

Decision D0282012 – Published in note form only

Re ‘U’ and North Metropolitan Area Health Service - Adult Mental Health [2012] WAICmr 28

Date of decision: 25 October 2012

Freedom of Information Act 1992: Schedule 1, clause 3(1)

In January 2012, the complainant applied to the North Metropolitan Area Health Service – Adult Mental Health (‘the agency’), under the *Freedom of Information Act 1992* (‘the FOI Act’), for access to his medical record held at the Osborne Community Mental Health Service for a specific date range.

The agency gave the complainant access to edited copies of the requested documents by deleting information which it claimed was both outside the scope of his access application and exempt under clause 3(1) of Schedule 1 to the FOI Act, because it was personal information, as defined in the FOI Act, about individuals other than him. The complainant applied for internal review of that decision. The agency confirmed its initial decision on internal review on the ground that the deleted information was exempt under clause 3(1) of Schedule 1 to the FOI Act. On 6 March 2012, 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 agency’s FOI file maintained in respect of the complainant’s access application.

On 13 August 2012, one of the Commissioner’s officers advised the complainant that, in her view, the information deleted from the requested documents was exempt under clause 3(1) as claimed by the agency.

The complainant was invited to withdraw his complaint or provide further submissions. The complainant confirmed that he wished to pursue his complaint and made further submissions to the Commissioner.

The Commissioner reviewed the requested documents and carefully considered the detailed submissions made by the complainant. The Commissioner formed the view that a small amount of additional information could be disclosed to the complainant. As a result, the agency released that additional information to the complainant.

The Commissioner was satisfied that the information which remained deleted from the requested documents (‘the disputed information’) would, if disclosed, reveal personal information, as defined in the FOI Act, about people other than the complainant. The disputed information included some personal information about the complainant but as it was inextricably intertwined with personal information about other people, it could not be disclosed without also disclosing personal information about those people. The Commissioner considered that the disputed information was *prima facie* exempt under clause 3(1).

The Commissioner considered the application of the limit on the exemption in clause 3(6). In balancing the competing public interests, the Commissioner was of the view that the public interests in protecting the privacy of third parties, and in the agency's 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 in this case. The Commissioner considered that the latter public interest had largely been satisfied by the disclosure to the complainant of the information about him in the edited documents to which the agency had granted him access.

Accordingly, the Commissioner confirmed the agency's decision and found that the disputed information was exempt under clause 3(1) of Schedule 1 to the FOI Act.