Office of the Information Commissioner
Western Australia

Decision D0052026 – Published in note form only

Re 'K' and East Metropolitan Health Service [2026] WAICmr 5

Date of Decision: 4 May 2026

Freedom of Information Act 1992 (WA): sections 45 and 50

For the reasons given to the parties and summarised below, the Information Access Deputy Commissioner (**Deputy Commissioner**) found East Metropolitan Health Service's (**agency**) decision to refuse to amend the complainant's personal information under section 48 of the *Freedom of Information Act 1992* (WA) (**FOI Act**) was justified and confirmed the agency's decision.

The Deputy Commissioner decided not to identify the complainant by name to protect their privacy in the circumstances of this matter.

Part 3 of the FOI Act concerns a person's right to ask an agency to amend personal information about them held in the agency's documents. Under section 45(1), a person may apply for an amendment if they believe the information is inaccurate, incomplete, out-of-date or misleading. The applicant must explain why they hold that view.

On 14 June 2025, the complainant applied to the agency under section 45 of the FOI Act to amend their personal information. The complainant asked for certain test results to be removed from their medical record (**disputed information**) because, they claimed, the tests were not carried out.

By decision dated 1 August 2025, the agency refused to amend the complainant's personal information. The agency considered the tests had been carried out and the information in the medical record was accurate. The agency proposed adding a notation in accordance with section 50(1) of the FOI Act setting out the complainant's claim the information is inaccurate.

The complainant applied for internal review of the original decision, claiming witness accounts confirmed no test was performed. The complainant requested, if the original decision was upheld, a formal notation of the dispute be placed on the medical record.

On 14 August 2025 the agency's internal review decision confirmed the original decision and confirmed a notation had already been placed on the complainant's medical record.

On 20 August 2025 the complainant sought external review of the agency's decision.

The Deputy Commissioner then considered the material before him including the agency's and complainant's submissions.

The Deputy Commissioner noted there was a clear disagreement between the agency and the complainant about the disputed information. However, just because information is contested does not automatically mean it is inaccurate or misleading. The Deputy Commissioner agreed

with the former Information Commissioner who explained in *Re Appleton and Department of Education*:[1]

- the FOI Act is not intended to provide a mechanism to challenge opinions that are genuinely held and accurately entered in the official records
- information based on another person's view, opinion or recollection of events does not, by itself, require amendment
- incorrect information (opinion) can be recorded correctly, and a record should not be amended simply because the opinion that it correctly records is incorrect information
- removing text of an incorrect opinion would violate the integrity of the original record and erase the historical trail – it would re-write history.

The Deputy Commissioner considered the appropriate way to address the contested views was to make a notation to the medical record, rather than amend the record itself.

In this case, the agency had already made a notation to the medical record, including by attaching supporting statements from third parties supporting the complainant's position. In doing so, the Deputy Commissioner was of the view the agency had fulfilled its obligations under section 50(1) of the FOI Act.

Accordingly, the Deputy Commissioner found the agency's decision to not amend the complainant's medical record was justified.

[1] [2017] WAICmr 20, [38].