

Decision D0302000 – Published in note form only

Re Infanti and Department for Family and Children's Services [2000] WAICmr 30

Date of Decision: 7 June 2000

Freedom of Information Act 1992; Schedule 1 clause 3(1), clause 5(1)(b) and clause 8(2)

The complainant applied to the agency for access to documents relating to herself and her family. The agency gave her access to some documents but refused access to others and claimed exemption under clause 3(1), clause 5(1)(b) and clause 8(2) of Schedule to the FOI Act. In addition, the complainant sought access to documents which the agency claims either do not exist or cannot be found.

In respect of the exemption claims under clause 3(1), the agency decided to delete matter consisting of names of third parties and other information that would identify the third parties. The Information Commissioner decided that the public interest in disclosure had been satisfied by the release to the complainant of the edited documents and that the public interest in maintaining the personal privacy of third parties was not outweighed by any other public interest. Therefore, the Information Commissioner found the deleted matter to be exempt under clause 3(1). The Information Commissioner confirmed the decision of the agency to refuse access to that matter.

In respect of the exemption claims under clause 5(1)(b), the Information Commissioner considered that the disclosure of two documents would reveal an investigation into a possible contravention of the *Child Welfare Act 1947* or the Criminal Code and found the documents to be exempt under clause 5(1)(b). The Information Commissioner confirmed the decision of the agency to refuse access to those documents. In respect of an exemption claim for part of one document under clause 8(2), the Information Commissioner considered that that material was not exempt under clause 8(2) but found that material to be exempt under clause 3(1). On that basis, the Information Commissioner considered that the agency was justified in refusing access to that material.

In respect of the complainant's claim that certain documents exist which the agency claims either do not exist or cannot be found, the Information Commissioner considered that, except in the case of one document, there was no evidence that such documents did exist. In the circumstances, following further searches and inquiries made by the agency, the Information Commissioner was satisfied that the agency had taken all reasonable steps to locate the requested documents but that no further documents could be found.