information should be deleted, because it was information which tended to identify E.

However, E proposed that even more information should be deleted from the disputed documents. The Information Commissioner considered those claims but decided that the disclosure of that additional material would not reveal personal information and, therefore, it was not exempt under clause 3(1). In the circumstances of this complaint, the Information Commissioner gave more weight to the public interest in protecting the privacy of E. The balance of the disputed documents contained the substance of the complaints against the third party and, whilst there was a public interest in the third party having access to that much of the information, the Information Commissioner decided that that public interest did not outweigh the public interest in protecting the privacy of E.

The Information Commissioner also decided that it was practicable for the agency to delete exempt matter from the documents and to give the third party access to edited copies of those documents.