

**Decision D0052017 – Published in note form only**

***Re Seymour and Department of Transport* [2017] WAICmr 5**

**Date of Decision: 10 March 2017**

***Freedom of Information Act 1992 (WA): Schedule 1, clause 3***

In December 2016, Michael Seymour (**the complainant**) applied to the Department of Transport (**the agency**) under the *Freedom of Information Act 1992 (WA)* (**the FOI Act**) for access to copies of all documents in relation to the transfer of ownership, on two occasions, of a specific vehicle between named third parties.

The agency identified a number of documents within the scope of the access application (**the disputed documents**). The agency refused access to all of those documents in full on the basis that they are exempt under clause 3(1) of Schedule 1 to the FOI Act. The complainant applied for internal review of that decision. On internal review, the agency confirmed its original decision.

In January 2017, the complainant applied to the Information Commissioner (**the Commissioner**) for external review of the agency's decision. Following receipt of the complaint, the Commissioner obtained the disputed documents from the agency together with the agency's FOI file maintained in respect of the complainant's access application.

The Commissioner considered that the disputed documents would, if disclosed, reveal personal information, as defined in the FOI Act, about individuals other than the complainant. Therefore, the Commissioner considered that the disputed documents were on their face exempt under clause 3(1).

The Commissioner considered whether the limit on exemption in clause 3(6) applies. Clause 3(6) provides that matter is not exempt matter under clause 3(1) if its disclosure would, on balance, be in the public interest.

The complainant made a number of claims in relation to the circumstances of the case and made claims of improper and/or illegal behaviour by certain named third parties.

In balancing the competing public interests, the Commissioner was not persuaded that the public interest favouring disclosure of the disputed documents to the complainant, in the circumstances of the case, were sufficient to outweigh the public interest in the protection of personal privacy of other individuals to whom the information relates.

The Commissioner also considered whether the agency was obliged under section 24 of the FOI Act to give the complainant access to edited copies of the disputed documents. However, as the identity of the parties is known to the complainant and is otherwise ascertainable, the disputed documents could not be edited so as not to disclose personal information about third parties. The Commissioner did not consider that there was an obligation on the agency under section 24 to give access to edited copies of the documents.

Accordingly, the Commissioner confirmed the agency's decision and found that the disputed documents were exempt under clause 3(1) of Schedule 1 to the FOI Act.