

Decision D0162002 – Published in note form only

Re “B” and Graylands Selby-Lemnos and Special Care Health Services [2002] WAICmr 16

Date of Decision: 18 April 2002

Freedom of Information Act 1992: Schedule 1, clause 3

The complainant made two separate applications for access to her medical records. The agency granted access to some documents, but deleted matter on the ground that it is exempt under clauses 3(1) and 8(2) of Schedule 1 to the FOI Act. However, the agency decided not to deal with part of one access application because it had previously dealt with two other applications for the same records and on both occasions had given the complainant access to the requested documents.

On 11 December 2001, the complainant lodged a complaint with the Information Commissioner seeking external review of the agency’s decisions. Following inquiries, some additional records were released to the complainant. The Information Commissioner compared the disputed documents with the material previously released to the complainant and was satisfied that the complainant had been given access to all of her medical records, save for four documents, which were in dispute.

In respect of those four documents, the Information Commissioner was satisfied that the deleted information was personal information about a number of third parties because it included names and other information, which would identify those third parties. The Information Commissioner decided that the deleted matter is, *prima facie*, exempt under clause 3(1) of Schedule 1 to the FOI Act.

In deciding whether disclosure of personal information would be in the public interest, the Information Commissioner recognised a public interest in an applicant having access to personal information about him or her and being able to correct personal information that is inaccurate, incomplete, out of date or misleading. In the circumstances of this complaint, the Information Commissioner decided those interests carried less weight than the public interest in protecting the privacy of the third parties because the complainant had largely been given access to her complete records. Further, the complainant could not persuade the Information Commissioner that the documents contained inaccurate or misleading personal information. The Information Commissioner decided that it was not practicable to give the complainant access to some personal information about the complainant, which was entwined with personal information about third parties, because to do so would involve disclosing personal information about the third parties.

The Information Commissioner was satisfied that the complainant had only been refused access to a small amount of information. Therefore, in balancing the competing public interests, the Information Commissioner gave more weight to the public interest in protecting the privacy of third parties. The Information Commissioner varied the agency’s decision to the extent that the Information Commissioner found the disputed documents exempt under clause 3(1).