

Decision D0122014 - Published in note form only

Re Latimer and Western Australia Police [2014] WAICmr 12

Date of Decision: 30 June 2014

Freedom of Information Act 1992: Schedule 1, clause 5(2)(a)

In September 2013, Mr Franklyn Latimer (**the complainant**) applied to the Western Australia Police (**the agency**) for access under the *Freedom of Information Act 1992* (**the FOI Act**) to documents of a specific unit of the agency and correspondence that unit had shared with the Australian Federal Police regarding the complainant.

The agency refused the complainant access to certain documents under section 6 of the FOI Act on the basis that those documents were available to the complainant under another enactment; to other documents on the basis that they were exempt under clause 5(2)(a) of Schedule 1 to the FOI Act; and to other documents under section 26 of the FOI Act on the basis that those documents cannot be found or do not exist. The complainant sought internal review of the agency's decision. The agency confirmed its initial decision. On 5 January 2014, the complainant applied to the Information Commissioner for external review of the agency's decision.

Following receipt of the complaint, the agency produced its FOI file to the Commissioner, together with information and material relevant to the matters for the Commissioner's determination. As a result, the agency provided the complainant with an 'addendum' notice of decision. In that decision, the agency decided to grant the complainant access in full to certain documents; refuse the complainant access to other documents under clause 5(2)(a); and to grant the complainant access to edited copies of some documents on the basis that the deleted information is exempt under clause 3(1) of Schedule 1 to the FOI Act.

A conciliation conference was held on 27 March 2014. As a result of the conciliation conference, an additional document was released to the complainant and the scope of the complaint was then limited to the decision of the agency to refuse access to certain documents under clause 5(2)(a).

In April 2014, the Commissioner provided the parties with a letter setting out his preliminary view of the complaint. On the information before him, the Commissioner was satisfied that the disputed documents were created by Western Australia Police State Intelligence (formerly known as the Bureau of Criminal Intelligence) and are exempt under clause 5(2)(a).

The complainant responded to the Commissioner's letter by making additional submissions. Those submissions contained extraneous material outside the scope of the complaint and were not relevant to a consideration of a claim for exemption under clause 5(2)(a).

Having reviewed all of the information before him, the Commissioner confirmed the agency's decision to refuse access to the disputed documents under clause 5(2)(a) of Schedule 1 to the FOI Act.