

OFFICE OF THE INFORMATION )  
COMMISSIONER (QLD) )

S 103 of 1993  
(Decision No. 95007)

Participants:

RONALD KEITH STEWART  
Applicant

- and -

DEPARTMENT OF TRANSPORT  
Respondent

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

FREEDOM OF INFORMATION - application for access - interpretation of the terms of the applicant's FOI access application - applicant challenging sufficiency of search for documents falling within the terms of his FOI access application - whether search efforts of agency reasonable in all the circumstances.

FREEDOM OF INFORMATION - refusal of access - matter in issue comprising name of a person who made complaint to respondent - whether name exempt from disclosure to the applicant under s.44(1) of the *Freedom of Information Act 1992* Qld - whether disclosure to the applicant would, on balance, be in the public interest.

*Freedom of Information Act 1992* Qld s.44(1)

*Byrne and Gold Coast City Council, Re* (Information Commissioner Qld, Decision No. 94008, 12 May 1994, unreported)

*Cannon and Australian Quality Egg Farms Limited, Re* (Information Commissioner Qld, Decision No. 94009, 30 May 1994, unreported)

*Shepherd and Department of Housing, Local Government & Planning, Re* (Information Commissioner Qld, Decision No. 94007, 18 April 1994, unreported)

*Smith and Administrative Services Department, Re* (1993) 1 QAR 22

*Stewart and Department of Transport, Re* (1993) 1 QAR 227

## DECISION

The decision under review (being the internal review decision of Mr D J Brennan, on behalf of the respondent, dated 26 May 1993) is varied, in that I find that -

- (a) the name appearing on the first line of point 1 of the "With Compliments" slip dated 18 December 1991 (as identified in paragraph 39 of my reasons for decision) is exempt matter under s.44(1) of the *Freedom of Information Act 1992* Qld;
- (b) following the disclosure to the applicant of additional documents during the course of my review, I am satisfied that there are no reasonable grounds for believing that the respondent has possession or control of any documents or parts of documents, falling within the terms of the applicant's FOI access application dated 30 March 1993, to which the applicant has not been given access, except for the letter dated 12 June 1992 from the applicant to the Minister for Transport referred to in (c) below; and
- (c) while there are reasonable grounds for believing that the respondent has possession or control of a letter dated 12 June 1992 from the applicant to the Minister for Transport, I am satisfied that the search efforts made by the agency, and by members of my staff, to locate that document have been reasonable in all the circumstances of the case, and that the document cannot now be located.

Date of Decision: 12 May 1995

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F N ALBIETZ  
INFORMATION COMMISSIONER

Participants:

RONALD KEITH STEWART  
Applicant

- and -

DEPARTMENT OF TRANSPORT  
Respondent

### REASONS FOR DECISION

#### Background

1. The applicant in this case complains that the respondent has not given him access to all of the documents which fall within the terms of the applicant's letter to the respondent dated 30 March 1993, which said:

*Under the Freedom of Information Act, I request to be sent all documents which concern me from the Department of Transport.*

*Approx. dates are 31-10-91 to 23-8-92, 12-6-92 and 23-8-92 (not answered)*

*Also replies from 4-2-91 to 15-7-92, including Department of Transport Toowoomba from 28-1-92 to 10-7-92 and from 16-6-92 to 15-7-92 and also from Mr David Hamill, 1991-1992.*

2. The initial decision on behalf of the Department of Transport (the Department) was made by Mr P Moar, FOI Co-ordinator, on 4 May 1993, and communicated to Mr Stewart by a letter of 5 May 1993 signed by Mr B J Butterworth of the Department. That letter informed Mr Stewart that it was Mr Moar's decision "to grant access to the documents which concern you personally", and attached copies of all documents considered to be relevant. Mr Stewart then applied for internal review of that decision by letter dated 11 May 1993, which relevantly said:

*The documents that your Department sent were only copies of letters and Doctors' certificates that we sent to the Transport Department and you have also left out a number of letters from the Minister of Transport and other people.*

*This is the second time you have sent copies of letters that we sent to this Department and nothing else.*

3. The internal review was conducted by Mr D J Brennan of the Department, who communicated his decision to Mr Stewart by letter dated 26 May 1993. I set out below the substantive part of that letter:

*As you are aware, your letter of 30 March 1993 was treated as an application for access to personal affairs documents and, accordingly, all documents identified as being of that nature were forwarded to you under cover of this Department's letter of 5 May 1993. I have been unable to identify any further relevant documents of a personal affairs nature. No fees or charges applied to this request.*

*However, other documents of a non-personal nature relating to the school crossing supervisor position at Harristown State School are held by the Department, and to seek access to these under the Freedom of Information Act, an application fee of \$30 is required and, in addition photocopying charges of \$0.50 per page would apply should you wish to obtain copies.*

*I am conscious of the fact that you have already approached the Information Commissioner about possible exemption from payment. Payment has continued to be requested pending the outcome of that review by the Information Commissioner.*

4. By letter dated 28 May 1993 (directed initially to the Department but forwarded on to me), Mr Stewart applied for review, under Part 5 of the *Freedom of Information Act 1992 Qld* (the FOI Act), in respect of Mr Brennan's decision. The material parts of Mr Stewart's application are reproduced below:

*I wish to apply for an External Review. I am doing so on the grounds that the Transport Department has failed to supply documents other than letters which we have sent to this Department.*

*Also they failed to send a copy of a letter sent to Mr David Hamill, Minister for Transport, which has never been answered (dated 12/6/92).*

*It is very interesting to note from other documents from this Department sent to another person that the Transport Department has lied and covered up the truth so many times. We can now prove that these documents do concern us as personal affairs and are trying to prevent justice being done.*

#### **Scope of the FOI access application**

5. Before proceeding to other issues which I must consider, it is necessary to discuss the scope of Mr Stewart's FOI access application, both in terms of the nature of the documents sought and the time frame which the application covers.
6. Prior to making the FOI access application now under consideration, Mr Stewart had, with his wife, Mrs C D Stewart, made application to the Department for access to:

*all documents from all parties concerned, with the Department of Transport (Queensland Transport) enquiries from complaints we have made against [here a person, who will be referred to as Mrs Z was identified and that person's part-time occupation was stated]... .*

7. In dealing with that application, the Department of Transport determined that not all the documents responsive to it could be regarded as concerning Mr and Mrs Stewart's personal affairs and that therefore an application fee of \$30 was payable before the application could be accepted. This was initially communicated to the Stewarts by a letter from Mr Butterworth dated 20 January 1993 and re-iterated in the Department's internal review decision dated 9 February 1993. Mr and Mrs Stewart made application to me for external review of that decision (Application no. S 27/93). Subsequently, on 9 December 1993, I made a decision affirming the Department's decision that a \$30 application fee was payable by Mr and Mrs Stewart, on the basis that some of the documents falling within the terms of the application did not relate to their personal affairs: see *Re Stewart and Department of Transport* (1993) 1 QAR 227 (*Re Stewart*). In my reasons for decision in *Re Stewart*, I explained the nature of the documents involved as follows (at paragraphs 115 and 116) :

115. *The Department has identified a number of documents which fall within the terms of Mr & Mrs Stewart's FOI access request dated 12 January 1993, and they have been produced to me for inspection. These documents relate to a dispute that has arisen between several parties (including Mr & Mrs Stewart) which relates to the operation of a school crossing at the Harristown State Primary School. The documents include correspondence between the Department and Mr & Mrs Stewart, documents relating to Mr & Mrs Stewart's son, documents relating to the Department's investigation of the Stewarts' complaints and other matters relevant to the dispute, documents relating to the employment of Mrs Stewart and Mrs Z as crossing supervisors, correspondence between the Department and third parties relevant to the school crossing dispute, and documents relating to an inquiry undertaken by the Parliamentary Commissioner for Administrative Investigations (Ombudsman) into that dispute.*

116. *Some of the documents to which the Stewarts have requested access under the FOI Act relate to matters which concern them as individuals. However, many of the documents clearly concern matters other than the Stewarts' "personal affairs", such as the employment affairs of Mrs Z and the personal affairs of other persons involved in the school crossing dispute. Indeed, there are some documents which clearly fall within the terms of the Stewarts' FOI access request, but which contain no reference to the Stewarts or any member of their family.*

8. During the course of external review application no. S 27/93, Mr Stewart, on numerous occasions, argued that all matters relating to what I shall call the "school crossing dispute" concerned his and his wife's personal affairs. As can be seen from the above, my decision was that this was not the case.
9. It is clear, because of the timing of the present application and the fact that Mr Stewart did not attempt to pay an application fee in respect of it, that the Department took the application to relate solely to matter which concerned Mr Stewart's personal affairs. This is evident from the terms of the internal review decision (see paragraph 3 above). Mr Stewart did not object to this approach in his application for external review, and indeed the terms of his application suggest that he accepts that his application was made on that basis (see the final sentence quoted above in paragraph 4). Mr Stewart has not objected to this approach being taken to his application throughout the course of the external review (he has consistently made it clear that he does not intend to pay a \$30 application fee in respect of the documents to which he has requested access) and has consistently couched his arguments in terms that there must be more documents held by the Department which relate to his personal affairs. What Mr Stewart has done is to suggest that the term "personal affairs" should be construed more broadly than it has been by the Department.
10. Indeed, it must be stated that if Mr Stewart's application did originally purport to seek access to documents which did not relate to his personal affairs, it would not yet be a valid application as no application fee has been paid. I note that this point was made clear to Mr Stewart in the internal review decision. I have therefore formed the view that, given the history of Mr Stewart's applications to the Department, the use of the words "all documents which concern me" should be construed as a reference to documents which concern Mr Stewart's personal affairs.
11. With respect to the time period covered by the application, I note that the first, more general sentence of Mr Stewart's FOI access application dated 30 March 1993, is qualified by the other two sentences (see paragraph 1 above). Those sentences set out approximate dates for the documents in

which Mr Stewart has an interest. It is clear from the terms of Mr Stewart's application that he had a specific time period in mind in making his request. All the dates contained in the application occurred in either 1991 or 1992 and the request for documents from Mr Hamill was for the period 1991 and 1992.

12. In a letter dated 20 July 1993, I indicated to Mr Stewart that the Department had advised me that it may hold other documents concerning his personal affairs, such as details of his driver's licence or details of any traffic accident in which he had been involved. Mr Stewart responded by letter dated 21 July 1993, saying: "*Please send details of 'drivers licence and any traffic accident I may have been involved in'.*" In a related telephone conversation with a member of my staff on the same day, Mr Stewart drew particular attention to a traffic accident in which he had been involved in approximately 1965, as a result of which, he said, he had lost his licence.
13. It is clear, however, from the terms of Mr Stewart's FOI access application dated 30 March 1993, that he sought access to documents created in or around the period 1991-1992. I discussed the interpretation of the terms of an applicant's FOI access application at paragraphs 7 to 16 of my decision in *Re Cannon and Australian Quality Egg Farms Limited* (Information Commissioner Qld, Decision No. 94009, 30 May 1994, unreported). At paragraph 10 of that decision, I stated that the question is not necessarily to be approached in the same manner as the interpretation of a statute or legal document. However, in the final analysis I must come to a conclusion as to the scope of an FOI access application, given a fair reading of the words used by the applicant. I do not consider that any reasonable interpretation of Mr Stewart's FOI access application would extend its scope to documents relating to a traffic accident which occurred in or around 1965.
14. The Department informed me that details of Mr Stewart's driver's licence and any traffic accident involving him, would be supplied to Mr Stewart if he made application through the Department's usual procedures for provision of that information. In letters dated 25 October 1993 and 10 August 1994, I conveyed this to Mr Stewart, along with other matters. While Mr Stewart replied to other matters in those letters, he has not raised any issue concerning access to documents of the kind described in the first sentence of this paragraph, nor given any indication that he wished to pursue access to them. I will not, therefore, give further consideration in this decision to the existence or status of documents of that kind.
15. In light of the foregoing, Mr Stewart's FOI access application dated 30 March 1993, is to be interpreted as an application for matter held by the Department concerning Mr Stewart's personal affairs, created in or around 1991 and 1992. The scope of the FOI access application now under consideration is therefore markedly different to that considered in external review application no. S 27/93, which (if a fee had been paid) would have been a valid application for all documents relating to the school crossing dispute.
16. As this review progressed, it became clear that the major issue for determination was the sufficiency of the search conducted by the Department for documents falling within the terms of Mr Stewart's FOI access application dated 30 March 1993.

### **"Sufficiency of search" issue**

17. I have previously considered my jurisdiction, and powers on review, in respect of sufficiency of search issues in my decisions in *Re Smith and Administrative Services Department* (1993) 1 QAR 22 and *Re Shepherd and Department of Housing, Local Government & Planning* (Information Commissioner Qld, Decision No. 94007, 18 April 1994, unreported). In *Re Shepherd*, I said at paragraphs 18-19:

18. *It is my view that in an external review application involving 'sufficiency of search' issues, the basic issue for determination is whether the respondent agency has discharged the obligation, which is implicit in the FOI Act, to locate and deal with (in accordance with Part 3, Division 1 of the FOI Act) all documents of the agency (as that term is defined in s.7 of the FOI Act) to which access has been requested. It is provided in s.7 of the FOI Act that:*

**'document of an agency' or 'document of the agency'** means a document in the possession or under the control of an agency, or the agency concerned, whether created or received in the agency, and includes -

- (a) a document to which the agency is entitled to access; and
- (b) a document in the possession or under the control of an officer of the agency in the officer's official capacity;

19. *In dealing with the basic issue referred to in paragraph 18, there are two questions which I must answer:*

- (a) *whether there are reasonable grounds to believe that the requested documents exist and are documents of the agency (as that term is defined in s.7 of the FOI Act);*

*and if so,*

- (b) *whether the search efforts made by the agency to locate such documents have been reasonable in all the circumstances of a particular case.*

18. In considering this application, I have not relied solely on the Department's indications as to which documents in its possession concern Mr Stewart's personal affairs, and therefore come within the scope of Mr Stewart's FOI access application. Members of my staff have examined each of the documents which were considered to be relevant in external review application no. S 27/93 and examined each of the files held by the Toowoomba Office of the Department, which are relevant to the school crossing dispute (these searches are described at paragraphs 25 and 27 below). From those examinations and examinations of other documents provided by the Department pursuant to searches requested by me, members of my staff have isolated all documents which concern, or which may reasonably be argued to concern, the personal affairs of Mr Stewart, given the interpretation of that term which I explained in my earlier decision of *Re Stewart*. In examining documents which may be relevant, my staff have taken a liberal view of what matter may concern Mr Stewart's personal affairs and the Department has been very co-operative in agreeing to the grant of access to this matter, notwithstanding initial concerns relating to the classification and exempt status of matter in a number of cases.
19. The Department has agreed to the release in full of all but seven of the documents so identified. In the case of those seven documents, the Department has agreed to the release of all matter which concerns Mr Stewart's personal affairs, subject to the deletion of matter which does not concern his personal affairs (see paragraphs 35 to 43 for further discussion of those documents).
- Searches made**
20. I should note at the outset that, in addition to Mr Stewart's external review application no. S 103/93

(now under consideration), applications have been made by Mr Stewart's son (S 102/93, made on 10 February 1993) and his wife (S 166/93, made on 8 June 1993) for material concerning their own personal affairs. Later external review applications by Mr Stewart and by Mrs Stewart also requested similar material. The searches described below, conducted by staff of the Minister's office and of the Department, and by members of my own staff, have therefore often related to more than one application. Some documents have been found to fall within the scope of more than one application, while others have been found to be relevant only to applications by one person. For example, some documents which were relevant to external review application no. S 27/93, may be relevant to an application by Mrs Stewart as they concern her personal affairs, but not relevant to an application by Mr Stewart because they do not concern his personal affairs.

21. In his letter of 28 May 1993 applying for external review in this case, Mr Stewart made reference to a particular letter (which he had sent to the Minister for Transport, Mr David Hamill, dated 12 June 1992) a copy of which had not been provided by the Department, and then went on to make a general claim that there are further documents concerning his personal affairs which have not been provided by the Department.
22. By letters of 11 June and 25 June 1993, I directed the Department to provide me with a schedule of documents which were released to Mr Stewart and to advise as to whether searches had been able to locate the letter of 12 June 1992.
23. In respect of the letter of 12 June 1992 (a copy of which has been provided by Mr Stewart for my information), I received a response from the Department dated 30 June 1993, indicating that searches involving five staff had been unable to locate it. Searches of the Director-General's records including the "CITEC" mail tracking system, the Minister's Office records, and the Road Safety Division's records were unsuccessful. Inquiries had been made of two previous FOI Liaison Officers to establish whether they could recollect ever seeing the letter. A further search had been conducted by Mr Moar of all files relevant to the school crossing dispute, without success.
24. Further searches were undertaken for the letter throughout the course of this external review, and a member of my staff attended at the Minister's office on 2 February 1994 to follow up these searches. The filing system used in the Minister's office and the extent of searches carried out was explained, but it was confirmed that, despite a computer search which established that the letter had been received on 15 June 1992, no trace of the letter could be found.
25. The documents provided to me by the Department in relation to external review application no. S 27/93 were also examined and a member of my staff identified a number of documents, not previously released to Mr Stewart, which might arguably relate to his personal affairs. I formed the view that Mr Stewart may already hold originals or copies of a number of those documents and requested that he consider whether he wished to obtain further copies of those documents. After initially stating that he wished to press for access to those documents, Mr Stewart later confirmed that he did not seek access to them.
26. In relation to the other documents which were identified as arguably within the scope of Mr Stewart's FOI access application dated 30 March 1993, I consulted the Department with a view to obtaining its agreement to the grant of access to Mr Stewart. Despite initial objections that some of the matter did not fall within the scope of Mr Stewart's FOI access application and that some of the matter was exempt, the Department agreed to the release of all matter which had been identified as arguably falling within the scope of Mr Stewart's FOI access application. The documents were released in full except for four documents which were released in part, with matter which did not concern Mr Stewart's personal affairs deleted (see paragraphs 35 to 43 for further discussion of these documents).



27. I then arranged for a member of my staff to attend at the offices of the Department to search original files from the Toowoomba office of the Department relating to the school crossing dispute, and any other matters concerning Mr Stewart, Mrs Stewart or their son. Eight original files were searched and documents which were considered to contain information concerning the personal affairs of one or more of the Stewarts were copied.
28. On 14 February 1994, a member of my staff attended at the Road Safety Division of the Department at Spring Hill and consulted with a number of staff of the Department in relation to the searches that had been undertaken, and possible avenues for further search. No further documents within the scope of Mr Stewart's FOI access application were found at that time. A further search of the records of the Passenger Transport Division of the Department was requested on that date and undertaken at a later date, but no further relevant documents were found.
29. Conferences were then held with representatives of the Department as to the release of matter which had been identified as arguably falling within the terms of Mr Stewart's FOI access application. The Queensland Police Service was also consulted in relation to a number of those documents which also related to its affairs, and it confirmed that it had no objection to the release of the documents. The Department agreed to the release of all matter which was arguably within the scope of Mr Stewart's FOI access application. All but three documents were released in full. Access to three documents was granted in part with matter which did not concern Mr Stewart's personal affairs deleted (see paragraphs 35 to 43 for further discussion of these documents). The Department agreed to the release of the documents notwithstanding that it had reservations about whether some parts of the material did concern Mr Stewart's personal affairs and that some of the matter may have been exempt under the FOI Act.
30. By letter dated 10 August 1994, I communicated to Mr Stewart my preliminary view that there were no reasonable grounds to believe that the Department holds further documents which fall within the terms of his FOI access application dated 30 March 1993, and that the searches conducted by the Department (supplemented by the searches conducted by my officers) were reasonable in all the circumstances of his case. By letter dated 25 August 1994, Mr Stewart stated that he did not accept my preliminary view.

#### **Findings on sufficiency of search issue**

31. As noted above, I interpret Mr Stewart's application to be for information concerning his personal affairs, created in or around 1991 and 1992.
32. In relation to Mr Stewart's letter to the Minister dated 12 June 1992, I find that there are reasonable grounds to believe that the requested document exists and is a document of the agency. The computer records of the Minister's office show that the document was received and there is no evidence before me that the document was destroyed or is likely to have been destroyed. However, given the extent of the searches detailed at paragraphs 23 and 24 above and the further searches which have been conducted at my request for the document in the Minister's office and other parts of the Department, I find that the search efforts made by the agency to locate such documents have been reasonable in all the circumstances.
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 passages 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. The other points raised in Mr Stewart's letter relate to references to specific documents which exist but to which he has not been granted access. However, I am satisfied that these documents do not fall within the scope of his FOI access application.

34. As to Mr Stewart's general claim that there are documents concerning his personal affairs held by the Department, I find that there are no reasonable grounds to believe that the requested documents exist. The Department has carried out extensive searches within its Brisbane and Toowoomba offices and I consider that these search efforts have been reasonable in all the circumstances. I consider that one of the underlying causes of Mr Stewart's refusal to accept my preliminary view in relation to the sufficiency of search carried out by the agency is his view that the term "personal affairs" is considerably wider than the construction which I have placed on it in my earlier decision in *Re Stewart*. As indicated above, while adhering to the meaning of "personal affairs" in *Re Stewart*, my staff have taken a liberal view, favouring Mr Stewart where any doubt was encountered, and the Department has co-operated in agreeing to the release of all matter which was recommended for release to Mr Stewart.

#### **Parts of document not released**

35. Having considered the question of "sufficiency of search" by the Department, the only matters left for me to consider are two points raised by Mr Stewart in relation to the documents to which the Department has given Mr Stewart access in part.
36. In letters dated 25 October 1993 and 10 August 1994, I drew the attention of Mr Stewart to seven documents to which he had been granted access in part. Mr Stewart was granted access to all parts of those documents which concerned his personal affairs, but the Department objected to release of the remaining parts of the documents on the basis that they concerned the personal affairs of others and were exempt under s.44(1) of the FOI Act.
37. The only objection which Mr Stewart raised to this course of action was in a letter dated 25 August 1994, in which Mr Stewart referred to two of those documents stating:

*I wish to advise you to press for the release of deleted material on items 5, 6, 7 and also slip dated 18-12-91.*

38. The first document referred to by Mr Stewart appears to be a register used by the Department to record details of incoming and outgoing correspondence, and consultations carried out, relating to various complaints against the Department which had been lodged with the Office of the Parliamentary Commissioner for Administrative Investigations. Items 5, 6 and 7 concern either Mr Stewart's personal affairs or the school crossing dispute. Items 8 to 11 are totally unrelated to either Mr Stewart's personal affairs or the school crossing dispute. They deal with complaints to the Ombudsman about unconnected matters. It appears from his letter that Mr Stewart is under the mistaken impression that the Department has not agreed to grant access, or to grant access in full, to items 5, 6 and 7. The Department has in fact agreed to grant full access to items 5, 6 and 7, and I have authorised the Department to give Mr Stewart full access to those items. I understand that Mr Stewart has been given full access to those items.
39. The second document referred to by Mr Stewart is a "With Compliments" slip, addressed to the Regional Director from an officer of the Department. It states that it attaches two draft replies for

the Regional Director's consideration, one of which is a draft reply to Mr Stewart. Mr Stewart has been given access to the whole of the slip except for the name of the person to whom the other draft reply was addressed. The Department has claimed that the person's name is exempt matter under s.44(1) of the FOI Act.

40. Section 44(1) provides as follows:

*44.(1) Matter is exempt matter if its disclosure would disclose information concerning the personal affairs of a person, whether living or dead, unless its disclosure would, on balance, be in the public interest.*

41. In *Re Byrne and Gold Coast City Council* (Information Commissioner Qld, Decision No. 94008, 12 May 1994, unreported) (paragraphs 25-38) I recognised that, in certain circumstances, disclosure of a person's name in conjunction with the fact that that person has made a complaint to a government authority will disclose information concerning that person's personal affairs. I consider that in the circumstances of this application, release of the name deleted from the slip would disclose information concerning the personal affairs of the person named.

42. I must also consider whether there is any public interest in Mr Stewart having access to that name, which is of sufficient strength to outweigh the *prima facie* public interest in protecting the personal affairs of the person named. I can identify no public interest of sufficient weight. The complaint in question was not made against Mr Stewart. It does not relate to his personal affairs. It appears on the particular "With Compliments" slip in issue because a draft letter dealing with that complaint was forwarded for the Regional Director's consideration at the same time as a draft letter to Mr Stewart. I can find no public interest consideration which might favour release of the name of the person who made the complaint.

43. I therefore consider the deleted matter to be exempt matter under s.44(1) of the FOI Act.

### **Conclusion**

44. As the "With Compliments" slip was not initially considered by the internal review decision maker, and further documents were discovered in the course of my review, it is appropriate that I vary the decision under review. I find that -

- (a) the name appearing on the first line of point 1 of the 'With Compliments' slip dated 18 December 1991 (as identified in paragraph 39 of my reasons for decision) is exempt matter under s.44(1) of the FOI Act;
- (b) following the disclosure to the applicant of additional documents during the course of my review, I am satisfied that there are no reasonable grounds for believing that the respondent has possession or control of any documents or parts of documents, falling within the terms of the applicant's FOI access application dated 30 March 1993, to which the applicant has not been given access, except for the letter dated 12 June 1992 from the applicant to the Minister for Transport referred to in (c) below; and
- (c) while there are reasonable grounds for believing that the respondent has possession or control of a letter dated 12 June 1992 from the applicant to the Minister for Transport, I am satisfied that the search efforts made by the respondent, and by members of my staff, to locate that document have been reasonable in all the circumstances of the case, and that the document cannot now be located.

.....  
F N ALBIETZ  
**INFORMATION COMMISSIONER**