

Decision D0312002 – Published in note form only

***Re Nield and Nield and Police Force of Western Australia* [2002] WAICmr 31**

Date of Decision: 4 October 2002

Freedom of Information Act 1992 s.23(2); Schedule 1, clause 5(1)(b)

On 22 April 2002, the complainants made an application to the agency for access, under the *Freedom of Information Act 1992* ('the FOI Act') to documents relating to several complaints they had made to the agency about the actions of various third parties, including complaints made to the agency about them.

Without identifying any documents and without specifying the reason why any particular matter in any particular document is claimed to be exempt, the agency refused access to the requested documents under s.23(2) of the FOI Act, on the ground that it was apparent, from the nature of the documents described in the access application, that the requested documents would all be exempt under clause 5(1)(b) of Schedule 1 of the FOI Act. Further, the agency formed the view that it was not obliged to give the complainants access to edited copies of the requested documents.

The complainants lodged a complaint with the Information Commissioner. The Information Commissioner considered the nature of the documents described in the access application and made inquiries with the agency and considered the complainants' submissions. The Information Commissioner decided that it is reasonable to assume that complaints made by the complainants and about the complainants would be investigated by the agency and, in the course of those investigations certain documents would have been created. The Information Commissioner formed the view that disclosure of those kinds of documents would reveal something of the content of the particular investigations of those particular incidents involving certain people. Accordingly, the Information Commissioner decided that such documents would be exempt under clause 5(1)(b): see *Police Force of Western Australia v Kelly and Another* (1996) 17 WAR 19.

The Information Commissioner also decided that it would not be practicable for the agency to edit those kinds of documents, because to do so would require the deletion of almost all of the information, thereby rendering the balance meaningless and, as result, the agency was not obliged to provide the complainants with access to edited copies of the documents: see *Police Force of Western Australia v Winterton* (Supreme Court of Western Australia, unreported, 27 November 1997).

The Information Commissioner confirmed the decision of the agency to refuse access to the requested documents under s.23(2) of the FOI Act.