

SOLOMON AND PSYCHOLOGISTS BOARD

OFFICE OF THE INFORMATION COMMISSIONER (WA)

Decision summary issued pursuant to s.76(8) of the *Freedom of Information Act 1992*

COMPLAINT Nos: F0831998/F0841998

DECISION No: D0231998

PARTIES: Julia SOLOMON

Complainant

**THE PSYCHOLOGISTS BOARD
OF WESTERN AUSTRALIA**

Respondent

No. of documents in dispute: 3

Exemption clause(s): Clause 3(1)

Dr Julia Solomon ('the complainant') is a clinical psychologist registered with the Psychologists Board of Western Australia ('the agency'). The agency is established by the *Psychologists Registration Act 1976* and its functions include, among other things, compiling and maintaining a register of psychologists and inquiring into complaints made against registered psychologists. In August 1992, a complaint was made to the agency about the complainant. The agency informed the complainant but, after considering the matter, decided not to hold an inquiry. The agency's deliberations on that complaint are recorded in the minutes of its meetings.

In December 1994, the complainant lodged her first access application with the agency seeking access under the *Freedom of Information Act 1992* ('the FOI Act') to certain records of the agency containing information about her. Eventually, the complainant was given access to edited copies of the requested documents with certain matter deleted on the grounds that it is exempt under clauses 3, 5 and 8 of Schedule 1 to the FOI Act. In February 1998, the complainant sought access to the matter deleted from those documents. The agency treated this request as a request for internal review of the decision made by it in 1995. The agency refused to give the complainant access to the deleted matter.

In July 1995, the complainant made a second access application to the agency seeking access under the FOI Act to all of the documents contained on her registration file. The agency granted full access to all but one of those documents. In respect of that one document, the agency granted access to an edited copy with certain matter deleted. The agency's decision to refuse access to the deleted matter was confirmed following internal review.

By letter dated 27 May 1998, the complainant lodged two complaints with the Information Commissioner seeking external review of the agency's decisions to refuse her access to the deleted matter. As both complaints deal with similar issues, this decision summary contains my decisions and my reasons in respect of both complaints.

REVIEW BY THE INFORMATION COMMISSIONER

I obtained the disputed documents from the agency. Meetings and discussions were held with the parties to determine if these complaints could be resolved by conciliation. As a result of those discussions, the agency released some additional matter to the complainant. After considering the material before me, on 5 August 1998, I informed the parties in writing of my preliminary view of these complaints, including my detailed reasons. It was my preliminary view that all of the matter deleted from the disputed documents may be exempt under clause 3(1) of Schedule 1 to the FOI Act. Subsequently, I received a written submission from the complainant. I have considered the complainant's submission, but it has not dissuaded me from my preliminary view that the matter deleted from the documents is exempt under clause 3(1). My reasons follow.

THE DISPUTED MATTER

The disputed matter consists of the names of third parties and other personal information about those individuals that has been deleted from three documents, namely minutes of the agency dated 5 January 1993 and 5 October 1993 respectively, and a memorandum dated 1 July 1994.

The exemption - Clause 3 (Personal information)

Clause 3(1) of Schedule 1 to the FOI Act provides that matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead). The definition of "personal information" in the Glossary makes it clear that any information or opinion about a person from which that person can be identified is, on the face of it, exempt matter under clause 3(1).

The disputed matter comprises the names of a number of individuals, none of whom is an officer of the agency. In my view, that information is, *prima facie*, exempt matter under clause 3(1) of Schedule 1 to the FOI Act. Clause 3(1) is subject to a number of limits on exemption. In my view, the only limit which may apply is the limit on exemption in clause 3(6) which provides that matter is not exempt under clause 3(1) if its disclosure would, on balance, be in the public interest. Pursuant to s.102(3) of the FOI Act, the complainant bears the onus of persuading me that the disclosure of personal information about third parties would, on balance, be in the public interest.

THE COMPLAINANT'S SUBMISSION

The complainant submits that the agency should be publicly accountable for the exercise of its statutory powers to ensure that its practices and procedures are appropriate and that it is seen to deal with complaints in accordance with the principles of fairness, precedent and impartiality. The complainant expressed her concerns about the procedures adopted by the agency in dealing with complaints against her and her belief that the agency failed to act in accordance with the rules of procedural fairness with consequent detriment to her. The complainant submits that the disclosure of the names of third parties would be in the public interest as it would open up the agency's decisions to public scrutiny and would dispel her opinion that the agency failed to act fairly when dealing with the complaints made against her.

PUBLIC INTEREST

I recognise that there is a strong public interest in ensuring the maintenance of personal privacy, which will only be displaced by a very strong competing public interest that requires the disclosure of personal information. I also recognise a public interest in the agency being able to obtain the information necessary for it to perform its statutory functions. I recognise the public interest in a person being informed of the nature of complaints made against him or her and being given an opportunity to respond to allegations. There is also a public interest in the complainant, as a member of the public, being able to exercise her right of access under the FOI Act and to obtain access to personal information about her.

Based on the material before me, I am satisfied that the complainant has been informed of the substance of the complaints made against her and that she has been given the opportunity of responding to those complaints. I am also satisfied that the public interest in accountability, which requires transparency, as far as possible, of the agency's processes for dealing with complaints, has been satisfied in this instance by the disclosure of the documents to the complainant in edited form. The only matter deleted from those documents is the identities of various individuals, including those who made complaints or sent correspondence to the agency. Regardless of the reasons behind the making of the complaints, I do not consider that accountability of the agency requires the disclosure of personal information about third parties.

Whilst there may be circumstances where the personal privacy of one person must give way to a stronger public interest which requires the disclosure of personal information, this is not one of those instances. I consider that the complainant has been given access to all of the personal information about her contained in the disputed documents and that the public interest in her having access to such information is satisfied. Based on the information before me, I do not consider that the complainant has identified any compelling public interest that requires the disclosure of the personal information about third parties.

CONCLUSION

Therefore, in balancing the competing public interests, for the reasons given the parties, which I have summarised herein, I am not persuaded that there is any public interest that outweighs the public interest in protecting personal privacy. Accordingly, I find that the matter in dispute is exempt under clause 3(1) of Schedule 1 to the FOI Act and confirm the decision of the agency to refuse the complainant access to it.

B. KEIGHLEY-GERARDY
INFORMATION COMMISSIONER
8 September 1998