

Decision D0202001 – Published in note form only

***Re Kochman and The Medical Board of Western Australia* [2001] WAICmr 20**

Date of Decision: 5 June 2001

Freedom of Information Act 1992; clause 7

The complainant made an application to the agency for access, under the *Freedom of Information Act 1992* ('the FOI Act'), to all documents held by the agency relating to his competency as a medical practitioner.

The complainant was given access to most of the requested documents, with the exception of correspondence between the agency and its legal advisers. The agency claimed that those particular documents are exempt under clause 7 of Schedule 1 to the FOI Act, because they would be privileged from production in legal proceedings on the ground of legal professional privilege.

The Information Commissioner obtained the disputed documents from the agency and examined them. On their face, most of the disputed documents were confidential communications between the agency and its legal advisers, made for the dominant purpose of the agency seeking, and the legal advisers giving, legal advice to the agency.

However, four of the disputed documents were accounts from the agency's legal advisers and one of the disputed documents consisted of a file note recording receipt of the agency's file.

The Information Commissioner decided that the accounts from the agency's legal advisers and the file note were not exempt under clause 7 but that those documents were, in any event, documents which fell outside the scope of the complainant's access application.

The Information Commissioner decided that the balance of the disputed documents would be privileged from production in legal proceedings on the ground of legal professional privilege and are exempt under clause 7 of Schedule 1 to the FOI Act.