

Decision D0042000 - Published in note form only

Re 'A' and Graylands Selby-Lemnos & Special Care Health Services [2000] WAICmr 4

Freedom of Information Act 1992 s.28; Schedule 1 clause 3(1)

On two occasions in 1982, the complainant was treated as a patient at Graylands Hospital ('the agency') a psychiatric institution. Although the complainant received further treatment in 1987, the complainant has not received any treatment or counselling since that date.

On 26 May 1999, the complainant made an application to the agency seeking access to the complainant's medical records. The agency decided to delete the names of third parties and other material that would identify them on the ground that it is exempt matter under clause 3(1) (personal information) of Schedule 1 to the FOI Act and certain other matter on the ground that it is exempt matter under clause 8(2) (confidential communications) of Schedule 1 to the FOI Act. The agency also decided to grant the complainant indirect access by making the medical records available to the complainant through a medical practitioner of the complainant's choice, in accordance with s.28 of the FOI Act. The complainant did not nominate a medical practitioner as requested by the agency, and instead lodged a complaint with the Information Commissioner.

The Commissioner found all the matter deleted from the records to be personal information about third parties. The complainant was not able to persuade the Commissioner that the public interest in protecting the personal privacy of third parties was outweighed by any other public interest that required the disclosure of personal information about them. Therefore, the Commissioner found all the matter deleted by the agency to be exempt under clause 3(1). Given that finding, it was unnecessary for the Commissioner to deal with the claims for exemption under clause 8(2).

After making inquiries into this complainant and reviewing the material before her, the Commissioner was satisfied that the documents contain information of a medical or psychiatric nature about the complainant. The Commissioner was also satisfied that, at the relevant time, the principal officer of the agency was of the view that granting the complainant direct access to those documents may have a substantial adverse effect on the complainant's physical or mental health. The Commissioner therefore confirmed the decision of the agency to grant the complainant indirect access to the requested documents (with the exempt matter deleted) in accordance with s.28.