

## Request for information framed in terms of section 23

<b>Legislation</b>	Official Information Act 1982, s 23
<b>Agency</b>	Crown Law Office
<b>Ombudsman</b>	Sir Brian Elwood
<b>Case number(s)</b>	W40452
<b>Date</b>	October 1998

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*Request framed in terms of s 23—Crown Law sought details of requester’s personal interest in information at issue—requester objected on grounds of his right to seek information—Crown Law had not acted improperly in seeking further information from the requester—if an organisation fails to recognise that a request falls within the scope of s 23 and by error processes it pursuant to the more general provisions in Part 2 of the Act, a requester may be deprived of information to which he or she is entitled—no formal investigation—requester invited to advise Crown Law whether he had any personal interest in the decision in question*

The requester sought from the Crown Law Office details concerning a decision on whether a particular prosecution should have been instituted. In order to ensure that he was provided with the fullest information, the requester specifically asked for the findings on all issues of fact, a reference to the information on which such findings were based and the reasons for the decision.

The particularity sought by the requester followed closely the wording of section 23(1)(a)-(c) of the OIA. This section provides for a person to have the right of access to reasons for decisions affecting that person. Where a person makes a request within the ambit of section 23, the rights of an organisation to withhold that information are specially defined, and only a few of the withholding grounds which are ordinarily available in respect of requests for official information are applicable.

In the circumstances, the Crown Law Office was concerned that the requester might have a personal interest in the information requested and, in order to ensure that the request was

considered in the appropriate manner, asked him to supply details of his personal interest. The requester regarded this as an intrusion upon his rights as a member of the public to seek official information, and made a complaint, pointing out that there is no obligation on a requester to explain or justify a request for official information.

The requester was correct in that any person seeking official information is not required to justify his or her reasons for doing so. The person needs only to come within the categories of persons entitled to make a request as defined in section 12 of the OIA.

However, in this case, it was concluded that the Crown Law Office had not acted improperly in seeking further information from the requester. If an organisation fails to recognise that a request falls within the scope of section 23 and by error processes it pursuant to the more general provisions in Part 2 of the Act, a requester may be deprived of information to which he or she is entitled.

In the circumstances, it was decided not to commence a formal investigation of the requester's complaint. The requester was invited to advise the Crown Law Office whether he had any personal interest in the decision in question in which case his request would fall within the provisions of section 23. If not, the Crown Law Office could proceed to consider the request pursuant to Part 2 of the Act.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*