

R AND FAMILY/CHILDREN

OFFICE OF THE INFORMATION COMMISSIONER (WA)

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

COMPLAINT No: 96073

DECISION No: D04596

PARTIES: "R"

Complainant

Department for Family and Children's Services

Respondent

No. of documents in dispute: Not applicable

Exemption clause(s) : Not applicable

On 21 December 1995, the access applicant sought access under the *Freedom of Information Act 1992* ('the FOI Act') to documents held by the Department for Family and Children's Services ('the agency') relating to her four children and to any documents relating to a named third party. I have decided not to identify the complainant ("R") in this Decision Summary in order to protect the identity of her children and also to preserve her privacy.

Officers from a regional office of the agency which held the relevant files initially met with the complainant and, as a result of that meeting, the complainant agreed to reduce the ambit of the access application. Thereafter, the agency dealt with the access application as a request for personal information contained in documents of the agency for the period 1/10/94 to 31/12/94. However, on 11 January 1996, the complainant revoked her earlier advice to the agency and informed it that she wished to have access to all personal information held by the agency about her. On 17 January 1996, the agency advised her that, pursuant to s.20(2) of the FOI Act, it refused to deal with her access application on the basis that the work involved would divert a substantial and unreasonable portion of the agency's resources away from its other operations.

On 29 January 1996, the complainant informed the agency that she sought access to all documents that relate to her children who are wards of the State and the decision of the agency that those children remain under the guardianship of the Director General of the agency until they attain the age of 16 years. On 6 March 1996, the agency again informed the complainant that it refused to deal with her access application pursuant to s.20(2) of the FOI Act. On 11 April 1996, the complainant lodged a complaint with the Information Commissioner seeking external review of the agency's decision to refuse to deal with her access application.

Refusal to deal with an access application

Section 20 of the FOI Act, so far as is relevant, provides:

20. (1) If the agency considers that the work involved in dealing with the access application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency has to take reasonable steps to help the applicant to change the application to reduce the amount of work needed to deal with it.

(2) If after help has been given to change the access application the agency still considers that the work involved in dealing with the application would divert a substantial and unreasonable portion of the agency's resources away from its other operations, the agency may refuse to deal with the application."

Review by the Information Commissioner

When considering a complaint about an agency's refusal to deal with an access application, my function is to decide whether that agency took reasonable steps to help an access applicant to change an application to reduce the amount of work needed to deal with it and whether the agency was justified in deciding that the work involved in dealing with

the application in the form in which it was received would divert a substantial and unreasonable portion of the agency's resources away from its other operations. The first question involves a consideration of the history of the matter between the parties from the date the application was received, and includes the nature and degree of assistance offered to the applicant by the agency. The second involves a consideration of the number and type of documents involved in the access application, the usual work of the agency and an estimate of the resources to be devoted to the task of dealing with the application in accordance with the statutory requirements of the FOI Act.

In order that I might be fully informed about this complaint, my Investigations Officer visited the regional office of the agency and inspected the files relating to the complainant and her children. She also met with the complainant and discussed her complaint in the presence of the complainant's solicitors. Thereafter, on 24 June 1996, the parties were informed of my preliminary view that, in the circumstances, it was my view that the agency was justified in refusing to deal with the complainant's access application. The parties were informed of my reasons for that view and the findings on material questions of fact underlying those reasons, with reference to the material on which those findings were based. The complainant did not respond to my preliminary view and has provided nothing further to dissuade me from that view. In summary, my reasons are as follows.

The assistance offered by the agency

From the information before me, I am satisfied that the agency took reasonable steps to assist the complainant to change her access application. Officers of the agency met with the complainant and attempted to assist her to exercise her rights under the FOI Act by reducing the ambit of her access application. I am also satisfied that the agency provided the complainant with access to documents specifically containing personal information about her. There is also evidence before me which confirms that, in spite of the agency's offer of assistance in dealing with a reduced access application, the complainant did not respond to the agency's offer.

Substantial and unreasonable diversion of resources

I am informed by the agency that the complainant's access application involves approximately 1800 documents maintained on 11 separate files relating to each of her children. I am further informed that those documents include file notes, reports from private practitioners, case conference notes, case review notes, case discussions, reports from psychologists, medical reports, various correspondence, transcripts of interviews conducted by the police and correspondence from solicitors. Based on the material before me, I consider that some of those documents may be exempt documents under one or more clauses of Schedule 1 to the FOI Act. Taking into account the report of my Investigations Officer following her inspection of the requested documents, I am satisfied that a great many of the documents contain a considerable amount of personal information about third parties, including the complainant's children, and a limited amount of personal information about the complainant much of which is intertwined with the personal information about other people.

I am advised by the agency that, due to the sensitive nature of the information in the documents, it would require an officer of the agency to be dedicated full time to the task of reading and editing the requested documents, and consulting with third parties over a period of approximately 10 days to ensure that the agency complies with its statutory obligations to make a decision in respect of each document.

On the basis of the information before me, having given consideration to the number of documents involved, the number of other access applications with which the agency is currently dealing, the resources available to the agency to deal with the complainant's access application in its current form, including the limited number of staff with the necessary knowledge to make an informed judgement about the granting of access, I am satisfied if the agency were to deal with the complainant's request in its current form, the agency would be required to divert a substantial and unreasonable portion of its resources away from its other operations. In my view, the agency's decision under s.20 of the FOI Act to refuse to deal with the access application, is justified.

Accordingly, I confirm the decision of the agency to refuse to deal with the complainant's access application because the work involved would divert a substantial and unreasonable portion of the agency's resources away from its other operations.

B. KEIGHLEY-GERARDY
INFORMATION COMMISSIONER

25th July 1996