



Freedom of Information Newsletter

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From the Information Commissioner

Western Australia recently hosted a meeting of the Association of Information Access Commissioners. This group is comprised of Ombudsmen and Information Commissioners from Australia and New Zealand who perform functions under freedom of information legislation in their jurisdictions. The meeting provided an opportunity to discuss challenges faced by all jurisdictions, such as the issues raised by applications for access to CCTV and other video footage held by government agencies.

While the legislative framework in each jurisdiction differs, meetings of the Association allow for the efficient sharing of ideas, resources and research, benefitting all members.

World of FOI

The Queensland Information Commissioner organises the annual Solomon Lecture in honour of Dr David Solomon, who was the Chair of the Independent FOI Review Panel appointed by the Queensland State Government to review Queensland's freedom of information laws in 2007-08. This year's Solomon lecture, delivered by the Australian National University's Professor Richard Mulgan, was entitled [Government resistance to greater transparency: rational or self defeating?](#)

Did you know?

The OIC has launched a new website (foi.wa.gov.au) that includes guides for members of the public and for agency staff. Most pages also include a downloadable pdf of the webpage. Links are included on the website to relevant sections of the FOI Act.

Agency news

Calculating timeframes under the FOI Act may require you to consider the meaning and effect of an 'excluded day', which is defined in the *Interpretation Act 1984*. Over the Christmas period this becomes particularly relevant. An agency holiday does not necessarily mean that timeframes are automatically suspended unless the parties agree. Applicants and agencies are encouraged to plan for the holiday period in relation to FOI applications with a full understanding of how the required timeframes in the FOI Act are calculated. To assist you to calculate timeframes under the FOI Act, this office has created a guide: [Calculating time and days](#).

Recent decisions of the Information Commissioner

Re Travers and Public Transport Authority [2015] WAICmr20 (PDF)

Documents associated with the potential extension of the Thornlie passenger railway line were found to be not exempt under clauses 1(1)(b) or 6(1) of Schedule 1 to the FOI

Act. While the Commissioner agreed with the agency that sectional interests may seek to use information in the documents to support or undermine options according to their own interests, he considered that it is part of the role of government to make project decisions that are in the best interests of the public, even in the face of various lobbying efforts.

The agency's decision was set aside.

Re Twiby and Western Australian Land Information Authority (Landgate) [\[2015\] WAICmr 19](#) ([PDF](#))

A report prepared by an external investigator regarding a complaint made by the access applicant against another employee was found to be exempt under clause 3 of Schedule 1 to the FOI Act.

The agency's decision was confirmed.

Re McCauley and City of Stirling [\[2015\] WAICmr 18](#) ([PDF](#))

The agency gave the access applicant access to documents relating to plans for a retaining wall between the complainant's property and adjoining properties, but the access applicant claimed that further documents should exist. The Commissioner was satisfied that all reasonable steps had been taken by the agency to locate the documents and that any additional documents are either in the agency's possession but cannot be found, or do not exist.

The agency's decision was confirmed.

Re Krieg and Minister for Local Government [\[2015\] WAICmr 17](#) ([PDF](#))

An edited copy of a 'Minority Report' produced by a councillor of a local government was found to be not exempt under clause 3(1) of Schedule 1 to the FOI Act. The Commissioner considered that any personal information about the councillor in the report related to his functions as a local government councillor and therefore amounts to 'prescribed details' under clause 3(3) of Schedule 1 to the FOI Act.

The Minister's decision was set aside.

Re 'L' and Department for Child Protection and Family Support [\[2015\] WAICmr 16](#) ([PDF](#))

Access to documents relating to an adoption was refused under section 23(2) of the FOI Act on the basis that it was apparent from the nature of the documents as described in the complainant's access application that the requested documents were exempt under clause 13(a) of Schedule 1 to the FOI Act. Clause 13(a) provides that matter is exempt if disclosure would reveal information relating to the adoption of a child or arrangements towards adoption of a child.

The agency's decision was confirmed.

FOI Training News

Upcoming [training dates](#) for agencies. Places are available.

The **FOI Coordinators Workshop** introduces participants to the objects and the principles of the FOI Act and the major features of the legislation. Topics include the role of decision-makers; FOI applications; exemptions; consultation with third parties; charges; notices of decision and review; and amendment of records.

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