

**Decision D0332002 – Published in note form only**

***Re Friehe and Department of Education [2002] WAICmr 33***

**Date of Decision: 24 October 2002**

***Freedom of Information Act 1992; section 45***

The complainant made an application under the *Freedom of Information Act 1992* ('the FOI Act') for the amendment of personal information about her children in two reports, which contain an evaluation of the home education of her children. The complainant claimed that the reports contain information that is inaccurate, incomplete, out of date or misleading and sought to have them amended by way of destruction.

The agency did not agree to the destruction of the reports. However, the agency did agree to amend some of the information and to make a notation or attachment to the information. The complainant was dissatisfied with this decision and lodged a complaint with the Information Commissioner.

The FOI Act does not allow an agency to obliterate or remove information or destroy a document unless the Information Commissioner certifies in writing that it is impracticable to retain the information or the Information Commissioner is of the opinion that the prejudice or disadvantage that the continued existence of the information would cause to the person concerned outweighs the public interest in maintaining a complete record of information.

The Information Commissioner was not persuaded that it would be impracticable to retain the two reports, which are secured in a locked filing cabinet to which access is restricted. Further, the Information Commissioner was not persuaded that the continued existence of the two reports would, or is likely to, result in any prejudice or disadvantage to the children.

Although the complainant expressed some concern about the two reports being used to her detriment in the future, the test, which must be applied under the FOI Act, is whether the children are likely to suffer any prejudice or disadvantage. The Information Commissioner was not persuaded that they would.

The Information Commissioner confirmed the agency's decision not to amend its records by destruction of the documents and decided that the complainant's right under s.50 of the FOI Act to request the agency to make a notation or attachment to the information would adequately address any concerns she might have.