

Decision D0182011 - Published in note form only

Re 'D' and North Metropolitan Area Health Service – Mental Health [2011] WAICmr 18

Date of Decision: 16 May 2011

Freedom of Information Act 1992: Section 12(1)(e); Schedule 1, clauses 3(1), 3(5) and 3(6)

The complainant applied to the agency under the *Freedom of Information Act 1992* ('the FOI Act') for access to certain documents held in his medical record concerning him. The agency granted access to edited copies of the requested documents claiming that the information deleted from the documents was outside the scope of his access application – because his application was for personal information about him only – or was exempt under clause 3(1) (personal information) of Schedule 1 to the FOI Act. The agency confirmed its decision on internal review.

On 1 July 2010, the complainant applied to the Information Commissioner for external review of the agency's decision. Following receipt of the complaint, the Commissioner obtained the requested documents from the agency, together with the FOI file maintained in respect of the application. The Commissioner examined that material and was satisfied that the information deleted from the requested documents would, if disclosed, reveal personal information, as defined in the FOI Act, about other people as well as the complainant.

The Commissioner was satisfied that the information deleted from the requested documents which consisted of personal information about other people was outside the scope of the application and the agency was entitled to delete that information on that basis. The Commissioner was satisfied that the remainder of the information deleted from the requested documents included personal information about the complainant, but that information – with the exception of a small amount of information – was so inextricably interwoven with personal information about other people that it could not be disclosed without also disclosing personal information about those third parties ('the disputed information'). The Commissioner therefore considered that the disputed information was *prima facie* exempt under clause 3(1).

The Commissioner considered that the public interest in protecting the privacy of the third parties and the public interest in the agency maintaining its ability to obtain information to enable it to carry out its functions in respect of mental health, on behalf of the wider community, outweighed the public interest in the complainant exercising his rights of access and the public interest in the complainant having access to personal information about himself. The Commissioner considered those public interests had largely been satisfied by the disclosure to the complainant of the information in the edited documents to which the agency had granted him access.

Accordingly, the Commissioner confirmed the agency's decision – with the exception of a small amount of information that was disclosed by the agency to the complainant – and found that personal information about other people was outside the scope of the application and the disputed information was exempt under clause 3(1).