

OFFICE OF THE INFORMATION )  
COMMISSIONER (QLD) )

S 69 of 1994  
(Decision No. 95012)

Participants:

RONALD KEITH STEWART  
Applicant

- and -

DEPARTMENT OF TRANSPORT  
Respondent

### **DECISION AND REASONS FOR DECISION**

FREEDOM OF INFORMATION - applicant challenging sufficiency of search by respondent for documents falling within the terms of his FOI access application - whether reasonable grounds for believing the respondent has possession or control of documents falling within the terms of the applicant's FOI access application.

*Freedom of Information Act 1992 Qld*

*Ronald Keith Stewart and Department of Transport, Re* (Information Commissioner Qld,  
Decision No. 95007, 12 May 1995, unreported)

*Ronald Keith Stewart and Department of Transport, Re* (Information Commissioner Qld,  
Decision No. 95011, 15 May 1995, unreported)

**DECISION**

The decision under review (being the internal review decision of Mr W J Rodiger, on behalf of the Respondent, dated 14 February 1994) is affirmed.

Date of Decision: 16 May 1995

.....

F N ALBIETZ  
**INFORMATION COMMISSIONER**

Participants:

RONALD KEITH STEWART  
Applicant

- and -

DEPARTMENT OF TRANSPORT  
Respondent

### **REASONS FOR DECISION**

#### **Background**

1. The applicant complains that the respondent has failed to locate and deal with all documents falling within the terms of his initial application for access to documents under the *Freedom of Information Act 1992 Qld* (the FOI Act).
2. By letter dated 24 November 1993, Mr Stewart applied to the Department of Transport (the Department) for access to documents, in the following terms:

*I request all personal documents under Freedom of Information Act concerning myself as stated on document received from this Department:*

[Here the applicant listed seven points which had been noted in handwriting on two pages held by the Department. Copies of the pages had been supplied to the applicant in the course of an earlier FOI access application to the Department. It appears that the applicant considered that the points listed in the handwritten notes were allegations made against him by some person.]

*Also an application form from the Harristown State School in which I applied for a Crossing Supervisors position but appears to be missing from the files of Harristown State School (1984).*

3. The initial decision on behalf of the Department was made by Mr B J Butterworth and communicated to the applicant by letter dated 13 January 1994. As to the first part of the application (dealing with the seven points raised in the handwritten notes), Mr Butterworth formed a view that the notes appeared to be a record of a telephone conversation, but he indicated that he had been unable to establish the identity of the author of the document. Mr Butterworth, I think correctly, interpreted the application to be one for documents which supported or related to any of the seven points referred to in the handwritten notes. Mr Butterworth indicated that, apart from the handwritten notes in question, he could find no reference to six of the points in any documents of the Department. In relation to the other point he noted that some documents already supplied to Mr Stewart in the course of another FOI access application had referred to that subject, but that after a further search he had been unable to find any additional documents which related to that matter. Mr Butterworth made no reference to the second part of Mr Stewart's FOI access application (dealing with the job application).
4. Mr Stewart applied for internal review of that decision by a letter dated 31 January 1994. The

internal review was conducted by Mr W J Rodiger of the Department who, by letter dated 14 February 1994, affirmed Mr Butterworth's decision, saying: *"I find there are no documents, in terms of section 21 [of the FOI Act] which would satisfy your request"*. Mr Stewart subsequently applied by letter dated 22 February 1994 for review, under Part 5 of the FOI Act, of Mr Rodiger's decision.

**Matter relating to points raised in handwritten notes**

5. I have obtained and examined a copy of the handwritten notes which contain the seven points referred to by Mr Stewart in his FOI access application. I consider that it was reasonable for Mr Butterworth to surmise that they are notes of a conversation (most likely between an officer of the Department and some other person) although whether they were made during a telephone conversation or at some other time is not certain. The notes are very brief and the intended meaning of the notes is probably known only to the author. The author is not identified on the notes in question, and could not be identified by the Department's subsequent inquiries. It is by no means clear to me that all of the seven points which Mr Stewart regards as being allegations against him can properly be categorised as allegations, or even that they all refer to Mr Stewart.
  
6. Mr Stewart has been a participant in a number of external review applications before me. On 22 November 1993, two days before making the FOI access application which led to this review, he wrote to me in relation to an earlier application for review, number S 103/93. In his letter he made what is in essence the same request for access to documents relating to the seven points made in the handwritten notes. The scope of application for review number S 103/93 is much wider than the present application. Any documents which are relevant to the points raised in the handwritten notes would form a subset of the documents falling within the terms of application for review number S 103/93.
  
7. I considered the corresponding part of Mr Stewart's letter of 22 November 1993 in paragraph 33 of my decision in respect of application for review number S 103/93, *Re Ronald Keith Stewart and Department of Transport* (Information Commissioner Qld, Decision No 95007, 12 May 1995, unreported; hereinafter referred to as *Re Ronald Stewart*) the relevant part of which I repeat below:
  33. *In addition to his general claim that there were other documents relating to his personal affairs, Mr Stewart, in a letter dated 22 November 1993, suggested that certain passages in a document already released to him indicated that there were other documents in existence which the Department had not disclosed to him. I have examined those passages carefully, and I can find no support for Mr Stewart's assertions. It appears to me that most of the points raised by Mr Stewart amount to assertions that no one should have made the notes or statements made in those documents without having documentary proof to back them up. In essence, I see this more as a criticism by Mr Stewart of the way he perceives the Department to work (i.e. making statements about a person without having sufficient documented proof to support the statements) than as evidence that there are reasonable grounds to believe that further documents exist which are responsive to Mr Stewart's FOI access application. In so saying, I make no comment on the operations of the Department; I merely reflect Mr Stewart's underlying complaint.*
  
8. At paragraphs 20-30 of my decision in *Re Ronald Stewart*, I described the searches carried out in relation to a number of applications by members of the Stewart family. For the same reasons given in *Re Ronald Stewart*, based on the searches and inquiries there described, I find that there are no reasonable grounds for believing that the documents requested in the first part of the applicant's FOI

access application dated 24 November 1993, exist as documents in the possession or control of the respondent.

**Job application form**

9. Mr Stewart's FOI access application (see paragraph 2 above) also refers to a job application form he completed in or around 1984 for a position of School Crossing Supervisor at the Harristown State School. The document requested in this part of the application was also the subject of Mr Stewart's external review application number S 214/93. I have published reasons for decision in relation to that application: see *Re Ronald Keith Stewart and Department of Transport* (Information Commissioner Qld, Decision No 95011, 15 May 1995, unreported). For the reasons set out in that decision, I find that there are no reasonable grounds to believe that the requested document is now or has ever been in the possession or under the control of the Department.

**Conclusion**

10. I therefore affirm Mr Rodiger's internal review decision of 14 February 1994.

F N ALBIETZ

**INFORMATION COMMISSIONER**