

Decision D0092017 – Published in note form only

Re Wong and Department of Culture and the Arts [2017] WAICmr 9

Date of Decision: 12 April 2017

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

In 2015, Mr Joseph Wong (**the complainant**) lodged grievances with the Department of Culture and the Arts (**the agency**) he had in relation to staffing arrangements and financial matters at the agency. The agency investigated those grievances.

On 1 August 2015, the complainant applied to the agency under the *Freedom of Information Act 1992 (WA)* (**the FOI Act**) for access to documents relating to that investigation.

Initially the agency considered dealing with the application outside the FOI Act. However, the complainant confirmed he wished to pursue access to the requested documents under the provisions of the FOI Act.

The agency identified 29 documents as coming within the scope of the complainant's access application. It decided to give the complainant access in full to three documents; refuse the complainant access in full to eight documents; and give the complainant access to edited copies of 18 documents. The agency claimed the documents are exempt in full or in part under clause 3(1) of Schedule 1 to the FOI Act, as they contained personal information.

The complainant applied for internal review of the agency's decision. The agency varied its decision on internal review and decided to refuse the complainant access in full to one document under clauses 3(1) and 8(2) of Schedule 1 to the FOI Act but confirmed the balance of its decision. It had initially decided to grant the complainant access to an edited copy of that document.

On 13 January 2016, the complainant applied to the Information Commissioner for external review of the agency's decision. The complainant disagreed with the agency's decision in relation to whether its claims for exemption were justified.

Following receipt of the complaint, the Commissioner obtained the requested documents from the agency, together with the FOI file maintained by the agency in respect of the complainant's access application.

On 14 March 2017, after considering the information before him, the Commissioner provided the parties with a letter setting out his preliminary view of the complaint. It was the Commissioner's preliminary view that Documents 1, 2, 16, 17, 18, 19, 22(viii), 22(ix) and 22(x) are on their face exempt in full under clause 3(1); and parts of Documents 5, 9, 22, 22(xiv), 25, 26, 27, 29 are on their face exempt in part under clause 3(1); but Document 22(xiv) is not exempt under clause 8(2).

The Commissioner considered all of the limits on the exemption. In weighing the public interests pursuant to clause 3(6), the Commissioner found that in this case, the public interest factors in favour of disclosure of the personal information in the disputed documents were not sufficient to outweigh the public interest in protecting personal privacy.

The agency accepted the Commissioner's preliminary view and released an edited copy of Document 22(xiv) to the complainant. The complainant was invited to provide the Commissioner with further submissions or to withdraw his complaint.

By emails dated 27 and 29 March 2017, the complainant made further submissions to the Commissioner for his consideration. The submissions largely reiterated the submissions made to the Commissioner by the complainant in his application for external review and other correspondence to the Commissioner.

The Commissioner considered the complainant's further submissions and reviewed all of the information before him, but was not dissuaded from his preliminary view. The Commissioner confirmed the agency's decision to refuse access to documents and the matter remaining in dispute under clause 3(1) of Schedule 1 to the FOI Act.