

DECISION SUMMARY ISSUED BY THE INFORMATION COMMISSIONER (WA)

Decision title and citation: *Re Lazar and Police Force of Western Australia* [1999] WAICmr 29

COMPLAINT No: F1341999

DECISION No: D0291999

PARTIES: Paul LAZAR

Complainant

POLICE FORCE OF WESTERN AUSTRALIA

Respondent

No. of documents in dispute: 7

Exemption clause(s): Clause 3(1)

Between September and December 1998, Mr Lazar ('the complainant') and certain of his neighbours became involved in a number of minor incidents. The complainant and other parties reported those incidents to several authorities including the Police Force of Western Australia ('the agency').

On 23 March 1999, the complainant applied to the agency under the *Freedom of Information Act 1992* ('the FOI Act') for access to documents associated with those reported incidents. The agency granted the complainant full access to two documents and partial access to seven others. The agency claimed that the matter deleted from the seven documents was exempt under clause 3(1) of Schedule 1 to the FOI Act. The agency's initial decision was confirmed following internal review. On 17 August 1999, the complainant lodged a complaint with the Information Commissioner seeking external review of the agency's decision.

Review by the Information Commissioner

I obtained the disputed documents from the agency. After examining those documents, on 17 September 1999, the Acting Information Commissioner informed the parties in writing of her preliminary view in respect of this complaint. It was the Acting Information Commissioner's preliminary view that some of the matter deleted from the seven disputed documents may be exempt under clause 3(1). It was also her view that some further matter in two documents may also be exempt under clause 3(1), but that matter had already been disclosed to the complainant by the agency. However, it was also the view of the Acting Information Commissioner that some of the matter deleted from Document 2 and Document 4 by the agency may not be exempt under clause 3(1).

The agency responded but maintained its claims for exemption for all of the matter in dispute. A response was received from the complainant who was overseas at the time. I have considered the agency's submission and the complainant's submission, but I concur with the preliminary view of the Acting Information Commissioner, and I am not dissuaded from that view. A summary of my reasons follows.

The disputed documents

The disputed documents consist of a memorandum of complaint made to the agency; notebook entries by a police officer; Action Report (numbered I 102009 in top right-hand corner); Action Report (numbered I 102106 in top right-hand corner); Action Report (numbered I 102537 in top right-hand corner); a copy of a violence restraining order; and a "file write-off" sheet.

The exemption – Clause 3

Clause 3(1) provides that matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead). The definition of "personal information" in the Glossary to the FOI Act makes it clear that any information or opinion about a person from which that person can be identified is, on the face of it, exempt under clause 3(1).

The information which the agency claims is exempt under clause 3(1) consists of names of third parties and other information that would identify those third parties, and the signatures of various officers of the agency. In my view, that information satisfies the requirements for exemption under clause 3(1).

Limits on exemption

The exemption in clause 3(1) is subject to a number of limits. The limit in subclause (2) does not apply in this instance and there is no evidence before me that the limit in subclause (5) applies.

The limits in subclauses (3) and (4) operate in respect of matter in the documents which, although personal information as defined in the FOI Act about police officers and other public officers, consists of prescribed details concerning those officers. That matter is not, therefore, exempt. The agency has not claimed exemption for matter of that kind in this instance. Whilst the limit provided by clause 3(3) operates to render not exempt certain information about public officers, I do not consider the limit to apply to an officer's signature. In my view, a signature is personal to the officer and is not within the prescribed details referred to in clause 3(3). As to the personal signatures, I consider those to be personal information of a kind that ought to be protected from disclosure, other than by the author, in the interest of personal privacy. A person's signature is unique to that person who, in my opinion, in the absence of good reason to the contrary, ought to have sole discretion as to its dissemination.

In my view, the only limit that may apply is the limit in subclause 3(6) which provides that matter is not exempt under clause 3(1) if its disclosure would, on balance, be in the public interest. Pursuant to s.102(3) of the FOI Act, the complainant bears the onus of persuading me that personal information about other people ought to be disclosed to him.

The public interest

I take the view that there is a strong public interest in maintaining personal privacy. That public interest is recognised by the exemption provided by clause 3(1) and, in my view, that public interest may only be displaced by some other, considerably stronger, public interest that requires the disclosure of private information about another person.

That public interest clearly does not require non-disclosure of the matter deleted from folio 2 of Document 2, which merely records information given by the complainant. It does not reveal any other personal information about the people referred to. Disclosure of that matter to the complainant would not in any way breach the personal privacy of those people and it would be a nonsense to refuse access to it on that basis. Further, I recognise a public interest in people who give information to agencies being able to access it to ensure it is accurately recorded.

The balance of the personal information deleted from the disputed documents consists of information about other people provided to the agency by people other than the complainant and I consider the public interest in the protection of personal privacy to weigh against its disclosure. In respect of that personal information, I also recognise as weighing against disclosure the public interest in maintaining the agency's ability to obtain information concerning possible offences and, to that end, in maintaining the confidence of the public to come forward to the proper authorities with information.

I also recognise a public interest in people being informed of allegations made against them and of any action taken by an agency in respect of those allegations, and I consider there to be a public interest in people who make complaints to proper authorities being informed of what action has been taken in respect of those complaints and the outcome of that action. I also recognise the public interest in persons being able to exercise their rights of access under the FOI Act. In this case, I consider that those public interests have been to a large extent satisfied by the information already provided to the complainant by police officers and by the disclosure of the edited copies of the documents in dispute.

When disclosure under the FOI Act is contemplated, consideration is generally given to the effect of disclosure "to the world at large" because no conditions (other than those imposed by the operation of other laws) can be imposed upon further dissemination of the information in the documents disclosed. However, in my view that consideration is not relevant when the access applicant is the person who provided the information to the agency, and the document is merely a record of what he or she said. In my view it would, on balance, be in the public interest to disclose to the complainant (but not to "the world at large" or to any other person) the matter deleted from the text on folio 2 of Document 2 and the 2 words deleted from line 6 of the text in Document 4. Accordingly, I find that that matter is not exempt.

I find that the balance of the matter deleted from the disputed documents is exempt under clause 3(1) and I vary the agency's decision accordingly.

B. KEIGHLEY-GERARDY

INFORMATION COMMISSIONER

30 September 1999