

Decision D0282003 - Published in note form only

***Re Stewart and City of Fremantle* [2003] WAICmr 28**

Date of Decision: 9 October 2003

Freedom of Information Act 1992, Schedule 1, clause 5(1)(b); s.26

The agency received and investigated a number of complaints concerning dogs owned by the complainant, to determine whether there had been any breaches of the *Dog Act 1976*. Subsequently, the agency prosecuted the complainant for alleged breaches of the *Dog Act 1976*.

In May 2003, the complainant made an application to the agency for access under the FOI Act to documents relating to her and her dogs dating back to July 2001. The agency refused and claimed that the requested documents are exempt under clause 5(1)(b) of Schedule 1 to the FOI Act. The complainant then lodged a complaint with the Information Commissioner seeking external review of the agency's decision.

The Information Commissioner obtained the disputed documents and examined them. The Information Commissioner was satisfied that the agency had investigated complaints made to it about possible breaches of the *Dog Act 1976*, a relevant law for the purpose of clause 5(1)(b).

Having examined the disputed documents, the Information Commissioner was satisfied that disclosure of those documents could reasonably be expected to reveal something about the content of the investigations, including the identities of the people under investigation and the subject matter. Although the complainant had some knowledge about the investigations, the extent of the complainant's knowledge was irrelevant because the exemption applied regardless of how much the complainant already knew about the investigation: see *Police Force of Western Australia v Kelly and Another* (1996) 17 WAR 9.

Accordingly, the Information Commissioner found the disputed documents exempt under clause 5(1)(b) and confirmed the decision of the agency to refuse access.