



Decision D0172026 – published in note form only *Re HZ8 and Western Australia Police Force [2026]* WAICmr 17

Date of decision: 3 September 2026

Freedom of Information Act 1992 (WA): Schedule 1, clause 3(1), clause 3(3), clause 3(6)

Decision

1. For the reasons given to the parties and summarised below, the Information Access Deputy Commissioner (**Deputy Commissioner**) found the Western Australia Police Force's (**agency**) decision to refuse the complainant access to documents relating to a third party's annual leave application (**disputed documents**) was justified on the basis the documents are exempt under clause 3(1) of Schedule 1 to the *Freedom of Information Act 1992 (WA)* (**FOI Act**).

Reasons

Clause 3(1) – personal information

2. Clause 3(1) provides matter is exempt matter if its disclosure would reveal personal information about an individual.
3. The Deputy Commissioner was satisfied the disputed documents contained information about individuals, including agency officers. In particular, the documents contain information indicating an officer has applied for annual leave, and when they applied.
4. The issue in question was whether the officer's identity is apparent or can be reasonably ascertained from the information. This is determined objectively, having regard to all the relevant circumstances, including whether at least one or more persons could have the necessary knowledge of contextual information to ascertain the identity of the individual.¹
5. The Deputy Commissioner was satisfied the officer's identity is apparent or can be reasonably ascertained from the disputed information. Accordingly, disclosure of the disputed documents would reveal personal information about an individual other than the complainant and was, therefore, on its face, exempt under clause 3(1).
6. This exemption is subject to limitations, of which clauses 3(3) and 3(6) were relevant in this case.

Clause 3(3) – not merely prescribed details

7. Clause 3(3) provides matter is not exempt under clause 3(1) merely because its disclosure would reveal the prescribed details of an officer of an agency'.² 'Merely' has its

¹ *Public Transport Authority [2018] WASC 47, [72]*.

² Defined in regulation 9 of the *Freedom of Information Regulations 1993 (WA)*.

ordinary meaning of 'solely' or 'no more'.³

8. The FOI Act makes a distinction between personal information relating to an officer's employment and personal information relating to an officer outside their employment.⁴ In this case, the Deputy Commissioner considered an individual's use of their leave entitlements, including the internal process by which those entitlements are sought and approved, does not concern the performance of their official functions or duties. Rather, it concerns the officer's employment conditions and personal circumstances.
9. The Deputy Commissioner was therefore satisfied clause 3(3) did not apply because the disputed information is not prescribed details of an officer of the agency.

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

10. 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:⁵

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...

11. The Deputy Commissioner observed the complainant clearly had a personal interest in obtaining the disputed information. However, the public interest is not primarily concerned with the interests of an individual applicant. The relevant question is whether disclosure of the disputed information would be of some benefit to the public generally, and whether that public benefit outweighs any public interest in non-disclosure, such as upholding a third party's privacy.
12. 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 management of personnel;
 - public confidence in State government agencies' dealings with courts and tribunals and transparency around compliance with legal obligations (the complainant submitted a public officer's conduct adversely affected court proceedings); and
 - parties to legal proceedings being informed, as part of procedural fairness, of any procedural matters that may adversely affect those proceedings.
13. However, the Deputy Commissioner considered these public interests had been largely satisfied through the management of the relevant court proceedings. The court has powers and procedures to obtain any further information it considers relevant and necessary. In this case, the court chose not to obtain further information. In those circumstances, the Deputy Commissioner did not consider any further public interest was advanced by disclosing the personal information of a third party contained in the disputed documents, especially where disclosure is to the world at large.
14. 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.⁶

³ *Re 'V' and Curtin University* [2020] WAICmr 3, [41] (*Re 'V'*); *Re Byrnes and Department of Environment* [2006] WAICmr 6, [59] (*Re Byrnes*).

⁴ *Re Byrnes*, [21].

⁵ See e.g. *Re 'V'*, [55] which adopts the description of the Victorian Supreme Court in *Director of Public Prosecutions v Smith* [1991] 1 VR, 75.

⁶ See e.g. *Re 'V'*, [67].

15. 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.
16. Accordingly, the Deputy Commissioner found the disputed documents are exempt under clause 3(1) of Schedule 1 to the FOI Act and confirmed the agency's decision.