

Decision D0232013 - Published in note form only

Re Truscott and Department for Child Protection [2013] WAICmr 23

Date of Decision: 24 September 2013

Freedom of Information Act 1992: section 26

In November 2011, Mr Stephen Truscott (**the complainant**), applied to the Department for Child Protection (**the agency**) under the *Freedom of Information Act 1992 (the FOI Act)* for access to a copy of a specific file identified by the complainant. The complainant is a former employee of the agency.

In January 2012, the agency decided to grant access in full to certain documents and to give access to other documents in full or in part by claiming certain information is exempt under clause 3(1) of Schedule 1 to the FOI Act. The complainant applied for internal review of that decision on the basis that he claimed additional documents should exist which come within the scope of his access application but to which access had been refused.

The agency confirmed its initial decision on internal review. In May 2012, the complainant applied to the Information Commissioner for external review of the agency's decision to in effect refuse access to documents. The complainant did not seek external review in relation to the agency's claim for exemption under clause 3(1) of Schedule 1 to the FOI Act. Following receipt of the complaint, the Commissioner obtained and examined the agency's FOI file maintained in respect of the complainant's access application. The Commissioner also made extensive inquiries with the parties into the issues involved in this matter. In addition, the complainant travelled overseas for an extended period and did not receive a number of communications relating to this complaint until his return to Australia.

On 1 August 2013, the Commissioner provided both parties with a letter setting out his preliminary view of the complaint. Having considered the wording of the access application and the agency's explanation as to the purpose of the specific file the subject of the complainant's access application, the Commissioner was of the view that the agency had provided access to all of the documents coming within the scope of the complainant's access application.

In response to the Commissioner's preliminary view, the complainant provided written submissions about, among other things, the way that the agency had dealt with various workplace issues and the manner of its record keeping practices. However, few of those submissions were relevant for consideration by the Commissioner on whether the agency had refused access to any of the requested documents. It is not within the jurisdiction of the Commissioner to consider the manner in which agencies maintain their record keeping systems. His role, in this matter, is limited to determining whether or not the decision on access made under the provisions of the FOI Act is justified.

The Commissioner was not dissuaded by the complainant's submissions made in response to the Commissioner's preliminary view. Having reviewed all of the

material before him, the Commissioner confirmed the agency's decision to refuse access to any additional documents on the basis that those documents are outside the scope of the access application.