

Decision D0102007 - Published in note form only

***Re Alvarez and Western Australian Industrial Relations Commission* [2007] WAICmr 10**

Date of Decision: 21 May 2007

Freedom of Information Act 1992: section 24; Schedule 1, clause 3(1); Glossary, clauses 3 and 5

In February 2007, the complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the Western Australian Industrial Relations Commission ('the agency') for access to two documents. The complainant had applied for those documents, among others, in a previous application to the agency under the FOI Act. In that previous application - which was ultimately settled by conciliation and, thus, without the need for a published decision - the A/Information Commissioner ('the A/Commissioner') had provided the parties with a letter setting out her preliminary view of that complaint.

Among other things, it was the A/Commissioner's preliminary view that the agency is a court within the meaning of that term as defined in the Glossary to the FOI Act and that the requested documents relate to matters of an administrative nature. As a result, there was a right of access to those documents under the FOI Act, subject to the Act. However, the A/Commissioner was also of the preliminary view that a number of the documents - including the documents requested in this matter (Documents 4 and 6) - were exempt under clause 3(1) of Schedule 1 to the FOI Act because their disclosure would reveal personal information about third parties and it was not practicable to edit those documents. In addition, the A/Commissioner considered that all but a small amount of information in Document 4 was outside the scope of the complainant's original application.

In March 2007, the principal officer of the agency refused the complainant access to the two requested documents under clause 3(1), on the ground that their disclosure would reveal personal information about individuals. Since internal review was not available, the complainant applied directly to the A/Commissioner for external review of the agency's decision.

On receipt of this access application the A/Commissioner obtained the originals of Documents 4 and 6 and, on 3 May 2007, provided the parties with a letter setting out her preliminary view of the complaint. The A/Commissioner's preliminary view was that much of Document 4 was outside the scope of the complainant's application and the remaining information and Document 6 were exempt under clause 3(1). It was also the A/Commissioner's preliminary view that it was not practicable to give access to edited copies of Document 6 and the disputed information in Document 4. The complainant was invited to provide the A/Commissioner with further submissions in respect of the issues for her determination.

The complainant made no further submissions to the A/Commissioner. In light of that, the A/Commissioner was not dissuaded from her preliminary view and found that the agency's decision to refuse the complainant access to Document 6 and the disputed information in Document 4 under clause 3(1) of Schedule 1 to the FOI Act was justified.