

**Department/Organisation: Correctional Services Department (“CSD”)
Case concluded in: October 2015**

CSD erased the names of health care personnel from the medical records provided to Mr A

The Event

Mr A submitted to CSD a “Personal Data (Privacy) Ordinance – Data Access Request Form” to request his medical records regarding the treatment that he had received from a treatment centre under CSD. The requested information included copies of his medical records compiled by the psychiatrists.

The Personal Data (Privacy) Ordinance (“PC(P)O”) provides that “a requestor is not entitled under a data access request to access data which are not personal data belonging to him...” and “the data user can comply with the request without disclosing the identity of any other individual”. Moreover, it is stated in the relevant Guidance Note published by the Office of the Privacy Commissioner for Personal Data (“PCPD”) that “if the requested data comprise of personal data of another individual, the data user should erase from the copy of the requested data any personal data relating to a third party”. CSD, therefore, erased the personal data of the third parties (i.e. the names and signatures of all the health care personnel) from the copies of Mr A’s medical records before handing them over to him.

Mr A was dissatisfied. As he was not shown the names of the health care personnel concerned, he had no means to file any reports on their malpractice.

Our Findings

Indeed, Mr A had not requested CSD to provide the names of the health care personnel who treated his case. Nor had he indicated that he was going to report the malpractice of those people. Mr A had merely completed the prescribed form and made a data access request to CSD for his own “personal data”. CSD had acted according to the law and in a reasonable manner by following the requirements of PC(P)O and PCPD in processing Mr A’s request and erasing the names and signatures of the health care personnel concerned.

Nevertheless, we considered that the health care personnel concerned were performing their duties as public officers when they treated Mr A’s case. Hence, they should not be regarded as “third parties” outside the Government. If someday Mr A asks for the names of the health care personnel concerned under the Code on Access to Information (“the Code”), then CSD should not invoke paragraph 2.14 of the Code and use “third party information” as the reason for non-disclosure of information to Mr A.

Outcome

CSD accepted our comments.