



Decision D0062026 – Published in note form only

Re ‘T’ and City of South Perth [2026] WAICmr 6

Date of Decision: 14 May 2026

Freedom of Information Act 1992 (WA): Schedule 1, clause 3(1)

1. For the reasons given to the parties and summarised below, the Information Access Deputy Commissioner (**Deputy Commissioner**) found the City of South Perth’s (**agency**) decision to refuse access to certain documents and information on the basis they were exempt under clause 3(1) of Schedule 1 to the *Freedom of Information Act 1992 (WA)* (**FOI Act**) was justified.
2. The Deputy Commissioner has decided not to identify the complainant by name to protect their privacy in the circumstances of this matter.
3. In December 2025, the complainant applied to the agency for access to all documented complaints, claims and allegations made against their property, including phone logs, emails, reports, responses, investigations and documented site visits over a certain period.
4. By notice of decision in February 2026, the agency gave full access to some documents. It otherwise gave edited access or refused access in full to the majority of documents (collectively, the **disputed matter**) on the basis they were exempt under clause 3(1) of Schedule 1 to the FOI Act. The agency’s original decision was confirmed on internal review.
5. The complainant applied to the Information Commissioner for external review of the agency’s decision, submitting in particular:
 - clause 3(1) should not apply because the identity of the relevant third party was already apparent to them; and
 - disclosure of the disputed matter would, on balance, be in the public interest.
6. The Deputy Commissioner considered the material before him, including the agency’s and complainant’s submissions.

Clause 3(1) – personal information

7. Clause 3(1) provides matter is exempt matter if its disclosure would reveal personal information about an individual. This exemption is subject to limitations, of which clauses 3(2) and 3(6) were relevant in this case.
8. The Deputy Commissioner was satisfied disclosure of the disputed matter would reveal personal information about the complainant and other individuals and was, therefore, on its face, exempt under clause 3(1). The Deputy Commissioner noted the application of clause 3(1) does not depend on what the complainant knows or claims to know about the identity of any third parties. The relevant question is whether disclosure would reveal personal information about an individual.

Clause 3(2) – personal information is not merely about an applicant

9. Clause 3(2) provides matter is not exempt under clause 3(1) merely because its disclosure would reveal personal information about the access applicant (complainant). ‘Merely’ has its ordinary meaning of ‘solely’ or ‘no more than’.¹
10. The Deputy Commissioner was satisfied clause 3(2) did not apply because the disputed matter contained more than merely the complainant's own personal information. While the disputed matter generally related to the complainant's property and included a small amount of their personal information, such information is inextricably intertwined with personal information about other individuals.

Clause 3(6) – disclosure is not in the public interest

11. Clause 3(6) provides matter is not exempt under clause 3(1) if its disclosure would, on balance, be in the public interest. The term ‘public interest’ is best understood as follows:²

The public interest is a term embracing matters, among others, of standards of human conduct and of the functioning of government and government instrumentalities tacitly accepted and acknowledged to be for the good order of society and for the well-being of its members. The interest is therefore the interest of the public as distinct from the interest of an individual or individuals...

12. The Deputy Commissioner observed that while the complainant clearly had a personal interest in obtaining the disputed matter, the public interest is not primarily concerned with the interests of the individual applicant. Further, the complainant stated they sought access to use it in forthcoming court proceedings. While an applicant's reasons for seeking access do not affect their general right to make a request under the FOI Act, those reasons may be relevant to the public interest balancing exercise, for example where they identify broader public interests. In this case, the Deputy Commissioner considered the complainant's stated purpose largely reflected a personal rather than public interest and did not materially advance a public interest in disclosure. Accordingly, it did not weigh in favour of disclosure in the public interest balancing exercise.³
13. In favour of disclosure, the Deputy Commissioner recognised the following public interests:
 - government agencies should be open and accountable for their actions and decisions, including how they handle complaints and investigations;
 - public confidence in local governments enforcing compliance with laws fairly and without bias; and
 - parties being informed, as part of procedural fairness, of complaints or allegations made about them and being given an opportunity to respond before any decisions are made affecting them.
14. However, the Deputy Commissioner considered these public interests were already largely satisfied by the edited documents already disclosed to the complainant, which provided the substance of the complaints and the outcomes of the agency's investigations.⁴ Disclosure of the disputed matter would not further those public interests.
15. The Deputy Commissioner also noted the public interest in people accessing the personal information a government agency holds about them, as recognised in section 21 of the

¹ *Re Malik and Office of the Public Sector Standards Commissioner* [2010] WAICmr 25, [32].

² See e.g. *Re ‘V’ and Curtin University* [2020] WAICmr 3, [55] which adopts the description of the Victorian Supreme Court in *Director of Public Prosecutions v Smith* [1991] 1 VR, 75.

³ *Re ‘E’ and Department of Justice* [2026] WAICmr 1.

⁴ *Re Weygers and Department of Education and Training* [2007] WAICmr 16, [49]-[50]; *Re ‘V’ and Curtin University* [2020] WAICmr 3, [64].

FOI Act. However, the right to access one's own personal information under the FOI Act is not absolute,⁵ and is subject to exemptions under the Act, such as clause 3(1).

16. Weighing against disclosure, the Deputy Commissioner recognised:
 - there is a strong public interest in upholding privacy which should only be displaced by one or more strong or compelling public interests; and
 - there is a public interest in maintaining confidentiality of complaints to ensure complainants are comfortable to make complaints.
17. The Deputy Commissioner concluded the public interests favouring non-disclosure outweighed the public interests favouring disclosure. Therefore, the limit in clause 3(6) did not apply.
18. Accordingly, the Deputy Commissioner found the disputed matter is exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the agency's decision.

Note: The Information Commissioner has published guidance on [accessing documents for court and tribunal proceedings](#). FOI and judicial processes are for different purposes. A document exempt from disclosure under the FOI Act may be ordered to be produced for court or tribunal proceedings.

⁵ *Re 'A' and West Coast Institute of Training* [2013] WAICmr 14.