

Decision D0322002 – Published in note form only

Re Stewart and Department for Community Development [2002] WAICmr 32

Date of Decision: 10 October 2002

Freedom of Information Act 1992; section 26

The complainant sought access under the *Freedom of Information Act 1992* ('the FOI Act') to his personal record files for the years 1936-1945. The agency granted access to some documents, but refused access to others because those documents had been destroyed in 1965 in accordance with an approved authority to do so.

The complainant applied for an internal review of the agency's decision. The agency did not hold any additional documents and, therefore, refused access under s.26 of the FOI Act on the ground that the documents either did not exist or could not be found. Thereafter, the complainant lodged a complaint with the Information Commissioner for an external review of the agency's decision.

The Information Commissioner made inquiries with the agency. The agency provided a detailed description of its current and earlier record-keeping practices and described the searches undertaken to find the documents requested by the complainant. On the basis of that information, the Information Commissioner concluded that the requested documents had been destroyed and the Information Commissioner advised the complainant accordingly.

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 either do not exist or cannot be found.