

Decision D0142010 - Published in note form only

Re 'W' and North Metropolitan Health Service [2010] WAICmr 14

Date of Decision: 30 April 2010

Freedom of Information Act 1992: Section 26

The complainant, acting as agent for a relative, applied to the agency for documents containing the names of certain medical practitioners who had treated the complainant's relative on certain dates some 15 years ago.

The agency identified the relevant patient file and gave access to those documents it held that recorded details of the treatment provided to the complainant's relative. However, the identity of the medical practitioners could not be established from those documents because the author was either not stated or because the signature of the author was illegible. The agency advised that no other documents containing the requested information existed and that it was not possible to give access to the requested documents, citing s.26 of the *Freedom of Information Act 1992* ('the FOI Act').

The complainant applied to the Information Commissioner ('the Commissioner') for external review of the agency's decision, claiming that additional documents should exist.

The Commissioner obtained the agency's FOI file from the agency, which included a copy of the documents provided to the complainant. The Commissioner's officers made inquiries with the agency about the searches it had conducted for the requested documents. On 29 March 2010, the Commissioner provided the parties with a letter setting out his preliminary view of the complaint. It was the Commissioner's preliminary view that he was not satisfied that the requested documents exist or should exist and are or should be held by the agency. Therefore, the Commissioner did not require the agency to conduct any further searches.

In light of that, the complainant was invited to reconsider whether the complainant wished to pursue the matter or to provide the Commissioner with further submissions relevant to the matter for the Commissioner's determination.

The complainant made further submissions, claiming that searches for the requested documents should be undertaken in the agency's archived medical staff records. The agency advised the Commissioner that the only type of staff record it holds which may assist to identify a medical practitioner who may have treated a patient on a particular date are staffing rosters, in that those documents would indicate the names of medical practitioners on duty on a particular date. However, in this case, the agency was unable to find staff rosters dating back 15 years. While not conclusive, the agency advised that it was likely that documents of that kind were destroyed in accordance with the agency's approved retention and disposal schedules.

After reviewing the searches and inquiries undertaken by the agency for the requested documents and considering all of the information provided by the agency and the complainant, the Commissioner was satisfied that the agency had taken all reasonable steps to locate the requested documents and that further documents either could not be found or did not exist. Accordingly, the Commissioner confirmed the agency's decision to refuse the complainant access to the requested documents under section 26 of the FOI Act.