

Decision D0322003 – Published in note form only

Re Elgar and Town of Bassendean [2003] WAICmr 32

Date of Decision: 29 October 2003

Freedom of Information Act 1992, Schedule 1, clause 3(1)
FOI Regulations 1993, Reg.9

The complainant sought access under the FOI Act to a copy of report prepared by an investigator who had been appointed by the Chief Executive Officer of the agency to investigate whether confidential information had been improperly exchanged between elected members and officers of the agency.

Access was refused on the ground that the requested documents contain personal information about third parties and were therefore exempt under clause 3(1). The complainant then lodged a complaint with the Information Commissioner seeking external review of the agency's decision.

The Information Commissioner examined the disputed documents and was satisfied that those documents contained personal information about a number of third parties, including names, opinions and other information, which would identify those third parties. The Information Commissioner accepted that a small amount of personal information comprised prescribed details for the purpose of clause 3(3), but considered that the balance of the documents contained personal information, which was, on its face, exempt matter under clause 3(1) and did not consider that it was practicable to separate exempt matter from non-exempt matter.

The Information Commissioner recognised a public interest in the disclosure of information that explains the decisions taken by State and local government agencies, especially when those decisions concern the expenditure of public monies. However, the disputed documents did not contain that kind of information and the agency had publicly disclosed the expenditure incurred relating to the investigator's report and had published in its minutes of meetings, the decisions made in relation to that report and the resolution of the dispute involving the officers of the agency. In those circumstances, the Information Commissioner gave less weight to that public interest.

The Information Commissioner recognised a public interest in maintaining the effective operation of the agency and a strong public interest in protecting the privacy of third parties, especially where those parties are required to continue to work closely with one another, and decided that disclosure of the disputed documents would not, on balance, be in the public interest. The Information Commissioner found the disputed documents exempt under clause 3(1) and confirmed the decision of the agency to refuse access.