

Decision D0012018 – Published in note form only

Re Seven Network (Operations) Limited and Public Transport Authority [2018] WAICmr 1

Date of Decision: 2 February 2018

Freedom of Information Act 1992: section 20

On 21 May 2015, Seven Network (Operations) Limited (**the complainant**) made an access application to the Public Transport Authority (**the agency**) under the *Freedom of Information Act 1992* (**the FOI Act**) for access to CCTV footage.

Specifically, the complainant sought access to CCTV footage held by the agency, which was described in five Western Australia Police (**WAPOL**) Incident Reports the complainant had obtained from WAPOL under a separate access application. The agency confirmed that it could only locate CCTV footage from three of the WAPOL incidents. The complainant did not dispute that the agency could only locate the CCTV footage for three incidents.

The agency and the complainant corresponded with each other to change the scope of the access application and reduce the amount of work needed to deal with it.

By notice of decision dated 3 September 2015, the agency decided to refuse to deal with the complainant's access application under section 20 of the FOI Act on the basis that the work involved in dealing with the application would divert a substantial and unreasonable portion of the agency's resources away from its other operations. The complainant applied for internal review of the agency's decision. On 21 September 2015, the agency confirmed its initial decision. The complainant applied to the Information Commissioner for external review.

Following receipt of the complaint the former Information Commissioner (**the former Commissioner**) obtained the file maintained by the agency in respect of the complainant's access application, and made further inquiries of the agency and the complainant. By email on 14 July 2017, an officer of the former Commissioner advised the agency that the former Commissioner's view was that the access application was limited to the terms described in that email.

Section 20 provides that if, after taking reasonable steps to help the access applicant to change an application to reduce the amount of work required to deal with it, the agency still considers that the work involved would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency may refuse to deal with the application.

After considering the information before her, on 29 December 2017, the Acting Information Commissioner (**the A/Commissioner**) provided both parties with a letter setting out her preliminary view of the complaint. The A/Commissioner considered that, based on her examination of all of the correspondence between the parties, the agency took reasonable steps to help the complainant change its access application.

The A/Commissioner's preliminary view was also that the agency's decision to refuse to deal with the complainant's access application pursuant to section 20 was not justified.

The agency was invited to accept the A/Commissioner's preliminary view or to provide the A/Commissioner with further submissions. The agency did not accept the A/Commissioner's preliminary view in relation to the work required by the agency to deal with the access application, and provided further submissions. After considering all of the information before her including the agency's further submissions, the A/Commissioner was not dissuaded from her preliminary view.

In particular, for the reasons outlined in the preliminary view letter, the A/Commissioner was not satisfied that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the agency's resources away from its other operations.

The A/Commissioner reached this view based on a number of criteria including the scope of the application being limited to the CCTV footage relevant to three WAPOL incidents, and to specific camera angles for each of those incidents.

The A/Commissioner set aside the agency's decision to refuse to deal with the complainant's access application under section 20 of the FOI Act. In substitution, the A/Commissioner found that the agency was required to deal with the complainant's access application in accordance with the FOI Act.