

BOWDEN AND DOLA

OFFICE OF THE INFORMATION COMMISSIONER (WA)

Decision summary issued pursuant to s.76(8) of the *Freedom of Information Act 1992*

COMPLAINT No: 96060

DECISION No: D03396

PARTIES: Lyle Albert Bowden

Complainant

Department of Land Administration

Respondent

No. of documents in dispute: 3

Exemption clause(s) : 3(1)

On 19 January 1996, Mr Bowden ('the complainant') lodged two access applications with the Department of Land Administration ('the agency'), seeking access under the *Freedom of Information Act 1992* ('the FOI Act') to documents held by the agency associated with the advertisement and filling of certain vacancies in the agency in 1992. In respect of the documents the subject of this complaint, the complainant sought access to edited copies of the files of the agency used to process the applications submitted for the vacancies of Project Manager, Systems Development Branch (PO289760); Project Manager, Systems Development Branch (PO289759); and Project Leader, Systems Development Branch (PO086447).

The agency granted the complainant full access to 45 documents; access to edited copies of 5 documents from which exempt matter had been deleted; and refused access to 3 documents (described by the agency as Items 4.6, 5.8 and 6.11) on the ground that those 3 documents are exempt under clauses 3(1) and 11(1)(c) of Schedule 1 to the FOI Act. The complainant sought internal review of the agency's decision. On 23 March 1996, the initial decision of the agency that Items 4.6, 5.8 and 6.11 are exempt under clause 3(1) was confirmed on internal review, but the claims for exemption under clause 11(1)(c) were withdrawn. On 10 April 1996, the complainant sought external review of the agency's decision to refuse access to the documents identified as Items 4.6, 5.8 and 6.11.

I obtained the 3 disputed documents from the agency. After examining those documents and considering the submissions of the parties, on 17 May 1996, I provided the parties with my preliminary view and detailed reasons, including findings on material questions of fact underlying those reasons, referring to the material on which those findings were based. It was my preliminary view that Items 4.6, 5.8 and 6.11 contain some personal information about third parties other than the complainant that is, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act. However, it was also my preliminary view that it is practicable for the agency to delete personal information from Items 4.6, 5.8 and 6.11 under the provisions of s.24 of the FOI Act, and to provide the complainant with access to edited copies of those 3 documents.

After receiving my preliminary view, the agency made a further submission in which it claimed that even if the matter which I considered in my preliminary view to be exempt matter were deleted from Items 4.6, 5.8 and 6.11 in accordance with my preliminary view, the documents would still contain matter which is exempt under clause 3(1). The submission of the agency has not dissuaded me from my preliminary view, and my reasons are summarised below.

The Disputed Documents

Item 4.6 is a list of applicants for the position of Project Manager (PO289760); Item 5.8 is a list of applicants for the position of Project Manager (PO289759); and Item 6.11 is a list of applicants for the position of Project Leader (PO086447). Each disputed document contains details of the names, positions, levels, qualifications and employer of each applicant at the time his or her application was lodged.

The Exemption - Clause 3(1) (Personal information)

Clause 3, so far as is relevant provides:

“Exemption

(1) Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).”

In the Glossary in Schedule 2 to the FOI Act, “personal information” is defined to mean:

“...information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead-

- (a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or*
- (b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.”*

I am satisfied that each of the disputed documents contains personal information about third parties other than the complainant. In my view, matter consisting of the names of the applicants and the positions they held at the time of the application, when such matter appears in documents compiled by the agency from a list of job applicants, is information from which the identity of each applicant would be apparent or could reasonably be ascertained. Therefore, I consider that information to be personal information as defined in the Glossary in Schedule 2 to the FOI Act which is, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act.

However, I also consider that it is practicable for the agency to delete that matter from Items 4.6, 5.8 and 6.11 so that those documents no longer contain any exempt matter. The agency claims that information concerning the positions held by each applicant should also be deleted because, if such matter is not deleted, it will be possible for the complainant to identify the individuals concerned from the disputed documents and from other documents in his possession.

I do not accept the agency’s claim that if Items 4.6, 5.8 and 6.11 were edited in accordance with my preliminary view that personal information about any identifiable individual would remain in those documents. In my view, the identity of a particular job applicant cannot be ascertained from the matter remaining in the documents themselves if the documents are edited in the manner as described in my preliminary view. Further, it is not to the point that the complainant may be able to deduce the identities of the applicants from other information in his possession. As I have said before, the test is whether disclosure of edited copies of the documents would reveal information about an individual which would enable the identity of that individual to be ascertained from the matter remaining in the document.

I am satisfied that if Items 4.6, 5.8 and 6.11 were edited in the manner described above, the identities of the applicants would not be apparent from the remaining information, nor could their identities reasonably be ascertained from the remaining information.

Therefore, I find that the names of the applicants and the department or agency listed against each of those names comprise matter that is exempt matter under clause 3(1) of Schedule 1 to the FOI Act. Further, I decide that it is practicable to delete that matter from Items 4.6, 5.8 and 6.11 and for the agency to give the complainant access to edited copies of those three documents.

B. KEIGHLEY-GERARDY
INFORMATION COMMISSIONER
5th June 1996