

Decision D0202002 – Published in note form only

Re “D” and Department for Community Development [2002] WAICmr 20

Date of Decision: 18 June 2002

Freedom of Information Act 1992; Clause 5(1)(b)

The complainant and her partner made an application to the agency under the FOI Act for access to documents concerning themselves and their family. After some discussion, it was agreed that the requested documents were those relating to an investigation conducted by the agency in 1999 concerning the welfare of the family. The agency granted full access to three documents and access to edited copies of five other documents. The agency claimed that the information deleted from the requested documents is either exempt under clauses 3(1), 5(1)(b) and 8(2) of Schedule 1 to the FOI Act or it is information outside the terms of the access application. The agency’s initial decision was confirmed following internal review and the complainant subsequently lodged a complaint with the Information Commissioner seeking external review of the agency’s decision.

The Information Commissioner obtained the disputed documents from the agency and made inquiries into this matter. The agency has a statutory power to investigate child protection matters under s.10A of the *Child Welfare Act 1947*. When the agency receives complaints about alleged maltreatment of children, those complaints are investigated to determine whether there has been a breach of the *Child Welfare Act* or of the *Criminal Code*. In this instance, the agency received a complaint about one of the complainant’s children and investigated that complaint.

The Commissioner was satisfied that the inquiries conducted by the agency amounted to an investigation of any contravention or possible contravention of the law, namely the *Child Welfare Act* or the *Criminal Code*. The Information Commissioner was of the view that the disclosure of the information deleted from the disputed documents could reasonably be expected to reveal that particular investigation and it was, therefore, covered by the terms of the exemption in clause 5(1)(b).

Although the complainant had some knowledge about the particular investigation, the Information Commissioner noted that clause 5(1)(b) still applied. Accordingly, the Information Commissioner found the deleted matter exempt under clause 5(1)(b) and varied the decision of the agency.