

Decision D0382001 – Published in note form only

Re Inglis and Western Australian Trotting Association [2001] WAICmr 38

Date of Decision: 19 October 2001

Freedom of Information Act 1992; clauses 3(1); 7 and 8(1)

The complainant owns and runs a media production company. In early 1999, the complainant contracted with the agency to produce a television program about harness racing events conducted by the agency that was to be broadcast over the community television station in Perth, Channel 31. A dispute then arose between the parties to that contract and that matter is now before the courts.

In May 2001, the complainant made an application to the agency for access under the *Freedom of Information Act 1992* ('the FOI Act') to various documents concerning him or his business. He was granted access to some documents, but was refused access to others, on the ground that the requested documents were exempt under clauses 4(3), 7 and 10(4) of Schedule 1 to the FOI Act. The complainant then lodged a complaint with the Information Commissioner.

The Information Commissioner made inquiries into the complaint.

One of the disputed documents is a letter from the agency to its legal advisers, seeking legal advice. The Information Commissioner decided that that document would be privileged from production in legal proceedings on the ground of legal professional privilege. The Information Commissioner found it exempt under clause 7.

One of the disputed documents contained the names of third parties and other personal information. The matter deleted from another of the disputed documents consisted of the names, telephone numbers and information from which several third parties could be identified. The Information Commissioner found that that information was "personal information" as defined in the FOI Act. The Information Commissioner decided that the public interest in protecting the privacy of the third parties was not outweighed by any other public interest factors favouring disclosure and found the first document, and the information deleted from the other document, exempt under clause 3(1).

The last document is an agreement between the agency and another party. That agreement contains a confidentiality clause. Having examined that document and considered the terms of the confidentiality clause, the Information Commissioner decided that the agency is bound by the terms of the agreement not to disclose that document and that any disclosure would be a breach of a contractual obligation of confidence owed by the agency to another party. The Information Commissioner found the document exempt under clause 8(1).

Accordingly, the Information Commissioner varied the decision made by the agency.