

Decision D0082003 – Published in note form only

Re ‘A’ and Department of Sport and Recreation and Rechichi [2003] WAICmr 8

Date of Decision: 13 March 2003

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

This complaint concerned a “reverse FOI application” by a third party. The Department of Sport and Recreation (‘the agency’) decided to give an access applicant access to edited copies of certain letters written by the third party (‘A’). A objected to that form of disclosure on the ground that the disputed documents contained personal information about A and were, therefore, exempt under clause 3(1). A lodged a complaint with the Information Commissioner, seeking external review of the agency’s decision. During the proceedings before the Information Commissioner, the access applicant was joined as a party to the complaint.

The Information Commissioner examined the disputed documents, edited in the manner proposed by the agency. The Information Commissioner was satisfied that edited copies of the disputed documents contained some personal information about third parties other than A and some additional personal information about A. However, the Information Commissioner considered that it was practicable for the agency to delete that additional personal information and for the agency to give access to the disputed documents in edited form.

A submitted that, even after further deletions were made, disclosure of edited copies of the disputed documents, taken together with other facts known to the access applicant, would reveal personal information about A and A’s family. A claimed, therefore, that the disputed documents were exempt under clause 3(1).

The Information Commissioner was satisfied that edited copies of the disputed documents contained no information which would identify A or any person other than the access applicant. The Information Commissioner considered that the test of whether disclosure would reveal exempt matter (personal information as defined in the FOI Act) is an objective one. In the circumstances of this complaint, where the access applicant knew that A was the author of the disputed documents, the Information Commissioner decided that the test to be applied was whether disclosure of edited copies of the disputed documents, together with other publicly known information, would enable A’s identity to be ascertained by a reasonably knowledgeable member of the community or a significant section of the community (see *Re Schlegel and Department of Transport and Regional Services [2002] AATA 1184* at paragraph 12.2.7).

Applying that test, the Information Commissioner decided that disclosure of edited copies of the disputed documents would not reveal personal information about A or A’s family. Accordingly, the Information Commissioner found that edited copies of the disputed documents were not exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the agency’s decision to grant access to those documents in edited form.