

Decision D0182003 – Published in note form only

Re ‘Y’ and the Shire of Murray & Others [2003] WAICmr 18

Date of Decision: 17 June 2003

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

The Shire of Murray decided to give access to a document, which had been the subject of an application made under the FOI Act. The requested document was a letter written by the complainants to the Shire. However, the giving of access was deferred to allow the complainants to exercise their rights of review under the FOI Act. The complainants, who are identified only as ‘Y’, lodged a complaint with the Information Commissioner and claimed that the letter was exempt under clause 3(1) and that access should not be given to it.

The Information Commissioner obtained the letter and examined it. Further inquiries were made with the Shire, Y and with the access applicants. Subsequently, the access applicants were joined as parties to the proceedings before the Information Commissioner.

Having examined the letter, the Information Commissioner was satisfied that, although it contained some personal information about the applicants, most of its contents consisted of personal information about Y. Accordingly, the Information Commissioner considered that the letter was, on its face, exempt under clause 3(1).

The access applicants claimed that access should be given to the letter because it had been tabled before the Council of the Shire and it contained inaccurate information. However, Y claimed that the document was a private letter, which had been sent to the Councillors of the Shire in confidence and that the matter the subject of the letter had now been finalised and disclosure at this point would cause further distress.

Inquiries made by the Information Commissioner established that the letter had not been tabled before the Council of the Shire and that its contents were not in the public domain. The Information Commissioner recognised a public interest in the applicants being given access to personal information about them. However, the Information Commissioner did not consider that it was practicable for the Shire to give the applicants access to an edited copy of the letter, since most of it was personal information about Y and exempt matter could not be deleted without rendering the balance of the document meaningless. In the circumstances of this matter, the Information Commissioner gave more weight to the public interest in protecting the privacy of Y. The Information Commissioner found the letter exempt under clause 3(1) and set aside the decision of the Shire to give access to it.