

Decision D0102000 – Published in note form only

Re Fremlin and Ministry of Fair Trading and Others [2000] WAICmr 10

Date of Decision: 2 March 2000

Freedom of Information Act 1992: Schedule 1 clause 3(1), clause 5(1)(b)

In September 1998, the complainant made a complaint to the agency about certain actions of a real estate company. In the course of the agency's investigation of that matter, the agency received two letters from third parties.

The complainant also made a complaint to police concerning a matter related to her complaint to the agency. However, after an initial investigation, the police did not pursue that matter.

In May 1999, the complainant sought access under the FOI Act to the two letters written by the third parties. However, the agency refused access to those documents on the ground that they are exempt under clause 3(1) of Schedule 1 to the FOI Act.

The complainant made a complaint to the Information Commissioner. After examining the two letters, the Information Commissioner decided that both letters contained personal information about the third parties, as well as a small amount of personal information about the complainant. The Commissioner decided that it was not practicable to edit the first document in such a way as to give the complainant access to information about her without releasing personal information about its author and found that the document was exempt in full under clause 3(1).

The Commissioner also decided that some information in the second document was exempt under clause 3(1), as it contained personal information about persons other than the complainant. In addition, some information was exempt under clause 5(1)(b) because its disclosure would reveal the initial investigation by the police which was an investigation into a possible contravention of the Criminal Code. However, the Commissioner decided that it was practicable to delete the exempt matter from the second document and to give the complainant access to an edited copy of it.

Accordingly, the Commissioner varied the decision of the agency.