

Decision D0072009 – Published in note form only

Re I and Legal Aid Commission of Western Australia [2009] WAICmr 7

Date of decision: 24 March 2009

Freedom of Information Act 1992: Section 23(4); Schedule 1, Clause 3(1)

The complainant applied to the agency for access to various documents held by the agency relating to the complainant's three children. Given the personal nature of the issues involved in this matter, I have not identified the complainant by name in order to preserve the privacy of not only the complainant, but also the children.

The agency decided to refuse access to the requested documents under s.23(4) of the *Freedom of Information Act 1992* ('the FOI Act') because it found that the disclosure of the documents was not in the best interests of the children and that in any event the requested documents were exempt under clause 3(1) of Schedule 1 to the FOI Act. The agency advised the complainant that because he is not the legal guardian of any of the children it would be necessary for it to consult with each child's mother as the respective legal guardian.

On 4 March 2009, the complainant applied to the A/Information Commissioner ('the A/Commissioner') for external review of the agency's decision.

Having examined the agency's FOI file maintained in respect of the access application, and the originals of the agency's files relating to the complainant, the A/Commissioner considered the agency's decision to refuse access to the requested documents under s.23(4) and clause 3(1) to be justified. The A/Commissioner also found that none of the limits on exemption in clause 3(2)-3(6) applied in this case. The A/Commissioner wrote to the complainant providing detailed reasons for his decision.

The A/Commissioner confirmed the agency's decision under s.23(4) and clause 3(1) of the FOI Act to refuse access to the requested documents.