

FREEDOM OF INFORMATION CASE NOTES

Applicant seeking MLA emails *Information Act s5(6)*

The Complainant sought emails from the email accounts of Members of the Legislative Assembly. The Complainant made applications to the Department of the Chief Minister and to the Department of Corporate and Information Services. The Department of Corporate and Information Services, which maintains information technology infrastructure on behalf of the Northern Territory Government, transferred the application to the Department of the Legislative Assembly on the basis that the information originated from and was more closely related to the operations of that public sector organisation. The Department of the Chief Minister located no relevant emails in its possession.

The Commissioner's delegate followed *Parnell and Prime Minister of Australia (No 2)* [2011] AICmr 12 (23 December 2011) where it was found that: 'An underlying premise of the FOI Act is that not all documents held in a minister's office will be subject to the FOI Act. The Act applies only to "official documents" that relate to the affairs of an agency or department'. The documents sought in this case concerned correspondence regarding political party matters. Given that this was the subject matter, and the Complainant referred to the MLAs as MLAs and not as Ministers, the 'inescapable conclusion is that access to the information requested relates to the three named individuals in their capacity as MLAs and not as ministers holding government information connected with their responsibilities as the holders of that office.'

Such documents were out of scope of what could be requested under the FOI scheme, and hence the delegate dismissed the complaint for insufficient *prima facie* evidence.