

**Decision D0192017 - Published in note form only**

***Re 'U' and Western Australia Police [2017] WAICmr 19***

**Date of Decision: 19 September 2017**

***Freedom of Information Act 1992***: section 12(1)(e); clause 3(1)

***Freedom of Information Regulations 1993***: regulations 2A and 4

The complainant is currently on remand facing a number of criminal charges. The complainant sought access under the *Freedom of Information Act 1992* (**the FOI Act**) to documents from the Western Australia Police (**the agency**) relating to those charges. To protect the complainant's privacy, the Information Commissioner decided not to identify the complainant by name in the particular circumstances of this matter.

The complainant did not pay the \$30 application fee prescribed in section 12(1)(e) of the FOI Act - set at \$30 under regulation 4 and item 1 of Schedule 1 of the *Freedom of Information Act Regulations 1993* (**the Regulations**) for an application for non-personal information. Regulation 2A of the Regulations provides that 'non-personal information' means information that is not personal information about the applicant.

In its decision, the agency gave the complainant access to documents with information deleted from them. The agency claimed that the information deleted from the documents was outside the scope of his access application because his application was limited to personal information about him and was not an application for non-personal information (that is, for personal information about other people).

The complainant applied to the Information Commissioner for an external review of the agency's decision. Following a review of the information before her, one of the Commissioner's officers, under delegated authority, wrote to the parties and advised that, in her preliminary view, the agency's decision was justified, setting out her reasons for that view. The complainant was invited to withdraw his complaint or to provide the Commissioner with submissions as to why personal information about other people was within the scope of his application.

The complainant responded and made various submissions, including that the agency had not correctly interpreted the definition of 'personal information' because the definition also included information that is an 'opinion' about an individual; the deleted information is personal information about the complainant; and the complainant knows the identity of the third parties whose personal information has been deleted.

The Commissioner examined all of the information before him, including the disputed documents, and agreed with the preliminary view provided to the parties. Among other things, the Commissioner noted that the agency had specifically advised the complainant that his application would be treated as a 'request for access to [his] personal information'. Having considered the complainant's submissions in response to the officer's preliminary view letter, the Commissioner was not dissuaded from the preliminary view.

The Commissioner confirmed the agency's decision to refuse the complainant access to the information deleted from the documents on the ground that the deleted matter was non-personal information and was, thus, outside the scope of his access application.