

FREEDOM OF INFORMATION CASE NOTES

Documents sought about disciplinary process ***Information Act s.53, s.55***

A news organisation sought access to documents which set out the findings of a disciplinary action taken against a public sector employee. Such disciplinary matters are typically handled confidentially, and access was refused by the organisation on the basis disclosure would have a substantial adverse effect on the management of the organisation, and a substantial adverse effect on the conduct of industrial relations.

The public sector organisation asserted that persons 'subject to disciplinary proceedings would be less likely to participate, or participate frankly and candidly, in the process.' The *prima facie* decision maker found that such propositions, without more, do not prove whether release of the documents in question will have a substantial, adverse effect on the management by the Respondents of its staff.

The organisation also made assertions that disclosure of the information would result in a breach of confidence that could give rise to a legal remedy, and that disclosure would 'inhibit frankness and candour in future pre-decisional consideration' but did not lead evidence to support these potential exemptions.

It was found that there was sufficient *prima facie* evidence to substantiate the complaint, and the matter was referred to mediation and ultimately settled.