

Decision D0082006 – Published in note form only

Re Edwards and Public Trust Office [2006] WAICmr 8

Date of decision: 4 April 2006

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

The complainant is the executor of his late mother's will. In July 2004, the complainant applied to the State Administrative Tribunal for access to documents relating to the affairs of his mother during the time, before his mother's death, when the complainant's sister was administering her affairs. In accordance with s.15(1) of the *Freedom of Information Act 1992* ('the FOI Act'), the State Administrative Tribunal transferred the complainant's access application to the Public Trust Office ('the agency'). The agency identified 366 documents which were within the ambit of the complainant's access application. The agency refused the complainant access to those documents under clauses 3(1), 4(3), 8(1) and 8(2) of Schedule 1 to the FOI Act.

Following the A/Information Commissioner's ('the A/Commissioner's') receipt of this complaint, the agency agreed to release to the complainant certain documents for which it had previously claimed exemption. As a result 343 documents remained in dispute between the parties. The documents contain personal information, as defined in the FOI Act, about a number of third parties, including the complainant's sister and his late mother. The complainant's sister was consulted as a third party. She objected to disclosure of personal information about herself and - as her mother's closest relative for the purposes of the FOI Act - she objected to disclosure of personal information about her late mother.

On 20 January 2006, the A/Commissioner provided the parties with a letter setting out her preliminary view of the complaint. The A/Commissioner was of the view that a small amount of information about public officers contained in the documents was not exempt but that otherwise the documents were exempt under clause 3(1).

The A/Commissioner considered whether disclosure would, on balance, be in the public interest but was of the view that the complainant's interest in accessing the documents was primarily a personal interest; the public interests identified by the complainant did not require the disclosure to him of the disputed documents; and the very strong public interest in protecting personal privacy was not outweighed by the public interests favouring disclosure in this instance. The A/Commissioner also determined that it would not be practicable to edit the documents to delete exempt matter.

The complainant made no further submissions. Therefore, the A/Commissioner was not dissuaded from her preliminary view. The A/Commissioner decided that the disputed documents are exempt documents under clause 3(1) of Schedule 1 to the FOI Act and confirmed the agency's decision to refuse access on that basis.