

# NAPIER AND RAVENSTHORPE

## OFFICE OF THE INFORMATION COMMISSIONER (WA)

### Decision summary issued pursuant to s.76(8) of the *Freedom of Information Act 1992*

**COMPLAINT No:** 96054

**DECISION No:** D02496

**PARTIES:** **Graham Robert Napier**

Complainant

**Shire of Ravensthorpe**

Respondent

**No. of documents in dispute:** 2

**Exemption clause found applicable :** 3(1)

On 7 March 1996, the complainant sought access under the *Freedom of Information Act 1992* ('the FOI Act') to certain documents held by the Shire of Ravensthorpe ('the agency'), including two letters of resignation submitted by officers of the agency ('the disputed documents'). On 18 March 1996, the Shire Clerk and principal officer of the agency, Mr Hulland, refused the complainant access to the disputed documents. It is my understanding that the agency granted the complainant access to another document he had requested in his access application and he was granted access to relevant extracts from the minutes of the meetings of the agency held in October and November 1990, which refer to the resignations of the officers concerned. The complainant also sought access under the FOI Act to a report referred to in the minutes of the meeting of the agency in September 1986. However, the agency refused access to that document on the ground that the document does not exist because the report to the agency was a verbal report only.

On 27 March 1996, the complainant sought external review by the Information Commissioner of the agency's decision. That is, the only matter which is the subject of the complaint before me is the agency's refusal of access to the letters of resignation.

I obtained copies of the disputed documents from the agency and invited and received written submissions from the parties. On 30 April 1996, after considering the submissions of the parties and after examining the disputed documents, I provided the parties with my preliminary view and reasons for that view. It was my preliminary view that the disputed documents contain matter that is, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act. In accordance with the onus on the complainant under s.102(3) of the FOI Act, the complainant was invited to provide additional submissions to establish that disclosure of that matter would, on balance, be in the public interest. I received a submission from the complainant on that point on 3 May 1996.

### **The Documents in Dispute**

The disputed documents are two letters of resignation dated 22 October 1990 and 7 November 1990, submitted to the agency by former officers of the agency. The letters contain, *inter alia*, reasons for the resignations and the circumstances of such resignations, and other personal and private information about those former officers.

### **The Exemption - clause 3(1)**

Clause 3, so far as is relevant provides:

#### ***“Exemption***

(1) *Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).*

### ***Limits on exemption***

...

(3) *Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who is or has been an officer of an agency, prescribed details relating to -*

*(a) the person;*

*(b) the person's position or functions as an officer; or*

*(c) things done by the person in the course of performing functions as an officer.*

(6) *Matter is not exempt matter under subclause (1) if its disclosure would, on balance, be in the public interest."*

In the Glossary in Schedule 2 to the FOI Act, "personal information" is defined to mean:

*"...information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead-*

*(a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or*

*(b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample."*

Following my examination of the disputed documents, I am satisfied that all of the matter in the disputed documents is personal information about the authors of those documents, including their reasons for tendering their resignations. I do not consider that disclosure of the documents would reveal prescribed details of the kind referred to in clause 3(3).

### **The complainant's submission**

The complainant informs me that the agency rejected his application for planning approval to re-locate a second-hand dwelling house on land within the shire. The complainant submits that the rejection of his application is based upon personal prejudice against him and his wife and that the resignations of the officers of the agency are in some way connected with the refusal of his planning application. It is the complainant's submission that there is a public interest in making known the reasons for the resignations because they occurred shortly after the agency's refusal of his planning application and must, therefore, be connected with that refusal.

### **The public interest**

I recognise that there is a public interest in persons being able to exercise their right of access under the FOI Act. I also recognise that there is a public interest in the accountability of local authorities such as the agency and ensuring that accountability through access to documents of the agency. Balanced against those interests, in my view, is a strong public interest in the protection of personal privacy.

In this instance, I consider the fact that the complainant has been given access to relevant extracts of the minutes of the meetings of the agency, which record the resignations of the officers and a summary of the reasons for those resignations, satisfies the public interest in favour of disclosure. In my view, taking into account the contents of the disputed documents, which contain no references to the complainant or his affairs, I consider that there is no public interest in the disclosure of the personal and private information about the authors of the disputed documents which is contained in the disputed documents. Accordingly, for these reasons and the reasons conveyed to the parties in relation to my preliminary view, I confirm the decision of the agency and find that the disputed documents are exempt under clause 3(1) of Schedule 1 to the FOI Act.

B. KEIGHLEY-GERARDY  
INFORMATION COMMISSIONER  
8th May 1996