

**RICHARDSON AND PUBLIC TRUST
OFFICE OF THE INFORMATION
COMMISSIONER (W.A.)**

**File Ref: 96101
Decision Ref: D05296**

Participants:

Colin Richardson
Complainant

- and -

Public Trust Office
Respondent

DECISION AND REASONS FOR DECISION

FREEDOM OF INFORMATION - decision to give access to edited copies of documents - correspondence to agency from a third party - request for personal information about the applicant only - deletion of matter outside scope of access application.

Freedom of Information Act 1992 (WA) ss. 4, 24, 75(1); Schedule 2 Glossary; Schedule 1 clause 3(1).

DECISION

The decision of the agency to give the complainant access to edited copies of documents is confirmed. The matter deleted by the agency is outside the ambit of the complainant's access application.

B.KEIGHLEY-GERARDY
INFORMATION COMMISSIONER

18th September 1996

REASONS FOR DECISION

BACKGROUND

1. This is an application for external review by the Information Commissioner arising out of a decision of the Public Trust Office ('the agency') to provide Mr Richardson ('the complainant') with access to edited copies of documents of the agency requested under the *Freedom of Information Act 1992* ('the FOI Act'). The complainant seeks access to unedited copies of those documents.
2. The agency is responsible for the administration of the estate of the complainant's mother who died in 1991. On 13 February 1996, the complainant applied to the agency under the FOI Act for access to copies of correspondence exchanged between the agency and a particular named person since 6 May 1991. Although the agency acknowledged receipt of the complainant's letter, it did not deal with the letter as an access application under the FOI Act because the complainant had not paid the application fee of \$30 which is required under the FOI Act whenever access is sought to documents containing information that is not personal information concerning the access applicant.
3. Following further correspondence between the agency and the complainant to clarify the complainant's request, the complainant informed the agency that he was seeking access to all correspondence received from the named person which contained personal information about the complainant, for which no application fee is payable under the FOI Act. Subsequently, on 18 June 1996, the principal officer of the agency, the Public Trustee, refused the complainant access to the requested documents. However no proper reasons were given to the complainant for that refusal.
4. On 30 June 1996, the complainant lodged a complaint with the Information Commissioner seeking external review of the decision of the agency.

REVIEW BY THE INFORMATION COMMISSIONER

5. After receiving this complaint and pursuant to my power under s.75(1) of the FOI Act, I obtained the originals of the documents identified by the agency as falling within the ambit of the complainant's access application. I also reviewed the file maintained by the agency in respect of this matter. Following a meeting between my Investigations Officer and the agency, the agency provided the complainant with a schedule of documents; access to edited copies of the 13 documents described on the schedule; and reasons for refusing access to the matter that had been deleted from those documents.

6. On 19 August 1996, I received a letter from the complainant in which he disputed the agency's reasons for refusing access to the material deleted from the documents. In addition, the complainant questioned the authenticity and quality of some of the copies of documents released to him by the agency.
7. By letter dated 29 August 1996, after reviewing all of the material before me, I provided the parties with my preliminary view of this complaint and my reasons for that view. In that letter, I also dealt with the complainant's concerns about the quality of the copy documents and the authenticity of one document, although I am not sure that those concerns are matters which may be the subject of complaint to me. I do not consider they require any further inquiry and I do not propose to deal with them any further. In respect of the substance of the complaint, it was my preliminary view that the agency had by then complied with its obligations under s.24 of the FOI Act by providing the complainant with access to the personal information about himself contained in the documents identified. However, the complainant maintains the view that he is entitled to have access to complete, unedited copies of the documents in question.

THE DISPUTED DOCUMENTS

8. The disputed documents consist of 13 letters written to the agency by a third party who is related to the complainant and to the deceased. The disputed documents concern various matters involved in the agency settling the estate of the deceased.

THE AMBIT OF THE ACCESS APPLICATION

9. It is clear to me from the complainant's letter dated 14 May 1996 to the agency that he is seeking access to personal information about himself. 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."*

10. Documents requested by access applicants under the FOI Act can, and frequently do, contain a mixture of personal information about an access applicant, personal information about other people and non-personal information. Some of the information in such documents may be exempt matter under one or more clauses of Schedule 1 to the FOI Act. When a document contains a mixture of exempt

matter and non-exempt matter, the provisions of s.24 of the FOI Act must be followed by agencies.

11. Section 24 provides:

“24. If -

- (a) the access application requests access to a document containing exempt matter; and*
- (b) it is practicable for the agency to give access to a copy of the document from which the exempt matter has been deleted; and*
- (c) the agency considers (either from the terms of the application or after consultation with the applicant) that the applicant would wish to be given access to an edited copy,*

the agency has to give access to an edited copy even if the document is the subject of an exemption certificate.”

12. Further, an applicant may specify that his or her application for access only relates to personal information about him or her. In limiting an application for access in such a manner, no fees or charges apply. Therefore, in keeping with the principles of administration in s.4 of the FOI Act, in my opinion, an agency may decide to delete information from a requested document that is outside the scope of an access application. In that way, an agency may give access to personal information about the access applicant only, if that is all that has been requested. The information deleted may or may not be exempt matter under the FOI Act.
13. Although deleting exempt matter (or matter that is outside the ambit of an access application) may mean that an access applicant eventually receives documents with blocks of information missing, that is a result of balancing the competing interests of the various parties involved, including an access applicant's right of access and third parties' privacy. At the very least, however, it reveals to the access applicant how many documents contain information of the kind requested, the size of the documents and how much information of the kind requested there is in the context of the whole document and/or series of documents.
14. Based on my examination of the disputed documents, I am satisfied that the agency has given the complainant access to all the personal information about himself which is contained in the documents identified. I am also satisfied that the matter to which access has been refused, being the information deleted from the disputed documents, is information that is not personal information about the complainant and that it is, therefore, outside the ambit of the complainant's access application.

15. In any event, I consider that the information deleted from the disputed documents may be exempt matter under clause 3(1) of Schedule 1 to the FOI Act. However, I need not decide that point since I am satisfied that the complainant's access application was an application for access to personal information about himself and he has been provided with access to all of that kind of information that is in the disputed documents. Accordingly, I confirm the decision of the agency to give the complainant access to edited copies of the requested documents.
