

## Requests for CYPF case reviews

<b>Legislation</b>	Official Information Act 1982, ss 9(2)(a), 9(2)(g)(i), 16, 17
<b>Agency</b>	Department of Social Welfare
<b>Ombudsman</b>	Sir Brian Elwood & Anand Satyanand
<b>Case number(s)</b>	W34407, W36023 & W36548
<b>Date</b>	April 1997

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*Requests for case reviews by Children, Young Persons and their Families Service—information withheld under ss 9(2)(a) and 9(2)(g)(i)—private information—social workers should not be discouraged unnecessarily from giving frank accounts of difficult cases where hindsight might identify some error of judgement—some information in case reviews can be withheld—also s 9(1) public interest considerations relating to information about standard of care and remedial action taken in respect of identified deficiencies—consideration of ss 16 and 17—public interest met by publication of comprehensive summary of relevant issues*

These cases all involved requests by journalists and a private individual for case reviews undertaken by the Department of Social Welfare, Children, Young Persons and their Families Service (CYPFS) following the deaths of two children at a time when CYPFS was involved with the children. Whenever such a tragedy occurs, CYPFS reviews the factual background of the case, its involvement with the child, and its actions and procedures. The object of such a review is to see what lessons can be learned in order to avoid similar incidents in the future.

A case review report includes details about the child and the circumstances which led to CYPFS' involvement as well as personal details about the child's immediate family and those who had care of the child. The report also contains comments and opinions of social workers involved in the case.

The requests for the reports at issue were refused by CYPFS in reliance upon sections 9(2)(a) and 9(2)(g)(i) of the OIA. In regard to the latter, CYPFS explained that it was necessary for staff to be willing to speak openly about all aspects of a case to ensure the quality and usefulness of

the case review was not compromised. It considered that disclosure of the reports would inhibit social workers from expressing their views freely and frankly in future.

After examining the reports, it was accepted that some information should be withheld in order to protect the privacy of the individuals concerned. Disclosure of the personal and private affairs and misfortunes of individuals would infringe their privacy interests. Only a broad indication of the circumstances leading to CYPFS' involvement was necessary.

It was recognised that social workers operate in a difficult environment and should not be discouraged unnecessarily from giving frank accounts of difficult cases where hindsight might identify some error of judgement. On the other hand, social workers have a high degree of responsibility to the public for the service they provide and their actions should not be entirely closed to public scrutiny.

There is a public interest in knowing the standard of care provided to individuals and families. In the event of deficiencies being identified, there is a public interest in knowing what remedial action has been or is to be taken.

Section 16(1) of the OIA provides a number of alternative ways in which official information comprised in a document may be made available. One of those ways is 'by giving an excerpt or summary of the contents'. Section 16(2) requires information to be made available in the way preferred by the requester unless to do so would, among other things, prejudice one of the interests protected by section 9 and there is no countervailing public interest. Section 17 of the OIA provides for information to be deleted from documents where, for example, it is necessary to withhold that information to protect one of the interests identified in section 9 and there is no countervailing public interest.

In these cases, although it was accepted that some information needed to be withheld to protect the interests identified in sections 9(2)(a) and 9(2)(g)(i), not all the information needed to be protected. Indeed, there was a strong public interest in worthwhile information being made available. Disclosure of the documents, subject to deletion of those parts requiring protection, was inappropriate in these cases. Such an approach would have resulted in piecemeal documents which would not read sensibly. It was therefore concluded that the most effective way of balancing the competing public interest considerations was for CYPFS to produce coherent and comprehensive summaries of the original case review reports. Those summaries would contain all information of significance in terms of providing information as to the reasoning, assessment and conclusions in the original reports and the facts on which such conclusions were based. CYPFS accepted this view and prepared and released documents which contained the relevant information from the original reports. In one of the cases, CYPFS also released a contextual statement describing the background to the case and the progress made by CYPFS in addressing deficiencies identified by the original review.

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