

Decision D0102017 – Published in note form only

Re ‘S’ and Department for Child Protection and Family Support [2017] WAICmr 10

Date of Decision: 23 May 2017

Freedom of Information Act 1992 (WA): Schedule 1, clauses 3(1) and 3(6)

On 19 August 2016, ‘S’ (**the complainant**) applied to the Department for Child Protection and Family Support (**the agency**) under the *Freedom of Information Act 1992 (WA)* (**the FOI Act**) for access to documents about the investigation of a complaint made by the complainant to the agency concerning the complainant’s child. To protect the privacy of the complainant and other related parties, the Information Commissioner (**the Commissioner**) decided not to identify the complainant by name in this decision.

The agency refused the complainant access to one document and gave access to edited copies of 15 documents on the grounds that the deleted matter was exempt under clause 3(1) of Schedule 1 to the FOI Act, because it included personal information, as defined in the FOI Act, about other individuals. The complainant applied for internal review of that decision. On internal review, the agency varied its original decision by giving access to an additional part of a document. Otherwise, the agency confirmed its original decision.

On 23 January 2017, the complainant applied to 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. Following communications with the Commissioner’s office, the complainant agreed that the complaint was limited to documents that recorded information provided by the complainant to the agency. Therefore, the disputed matter was the edited matter in 15 documents (**the disputed matter**).

The Commissioner reviewed the disputed matter and considered the submissions made by the complainant and the agency. The Commissioner was satisfied that the disputed matter 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 matter was, on its face, exempt under clause 3(1) of Schedule 1 to the FOI Act.

The Commissioner also considered the application of the limit on the exemption in clause 3(6), which provides that matter is not exempt under subclause (1) if its disclosure would, on balance, be in the public interest. In balancing the competing public interests, the Commissioner was of the view that the public interest in protecting the privacy of third parties outweighed the public interest in revealing personal information about third parties.

On 2 May 2017, the Commissioner provided the parties with the Commissioner’s preliminary view. It was the Commissioner’s preliminary view that the disputed matter was exempt under clause 3(1). The complainant was invited to withdraw the complaint or to provide the Commissioner with further submissions.

The complainant did not withdraw the complaint and provided further submissions. The complainant submitted that disclosure of the disputed matter would, on balance, be in the public interest under clause 3(6) because it would promote the protection of children by

requiring the agency to disclose documents in relation to matters reported to it by the complainant.

The Commissioner accepted there was a strong public interest in the protection of children. However, on the information before him, the Commissioner did not consider that disclosure of the disputed matter would promote that public interest. Therefore, the Commissioner was not persuaded from his preliminary view.

As a result, the Commissioner confirmed the agency's decision and found the disputed matter was exempt under clause 3(1) of Schedule 1 to the FOI Act.