

## Decision D0092026 – Published in note form only

### Re ‘H’ and Department of Communities – [2026] WAICmr 9

**Date of Decision: 8 June 2026**

**Freedom of Information Act 1992 (WA): Schedule 1, clauses 3(1), 3(2), 3(3), 3(6)**

#### Decision

1. For the reasons given to the parties and summarised below, the Information Access Deputy Commissioner (**Deputy Commissioner**) confirmed the decision of the Department of Communities (**agency**) to refuse the complainant access to the disputed information in a contact feedback report (**Report**) on the ground it consists of personal information and is exempt under clause 3(1) of Schedule 1 to the FOI Act.
2. The Deputy Commissioner decided not to identify the complainant by name to protect the privacy of the complainant and their children.

#### Reasons

##### Clause 3(1) – personal information

3. Clause 3(1) provides matter is exempt if its disclosure would reveal personal information about an individual (including the complainant and other individuals). The Deputy Commissioner was satisfied the disputed information in the Report was personal information about the complainant, her children and officers of the agency.
4. The exemption in clause 3(1) is subject to the limits set out in clauses 3(2) to 3(6) of Schedule 1 to the FOI Act.
5. The Deputy Commissioner considered only the limits in clauses 3(2), 3(3) and 3(6) were relevant in this case.

##### Clause 3(2) – personal information about the complainant

6. Under clause 3(2), matter is not exempt under clause 3(1) merely because its disclosure would reveal personal information about the applicant (that is, the complainant). The word ‘merely’ means ‘solely’ or ‘no more than’ personal information about the applicant.<sup>1</sup>
7. In this case, the Deputy Commissioner considered it was not possible to separate the personal information of the complainant from the personal information of others contained in the disputed information.
8. As a result, the disclosure of the complainant’s personal information would do more than ‘merely’ reveal personal information about the complainant. Accordingly, the limit in clause 3(2) did not apply.

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

### Clause 3(3) – prescribed details about agency officers

9. Under clause 3(3), matter is not exempt under clause 3(1) merely because its disclosure would reveal ‘prescribed details’ in relation to officers or former officers of an agency.
10. In this case, the disputed information included some information about things done by an officer of the agency in the course of performing their duties. That information is prescribed details under regulation 9(1) of the *Freedom of Information Regulations 1993*. However, the Deputy Commissioner considered it was not possible to separate the prescribed details from the personal information of other individuals. As a result, the disclosure of the prescribed details would do more than ‘merely’ reveal prescribed details in relation to the officer. Accordingly, the limit in clause 3(3) did not apply to such information.

### Clause 3(6) – public interest

11. Under clause 3(6), 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:<sup>2</sup>

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 noted the complainant had a personal interest in disclosure of the disputed information, however the public interest is not primarily concerned with the personal interests of the individual applicant.
13. In weighing the public interest factors for and against disclosure, the Deputy Commissioner considered the public interest in people accessing the personal information a government agency holds about them, as recognised in section 21 of the FOI Act, favoured disclosure.
14. Also favouring disclosure, the Deputy Commissioner acknowledged:
  - It is generally in the public interest that government agencies are open and accountable for their actions and decision-making processes;
  - This is particularly so in relation to agencies empowered to intervene directly in family matters;<sup>3</sup>
  - There is a strong public interest in the accountability and transparency of such agencies in relation to decisions concerning contact arrangements between a parent and a child who is under the care of the agency; and
  - There is also a public interest in ensuring, so far as possible, a parent of a child in the care of the agency is informed of the reasons for any changes to contact arrangements.
15. In this case, the Deputy Commissioner considered the agency’s prior disclosure of the edited Report and other documents to the complainant largely satisfied the above public interest factors. He also considered disclosure of the disputed information would not add to the complainant’s knowledge of the reasons for any changes to the complainant’s contact arrangements.

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<sup>2</sup> 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.

<sup>3</sup> *Re Box and Department for Family and Children’s Services* [1999] WAICmr 30, [18].

16. Weighing against disclosure, the Deputy Commissioner recognised the strong public interest in upholding privacy, which may only be displaced by some other strong or compelling public interest or interests. The Deputy Commissioner acknowledged the public interest in upholding privacy was particularly strong in this case as it involved children placed in the care of the State.
17. Finally, the Deputy Commissioner noted the well-established principle that disclosure under the FOI Act is disclosure to the world at large.<sup>4</sup>
18. Having weighed the competing public interests, the Deputy Commissioner did not consider those favouring disclosure outweighed the public interests against disclosure. Therefore, the Deputy Commissioner found the limit in clause 3(6) did not apply.
19. Accordingly, the Deputy Commissioner found the disputed information is exempt under clause 3(1) because its disclosure would reveal personal information, and no limitations apply to that exemption.

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<sup>4</sup> *Public Transport Authority* [2018] WASC 47, [71].