

Decision D0142008 – Published in note form only

Re Knapinski and Department of Consumer and Employment Protection [2008] WAICmr 14

Date of decision: 6 May 2008

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

In January 2007, the complainants applied to the Department of Consumer and Employment Protection for access to documents relating to complaints received by the Department regarding the complainants. In a notice of decision dated 16 January 2007, the agency identified four documents which were within the ambit of the complainant's access application and granted the complainants access to edited copies of those four documents. As the agency did not explain to the complainants their rights of review, the complainants did not apply for internal review until 18 February 2008. By letter dated 20 February 2008, the agency confirmed its initial decision that the information deleted from the four documents is considered to be exempt information under clause 3(1) of Schedule 1 to the FOI Act.

Having inspected the disputed documents, the information deleted from the disputed documents was confirmed to be personal information, as defined in the FOI Act, about a number of third parties.

The A/Information Commissioner ('the A/Commissioner') found that the information deleted from the disputed documents would reveal personal information about third parties, if disclosed, and would therefore be *prima facie* exempt information under clause 3(1) of Schedule 1 to the FOI Act. It is well established that the FOI Act protects the privacy, rights and interests of third parties, and that a strong public interest would need to be demonstrated by the complainant to override the privacy interests of third parties.

The A/Commissioner considered whether disclosure would, on balance, be in the public interest but was of the view that the complainants' interest in accessing the documents was primarily a personal interest; the public interests identified by the complainants did not require the disclosure to them of the disputed documents; and the very strong public interest in protecting personal privacy was not outweighed by the public interests favouring disclosure in this instance. The A/Commissioner also determined that it would not be practicable to edit the documents to delete exempt matter.

While the complainants submitted that there was a public interest in them being able to access this information in order to assist in legal action, the A/Commissioner concluded that the public interest in maintaining the privacy of third parties should prevail in this instance.

The A/Commissioner also found that none of the limits on exemption would apply. Therefore, the agency was justified in refusing access to the deleted information. The A/Commissioner therefore confirmed the agency's decision.