

Decision D0132002 – Published in note form only

Re “C” and Graylands Selby-Lemnos & Special Care Health Services [2002] WAICmr 13

Date of Decision: 4 April 2002

Freedom of Information Act 1992; s.28

On two occasions in 1995 and 1996, “C” (‘the complainant’) received treatment at Graylands Selby-Lemnos and Special Care Health Services (‘the agency’) for mental illness.

On 5 December 2001, the complainant made an application to the agency seeking access to personal information in his medical records. The agency decided to give the complainant indirect access to those records by making them available to a suitably qualified medical practitioner nominated by the complainant. The complainant nominated a suitably qualified medical practitioner and, before forwarding the requested documents to that medical practitioner, the agency decided to delete certain information on the grounds that it was exempt matter under clauses 3(1) and 5(1) of Schedule 1 to the FOI Act.

The complainant did not avail himself of the indirect access to the medical records offered by the agency. Rather, the complainant lodged a complaint with the Information Commissioner seeking external review of the agency’s decision.

The Information Commissioner made inquiries into this complaint and reviewed the material in the complainant’s medical records. The Information Commissioner was satisfied that the requested documents contain information of a medical or psychiatric nature about the complainant. The Information Commissioner was also satisfied that, at the relevant time, there were reasonable grounds for the principal officer of the agency to reach a view that indirect access was appropriate in all the circumstances. The Information Commissioner found that the principal officer of the agency had sought professional psychiatric advice about the nature of the complainant’s mental illness and that the decision to provide indirect access was based on that advice.

The Information Commissioner also found that the matter deleted by the agency was not personal information about the complainant and, therefore, that material did not fall within the terms of the access application. The Information Commissioner confirmed the decision of the agency to grant the complainant indirect access to edited copies of his medical records.