

Decision D0442001 – Published in note form only

Re Clifford and City of Perth [2001] WAICmr 44

Date of Decision: 22 November 2001

Freedom of Information Act 1992; Schedule 1 clause 6(1)

The complainant is employed by the agency as a Parking and Information Officer. In March 2001, he was involved in an incident after issuing a parking infringement notice to the owner of a vehicle. A complaint was made to the agency and, after making inquiries into the matter, the parking infringement notice was cancelled by the agency.

Subsequently, the complainant made an application to the agency for access under the FOI Act to various documents, including those relating to the incident in March 2001. The agency granted him access to most of the requested documents, but refused him access to 2 documents, the original and a copy of a 3-page handwritten report dated 12 March 2001 submitted by an officer of the agency about the incident in March 2001. The agency claimed the documents were exempt under clause 11(1)(c).

The Information Commissioner obtained the disputed documents from the agency and made inquiries with the agency. Those inquiries established that there were long-standing personnel management problems in the parking section of the agency that were on-going and that disclosure of the disputed documents had the potential to cause intimidation and harassment within the agency and that the problems were related to factions formed within the section.

The Information Commissioner was not satisfied that disclosure of the disputed documents could have a substantial adverse effect on the management of personnel as claimed by the agency. The problems were pre-existing and not related to disclosure of the disputed documents.

However, the Information Commissioner was satisfied that the documents contained opinion and advice that was prepared in the course of, or for the purposes of the agency making a decision about the cancellation of the infringement notice and dealing with disciplinary matters relating to the complaint. The Information Commissioner considered that the public interest in ensuring the proper workings of the agency carried more weight than the public interest in the complainant being able to exercise his right of access under the FOI Act.

The Information Commissioner accepted that disclosure would exacerbate the problems in the agency and that, in the circumstances of this matter, it would be contrary to the public interest to disclose the disputed documents.

The Information Commissioner varied the decision of the agency and found the disputed documents exempt under clause 6(1) of Schedule 1 to the FOI Act.