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| Requests by lawyer for information about client |
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| Legislation Official Information Act 1982, s 18(h)Agency Department of LabourOmbudsman Chief OmbudsmanCase number(s) 170889Date June 2010 |

*A proportion of the large volume of information at issue could fairly be characterised as ‘trivial’, bearing in mind the purpose of the request—this included auto replies, read receipts, undeliverable messages, emails arranging meetings and information generated to facilitate the proper processing of the requester’s OIA and Privacy Act requests*

A lawyer made a number of requests to the Department of Labour (New Zealand Immigration Service) for information about an individual they were representing. The information was withheld under a number of grounds, and the requester complained to the Privacy Commissioner and the Chief Ombudsman. The Chief Ombudsman investigated the refusal to provide official information that was not personal information about the individual under the OIA.

The information at issue was voluminous—amounting to approximately 4-5000 pages. However, the significance of the matter was such that the Department never sought to rely on ‘substantial collation or research’ as a reason for refusing the request (section 18(f) of the OIA). Given the extent of information at issue, the requester provided information about their priorities, in confidence, to the Chief Ombudsman.

Based on the requester’s priorities, the Chief Ombudsman identified documents that were ‘substantive’ and documents that were ‘peripheral’. Among the peripheral documents was a category of information that, in the Chief Ombudsman’s opinion, could fairly be characterised as ‘trivial’, bearing in mind the purpose of the request. This included out of office auto replies, read receipts, undeliverable messages and emails arranging meetings.

It also included a significant amount of material generated as a result of internal or interagency communications intended to facilitate the proper processing of the lawyer’s requests for information. Examples of this information included correspondence referral cover sheets, OIA cover sheets, document tracking printouts generated from the Department’s electronic document management system, and notes or emails simply allocating responsibility for drafting or managing the response to a piece of correspondence to a particular staff member.

Lastly, it included information that was only ‘about’ the individual in question because it contained a fleeting reference to him; the substance of the information was actually irrelevant to the intent of the request. Examples of this information included the Department’s complaints register and scorecard.

The Chief Ombudsman noted that, in cases where a small amount of information is requested, some of which is trivial, an agency may decide to make that information available because the time and effort of extracting and photocopying it is of no concern. In this case, however, a large amount of information had been requested, a substantial amount of which was trivial and not germane to the requester’s concerns. In his opinion, the time and effort that would be required to extract and photocopy that information was unwarranted, and it was not unreasonable for the Department to invoke section 18(h) of the OIA to decline to do so.

*This case note is published under the authority of the* [*Ombudsmen Rules 1989*](http://legislation.govt.nz/regulation/public/1989/0064/latest/DLM129834.html?src=qs)*. 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.*