

Decision D0132010 - Published in note form only

Re Stasinowsky and Department of Corrective Services [2010] WAICmr 13

Date of Decision: 9 April 2010

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

In April 2009, the complainant applied to the Department of Corrective Services ('the agency') under the *Freedom of Information Act 1992* ('the FOI Act') for access to documents relating to a Ministerial directive concerning the complainant.

The agency initially identified two documents but refused access to them on the ground they were exempt under clause 6(1) of Schedule 1 to the FOI Act. In July 2009, the complainant applied to the Information Commissioner for external review of the agency's decision insofar as it concerned personal information in the disputed documents about her ('the disputed information').

In February 2010, the Commissioner provided the parties to the complaint with a letter setting out his preliminary view of the complaint. The Commissioner's preliminary view was that the disputed information would, if disclosed, reveal personal information, as defined in the FOI Act, about a number of individuals including the complainant. The Commissioner considered that the information about the complainant could not be disclosed without also disclosing personal information about third parties. There was no evidence that any of the third parties consented to the disclosure of personal information about them.

In weighing the competing public interests for and against disclosure, the Commissioner considered that the public interest favouring non-disclosure outweighed those favouring disclosure in this particular case. The Commissioner's preliminary view was that the disputed information was exempt under clause 3(1).

The complainant was invited to provide submissions in response and was granted an extension of time in which to do so. However, the complainant made no further submissions. In light of that, the Commissioner was not dissuaded from his preliminary view.

The Commissioner varied the agency's decision to refuse access to the disputed information under clause 6(1) and found that the disputed information was exempt under clause 3(1) of Schedule 1 to the FOI Act.