

Decision D0292001 – Published in note form only

***Re Stobie and Department of Education* [2001] WAICmr 29**

Date of Decision: 22 August 2001

Freedom of Information Act 1992; section 26

The complainant sought access under the *Freedom of Information Act 1992* ('the FOI Act') to her personal files and copies of correspondence between the Central Office of the Department of Education ('the agency'), the Minister for Education and the Narrogin District Office of the agency, relating to the complainant. The agency granted the complainant access to all documents identified as falling within the scope of her request.

The complainant sought internal review of the agency's decision on access, claiming that the agency had not identified all the requested documents. On internal review, the agency advised the complainant that it did not hold any additional documents of the kind described by her. The agency refused the complainant access to those documents, under s.26 of the FOI Act, on the ground that the documents did not exist or could not be found. Thereafter, the complainant applied to the Information Commissioner for external review of the decision of the agency.

The Information Commissioner made inquiries with the agency. The agency advised the Information Commissioner that it did not hold any additional documents and also provided the Information Commissioner with a detailed description of its record-keeping practices and the searches undertaken by it in relation to the complainant's access application. The Information Commissioner provided that information to the complainant and advised her that she did not require the agency to undertake further searches for the requested documents. The complainant then contended that the agency had failed to maintain proper records but that is not a matter about which a complaint may be made to the Information Commissioner.

The Information Commissioner confirmed the agency's decision to refuse access to the requested documents under section 26 of the FOI Act, on the ground that the requested documents do not exist or cannot be found.