

Decision D0212012 – Published in note form only

Re ‘O’ and North Metropolitan Health Service - Graylands Selby-Lemnos & Special Care Health Service [2012] WAICmr 21

Date of decision: 15 August 2012

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

In January 2012, the complainant applied to the agency for access, under the *Freedom of Information Act 1992* (‘the FOI Act’), to her medical record relating to various admissions to the agency. Initially the agency decided to grant the complainant indirect access to her medical record under the provisions of s.28 of the FOI Act, which provides for access by way of a suitably qualified person. The agency varied its decision on internal review and decided to give the complainant access to edited copies of her medical record by deleting personal information concerning third parties on the ground that it was exempt under clause 3(1) of Schedule 1 to the FOI Act.

The complainant applied for external review to the Information Commissioner in relation to the agency’s decision to delete that information under clause 3(1).

The Commissioner reviewed the material in the complainant’s medical records and the agency’s FOI file and sought further information and clarification from the agency. On 25 June 2012, one of the Commissioner’s officers advised the complainant that, in her view, the agency’s decision to edit the medical record was justified.

The complainant was invited to withdraw her complaint or provide further submissions. Although the complainant was given three extensions of time in which to make submissions, none were received.

The Commissioner reviewed the medical records and was satisfied that the deleted information would, if disclosed, reveal personal information, as defined in the FOI Act, about people other than the complainant. The deleted information included personal information about the complainant but that could not be disclosed without also disclosing personal information about other people. The Commissioner considered that the deleted information was *prima facie* exempt under clause 3(1).

The Commissioner considered the application of the limit on the exemption in clause 3(6). In balancing the competing public interests, the Commissioner was of the view that the public interests in protecting the privacy of third parties and in the agency’s 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 her rights of access in this case. The Commissioner considered that the latter public interest had largely been satisfied by the disclosure to the complainant of the information about her in the edited documents to which the agency had granted her access.

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