



224 2544
34036/cm
Ms S Harris
Adoptions Section

14/5/92.

Mr M Cotterell
29 Novak Street
EVERTON PARK QLD 4700

Dear Mr Cotterell,

I refer to your application for Identifying Information about your birth relatives.

I must inform you that your birth mother has made an objection to contact and disclosure of identifying information under Section 39AA (2)(b) of the Adoption of Children Act 1964-1991. I regret to advise that identifying information about her cannot be disclosed to you at this time.

You are still entitled to non-identifying information, including information placed on file by your birth mother that may explain her decision further. This is attached.

I am required to inform you that while the objection remains in force, under section 39D it is an offence for you to:

- . contact or attempt to contact your birth mother,
- . arrange or attempt to arrange contact with your birth mother, or
- . procure another person to contact, attempt to contact or attempt to arrange contact with your birth mother.

The penalty for breach of this section is a fine of up to \$6,000 or up to two years in jail.

Objections remain in force until revoked. If your birth mother revokes the Objection to Contact and the Disclosure of Identifying Information, you will be notified at the address last known to us, and invited to reapply.

Approved counsellors, trained in adoption matters, are available to assist people who may wish to discuss personal issues related to the new adoption legislation. A list of counsellors for your area may be requested by telephoning (07) 224 2544 or by writing to the above address.

I hope this information is of some assistance to you.

Yours sincerely

for Manager

Your birth mother had sons aged 9 and 7 years who were in her care. You birth mother described them as "very bright". The interviewing officer recorded that your birth mother had "fully supported herself and 2 children for the past 2 years".

Your birth father

Information recorded about your birth father from the time of your birth is believed to have been provided by your birth mother. Your birth father's name was not recorded at the time of your birth and adoption.

Records state that your birth father was a 28 year old single man of Australian nationality and he was 6 feet in height with a medium build and that he had blonde hair, blue eyes and a "fair-medium" complexion. It is recorded that your birth father attained a Junior pass level of education. Records indicate that your birth father's special interests were water skiing, swimming and archery. It is recorded that your birth father was employed as a Clerk. There is no religious affiliation recorded for your birth father. It is recorded that your birth father had not made any financial arrangements for your support at the time of your birth and your birth mother advised the interviewing officer that she was no longer associating with your birth father.

As you are aware, your birth mother provided further information to the Department of Communities in 1991 and 1996 which called into question the accuracy of the information recorded about your birth father at the time of your birth. The department is unable to release this information as it was clearly stated that this information was provided only for the department.

Birth family medical history

There is no information contained in departmental records regarding hereditary traits or medical history for either of your birth parents. As you are also aware, Adoption Services Queensland sought further medical information from the time of your birth from Queensland Health in 2009 and was advised that there was no further information available from the time of your birth.

Application for your birth certificate

Now that you have your adoption information, you may apply for a certified copy of your original birth certificate by making application to the Registry of Births, Deaths and Marriages in Brisbane with the enclosed Authorisation.

Request by your birth mother for no contact

As you are aware from your previous contact with our office, your birth mother provided a contact statement requesting no contact on 23 May 1991 and 9 July 1996. Please find a copy of the statement of acknowledgement form which states that you acknowledge the details of this contact statement and are aware of the offence conditions should you make contact with your birth mother.

Thank you for your request to receive a copy of the objection forms lodged by your birth mother. Adoption Services Queensland are unable to provide copies of these forms to you as they contain information which would breach the privacy of your birth mother as she has clearly stated that this information was provided only for the department.

NON-IDENTIFYING INFORMATION

First name you were given by your Birth Mother: Christopher

Date Adoption Order was made: 27 April 1973

*This information was provided by medical staff at the hospital
at the time of your birth.*

Date of Birth: 27 March 1973

Place of Birth: Brisbane

Hospital: Royal Womens Hospital

Time of Birth: 10.10 am

Weight at Birth: 5 lb 10 ozs (2552 grams)

*This information was provided by your birth mother during interview(s)
with officers from this Department at the time of your birth
and/or adoption.*

BIRTH MOTHER

Age: 27 years

Nationality: Australian

General Occupation Category (see attached): Clerks

Religion: Methodist

Educational Standard: Junior Pass and Sub Senior

Location: Outer city suburb

Height: 165 cms (5 foot 5 inches)

Build: Medium

Colour of Hair: Wavy light brown

Colour of Eyes: Green

Complexion: Fair with a tan

Marital Status: Married (husband left 7 years prior to your birth)



BIRTH FATHER

Your birth mother did not verify information in relation to your birth father therefore I regret to advise that there is no information available.

COMMENTS

Our records indicate that you were born on the way to the Womens Hospital. At the time of your birth your birth mother had 2 sons of her marriage in her care, born in 1966 and 1964.

Your birth mother's interests included water skiing, swimming and outdoor life.

Our records do not contain any medical information or information in relation to hereditary traits.

FOI RELEASE



"Oaths Act of 1867-1960"

Statutory Declaration.

QUEENSLAND }
TO WIT }

I,
 of in the State of Queensland,
 solemnly and sincerely declare
 that *the child, Chr. Stephen*
born to me on the 26th day of
March, 1973,

And I make this solemn declaration conscientiously believing
 the same to be true, and by virtue of the provisions of the
 "Oaths Act of 1867-1960."

Taken and Declared before me, at
 this *second* day of *April* 1973

M. Stanley
April 1973

C. J. Feil
 A Justice of the Peace.



Date: 23 October 2007

Venue: Level 2, 111 George Street, Brisbane

Notes Written By: Tracy Rodger

Attendees

Present:

- Steve Habermann (Manager, Legal Services Branch),
- Michelle Duckworth (Manager, Freedom of Information Branch),
- Terry Cronin (Director, Statewide Services),
- Tracy Rodger (A/Manager, Adoption Services Queensland)

Apologies

- Anne McLary (A/Team Leader, Post Adoption Services, ASQ)
- Anita Thomas (Substantive Team Leader, Post Adoption Services, ASQ)

Minutes

Purpose of Meeting:

To discuss concerns identified by FOI with regard to an ASQ file.

Background:

Michelle Duckworth had contacted Tracy Rodger the previous week to advise there were discrepancies in the file of Matthew Cotterell. Tracy had requested the meeting in order to be shown the discrepancies to assist ASQ in addressing concerns.

Discussion:

Michelle advised that Mr. Cotterell is going through two processes currently:

1. Information Commission – an independent body who review FOI responses
2. A new FOI application

During the FOI process, Michelle had noted discrepancies on his file in relation to two objections, one from 1991, and one from 1996.

Michelle provided history that Mr. Cotterell has stated he believes the objections are fraudulent and has provided evidence of this to 2 previous ministers and the previous Director General.

Michelle and Steve provided other background information:

- There have been previous fraudulent objections applications in the history of adoption services in Queensland. In a previous case an adoptive mother had placed an objection for a birth mother. In response, 11 files were pulled from the Queensland adoptions files and 6 of the 100 were found to be fraudulent. This is a fact that is known by support agencies.
- Mr. Cotterell has a poor relationship with his adoptive mother.
- Adoptive family may have had previous knowledge of the birth mother.
- Birth Mother's name is Gail (Mr. Cotterell knows this)
- Mr. Cotterell's birth name is Christopher

• 44 (1)

- Mr. Cotterell knows there were two brothers when he was born
- Mr. Cotterell knows his time/date and place of birth (in ambulance)

Minutes

The discrepancies on the objections forms were:

- 1991 objection:
 - used most recent name [44(1)]
 - Form whited out (trigger)
- 1996 form:
 - used previous name, which was the same name as at the birth of the child [redacted]
 - There was no address on the form (this is an FOI trigger)
 - No use of present surname as in last form (trigger)

• [redacted]
• [redacted]

It was discussed that the discrepancies, coupled with the background of the identification of fraudulent objection forms being found on record in adoptions services in Queensland, lead to the conclusion, that the forms may not be valid. [redacted]

[redacted] While there is no hard evidence, the validity of the forms comes into question. Discussion centered on how to ascertain whether the forms are valid or not and it appeared the only way to do that is to outreach to the birth mother to ask her.

It was agreed that the most appropriate services in DChS to undertake outreach action was ASQ.

[redacted] ASQ would keep FOI/Legal Services branches updated about actions taken.

FOI would release [redacted]
[redacted]

Action items	Who	Timeframe	Other action required
• FOI/ASQ to re-meet as required			

Next Meeting

To be decided

The personal affairs of a person

7. Information concerns "the personal affairs of a person" if it concerns private aspects of a person's life, including family and marital relationships, health or ill-health, relationships with and emotional ties to other people and domestic responsibilities or financial obligations. Whether a document comprises such information is a question of fact, to be determined according to the proper characterisation of the information in question [*Re Stewart*].
8. Generally, the name of a person is not regarded, in itself, as a matter concerning the personal affairs of a person. However, when that information is linked with other information, for example, the identification of the name as the mother of a person, the name may concern the personal affairs of that person.
9. The Information Commissioner has previously held that information which names a putative father relates to the personal affairs of that person and that it is irrelevant that the person is deceased [*RE KBN*].
10. I have determined the analysis of the Information Commissioner in *Re KBN* to be relevant to the present case. The matter in issue comprises information concerning the personal affairs of the birth mother, inextricably interwoven with information concerning the applicant's personal affairs. Accordingly, the matter in issue is prima facie exempt from disclosure to the applicant, subject to the application of the public interest balancing test contained within section 44(1).

Public interest

11. The information sought by the applicant is not exempt from release if disclosure of the information is considered to be in the public interest.
12. In the matter of *Re KBN*, the Information Commissioner stated that the task of determining where the public interest lies will depend upon the nature and relative weight of the conflicting public interest considerations which are identifiable as relevant in any given case.
13. In *Re KBN*, in deciding whether the name of a putative father should be released, the Information Commissioner considered certain factors. I have applied these factors, where relevant, in determining the public interest considerations in deciding whether to release personal information of the birth mother in this matter.
 - (a) The age of the matter in issue – given all the circumstances of the case and the particular nature of the information in issue, the sensitivity of the information would not have diminished to any significant degree with the passage of time. The applicant was born in 1973. The birth mother has objections to contact and release of identifying information in place pursuant to the *Adoption of Children Act 1964*.
 - (b) Department as the only source of information – the applicant has not stated whether or not his surname at birth could be obtained from another source which would reduce the weight which would be attached to the interests of privacy of the birth mother.

- (c) Social circumstances – while society's general attitude toward "illegitimate children" is different from what it was at the time of the recording of the information, disclosure of information which is likely to lead to the identity of the birth mother in this case could still be viewed as potentially damaging to the reputation or social status of that individual and any family members.
 - (d) Need or right to know – a compelling "need to know" for an applicant may be taken into account when considering the public interest. The applicant argues that he has several identifiable rights to have access to the information. The applicant clearly has a more compelling interest in obtaining access to the identifying information of the birth mother than other members of the public.
 - (e) Likelihood of search/contact – search efforts resulting in contact could have a variety of negative effects, especially since the birth mother has an objection to contact in place pursuant to the *Adoption of Children Act 1964*.
 - (f) Privacy of the named person – the birth mother, would still have a reasonable expectation of privacy in respect of the information. Given the objection pursuant to the *Adoption of Children Act 1964* has not been revoked by the birth mother, it is obvious she intends to maintain her privacy.
14. In my view, the public interest considerations which favour disclosure of the name of the birth mother are not strong enough to outweigh the public interest in safeguarding the privacy of information concerning the personal affairs of the birth mother.

Section 44(2) exception

15. Section 44(2) of the *Freedom of Information Act 1992* provides that matter is not exempt under section 44(1) merely because it relates to information concerning the personal affairs of the person by whom, or on whose behalf, an application for access to a document containing the matter is being made.
16. As stated above, the matter in issue, especially the applicant's surname at birth, comprises information concerning the personal affairs of the birth mother, inextricably interwoven with information concerning the applicant's personal affairs.

Section 48(1) Freedom of Information Act 1992

17. Section 48(1) of the *Freedom of Information Act 1992* provides that matter is exempt matter if its disclosure is prohibited by an **enactment mentioned in the schedule 1** unless disclosure is required by a **compelling reason in the public interest**.

Enactment mentioned in schedule 1

18. The relevant enactment mentioned in schedule 1 of the *Freedom of Information Act 1992* is section 59(3) of the *Adoption of Children Act 1964*.
19. In part, section 59(3) of the *Adoption of Children Act 1964* states: