

Decision D0162012 – Published in note form only

Re ‘N’ and North Metropolitan Area Health Service - Graylands Selby-Lemnos & Special Care Health Service [2012] WAICmr 16

Date of Decision: 31 May 2012

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

In June 2011, the complainant applied to the agency under the *Freedom of Information Act 1992* (‘the FOI Act’) for access to certain of his mental health records. The agency granted access to edited copies of the requested documents, claiming that the information deleted was outside the scope of his access application and was exempt under clause 3(1) (personal information) of Schedule 1 to the FOI Act. The agency varied its decision on internal review, giving the complainant access to some but not all of the information initially deleted from the requested documents, claiming that the information which remained deleted (‘the disputed information’) is personal information about third parties which is exempt under clause 3(1).

In November 2011, the complainant applied to the Information Commissioner for external review of the agency’s decision. Following receipt of the complaint, the Commissioner obtained the requested documents from the agency, together with the FOI file maintained in respect of the application. The Commissioner examined that material and was satisfied that the disputed information would, if disclosed, reveal personal information, as defined in the FOI Act, about a number of individuals including the complainant.

The Commissioner was satisfied that the personal information about the complainant was so inextricably interwoven with personal information about other people that it could not be disclosed without also disclosing personal information about those third parties. The Commissioner therefore considered that the disputed information was *prima facie* exempt under clause 3(1).

In balancing the competing public interests, the Commissioner considered that the public interest in protecting the privacy of the third parties and the public interest in the agency maintaining its ability to obtain information to enable it to carry out its functions in respect of mental health on behalf of the wider community, outweighed the public interest in the complainant exercising his rights of access and the public interest in the complainant having access to personal information about himself. The Commissioner considered that those public interests had been satisfied to a large extent by the agency’s disclosure to the complainant of edited copies of the requested documents.

Accordingly, the Commissioner confirmed the agency’s decision and found that the disputed information was exempt under clause 3(1) of Schedule 1 to the FOI Act.