

Decision D0172013 – Published in note form only

Re ‘B’ and North Metropolitan Health Service – Sir Charles Gairdner Hospital [2013] WAICmr 17

Date of decision: 28 June 2013

Freedom of Information Act 1992: Schedule 1, clauses 3(1) and 3(6)

In January 2013, ‘B’ (‘the complainant’) applied to the North Metropolitan Health Service – Sir Charles Gairdner Hospital (‘the agency’) under the *Freedom of Information Act 1992* (‘the FOI Act’) for access to documents involving admissions to the agency by a third party.

The agency identified the documents within the scope of the application and refused access to those documents. The agency claimed that the requested documents consisted of personal information about a third party and were exempt under clause 3(1) of Schedule 1 to the FOI Act.

The complainant applied for internal review of the agency’s decision and on internal review, the agency confirmed its initial decision

In May 2013, the complainant applied to the Information Commissioner (‘the Commissioner’) for external review of the agency’s decision. Following the receipt of the complaint, the Commissioner obtained the documents from the agency related to the complainant’s access application.

On 30 May 2013, after considering the information before him, the Commissioner provided the parties with a letter setting out his preliminary view of the complaint. It was the Commissioner’s preliminary view that the disputed documents were exempt as claimed by the agency under clause 3 of Schedule 1 to the FOI Act.

The complainant was invited to reconsider whether he wished to pursue his complaint or to provide further submissions. The complainant did not withdraw from the complaint and made further submissions. The Commissioner considered those further submissions and reviewed all of the information before him but was not dissuaded from his preliminary view.

The Commissioner was satisfied that the disputed documents would, if disclosed, reveal personal information, as defined in the FOI Act, about people other than the complainant. Accordingly, the Commissioner considered that the disputed documents were prima facie exempt under clause 3(1).

In weighing the public interests pursuant to clause 3(6), the Commissioner found that, in this case, the public interest factors in favour of disclosure of the disputed documents were not sufficient to outweigh the strong public interest in the protection of personal privacy of third parties.

Accordingly, the Commissioner found that the disputed documents were exempt under clause 3 of Schedule 1 to the FOI Act and confirmed the agency’s decision.