

**Decision D0162010 - Published in note form only**

***Re Ravlich and Minister for Water; Mental Health [2010] WAICmr 16***

**Date of Decision: 14 May 2010**

***Freedom of Information Act 1992:*** sections 20 and 39(3)(a)

On 6 March 2009, the complainant applied under the *Freedom of Information Act 1992* ('the FOI Act') to the Minister for Water; Mental Health ('the Minister') for access to all correspondence to and from the Minister's Chief of Staff since 23 September 2008 relating to the Government's three percent efficiency dividend; staffing in the ministerial office; and the Economic Audit Committee. Subsequent discussions between the parties did not change the application to reduce the amount of work needed to deal with it.

The Minister's decision was to refuse to deal with the access application under s.20 of the FOI Act. Section 20 provides that if - after taking reasonable steps to help the access applicant to change the application to reduce the amount of work required to deal with it - the agency considers that the work involved in dealing with it would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency can refuse to deal with the application.

As there is no right of internal review from the decision of a Minister - who is the 'principal officer' of an agency for the purposes of the FOI Act (s.39(3)(a)) - the complainant applied to the Information Commissioner for external review of the Minister's decision.

Following the receipt of the complaint, the Commissioner obtained the file maintained in respect of the complainant's access application from the Minister's office, which included the documents identified as coming within the scope of the application, and made further inquiries with the Minister.

While the Minister initially identified 600 documents falling within the scope of the application, the Minister subsequently revised that number to approximately 200 documents, totalling about 665 folios. On 21 April 2010, the Commissioner provided both parties with a letter setting out his preliminary view of the complaint, which was that the Minister's decision was justified for similar reasons to those given in *Re Ravlich and Attorney General [2009] WAICmr 17*. In the present case, the Commissioner considered that the Minister's estimate that it would take 38 hours to deal with the application was reasonable in the circumstances.

The complainant was invited to provide the Commissioner with further submissions or withdraw her complaint. The complainant did not withdraw the complaint but made no further submissions. Since no new evidence was provided to the Commissioner, the Commissioner was not dissuaded from his preliminary view of the complaint.

The Commissioner was satisfied that the Minister had taken reasonable steps to help the complainant to change the application to reduce the amount of work needed to deal with it and also that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the Minister's resources away from his office's other operations. The Commissioner confirmed the Minister's decision to refuse to deal with the complainant's access application under s.20 of the FOI Act.