

Request by paediatric social worker in a public hospital for Manitoba Risk Estimation System

Legislation	Official Information Act 1982, ss 9(2)(b)(ii) and 9(2)(i)
Agency	Department of Social Welfare
Ombudsman	Sir Brian Elwood
Case number(s)	W40991
Date	February 1999

Request by paediatric social worker in a public hospital for Manitoba Risk Estimation System—request declined—system provided to CYPFS subject to contract—consultation with owners of system—information released subject to conditions

A paediatric social worker in a public hospital made a request for the Manitoba Risk Estimation System. The request was declined in reliance upon section 9(2)(i) of the OIA.

In reporting on this decision, the Director General of Social Welfare explained that the system had been developed in Canada and made available by its owners for use by the Children, Young Persons and their Families Service (CYPFS) subject to requirements as to liability and responsible use being met. CYPFS was precluded from selling, exchanging, or, by implication, giving away the system. On this basis, reliance had been placed upon section 9(2)(i) for refusing the request.

The Director General also considered that section 9(2)(b)(ii) might apply to the information in that its release would be likely unreasonably to prejudice the commercial position of the person who supplied it.

An examination of the information and the circumstances of its supply disclosed that the system had been made available to CYPFS free of charge and on the understanding that no profit would accrue to any organisation or individual from its use. In the circumstances, it did not appear that CYPFS was engaged in any activity of a 'commercial' nature and accordingly section 9(2)(i) was not applicable to the information. Furthermore, the system had been

supplied on the understanding that it could be used by the Government of New Zealand. There was nothing to suggest that the use of the information was limited to CYPFS.

Consideration was also given to section 9(2)(b)(ii), but it was not clear how release of the information might prejudice the commercial position of the suppliers.

In the circumstances, the owners of the system were consulted. They advised that they had no objection to the release of the system subject to the following conditions:

- That all liability for its use be assumed by the user.
- That non-licensed users be public non-profit organisations, including government bodies, and that no profit accrue to the user as a consequence of their use of the system.

They also recommended that any potential users receive training before applying the tool in practice situations.

On this basis the information was released to the requester.

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