

Decision D0042010 – Published in note form only

***Re Ravlich and Minister for Police* [2010] WAICmr 4**

Date of decision: 28 January 2010

Freedom of Information Act 1992: Schedule 1, clauses 1(1), 1(1)(b), and 1(1)(c).

In January 2009, the Hon L M Ravlich MLC ('the complainant') applied to the Minister for Police ('the Minister'), under the *Freedom of Information Act 1992* ('the FOI Act') for access to all correspondence between the Minister's Chief of Staff and the Chiefs of Staff of other Ministers, in relation to three separate matters. For the purposes of the FOI Act, a Minister is an 'agency'.

The Minister identified four documents as coming within the scope of the complainant's access application. The Minister gave the complainant access in full to two documents but refused access to the remaining two documents. The Minister claimed that the latter were exempt from disclosure under clauses 1(1)(b) and 1(1)(c) of Schedule 1 to the FOI Act.

Since a Minister is an agency's principal officer, there can be no internal review of a Minister's decision. Consequently, the complainant applied directly to the Information Commissioner for external review of the Minister's decision.

Following the receipt of the complaint, the Commissioner required the Minister to produce the originals of the two disputed documents, together with the original of the Minister's FOI file maintained in respect of the access application.

On 8 January 2010, having examined all of the material before him, the Commissioner advised the parties that the disputed documents did not contain policy options or recommendations that had been prepared for possible submission to an Executive body, as required by clause 1(1)(b). Nor did the Commissioner consider that the disputed documents were communications between Ministers, as required by clause 1(1)(c). However, the Commissioner considered that the disputed documents, if disclosed, would reveal the deliberations of an Executive body, in this case, Cabinet and/or the Economic and Expenditure Reform Committee. Therefore, the Commissioner's preliminary view was that the disputed documents were exempt under clause 1(1) of Schedule 1 to the FOI Act.

The complainant was invited to make submissions to the Commissioner in support of her view that the documents were not exempt. However, the complainant made no further submissions and provided the Commissioner with no additional information. In light of that, the Commissioner was not dissuaded from his preliminary view.

Consequently, the Commissioner varied the Minister's decision to refuse access to the disputed documents under clauses 1(1)(b) and 1(1)(c) and found that the disputed documents were exempt under clause 1(1) of Schedule 1 to the FOI Act.