|  |
| --- |
| Request for information about review of schools’ operational funding |
|  |
| Legislation Official Information Act 1982, s 9(2)(f)(iv)  Agency Ministry of Education  Ombudsman David McGee  Case number(s) 177919  Date April 2009 |

*Information not of an advisory nature—information tendered by an external advisory group, not Ministers or officials—disclosure would not prejudice ability of Ministers to consider advice eventually tendered by officials—s 9(2)(f)(iv) did not apply*

A requester asked the Ministry of Education for information about the 2006 schools operational funding review. His request was partially refused and he complained to the Ombudsman. One of the documents at issue, titled *Review of schools’ operational funding*, was withheld under section 9(2)(f)(iv).

The Ombudsman noted that this document contained detailed background information and analysis with no formal recommendations. He also noted that it was developed in consultation with an advisory group comprisingrepresentatives of non-government organisations in the education sector that was chaired by a senior Ministry official.

Even if the document was regarded as *‘advice’*, the Ombudsman questioned whether it could be regarded as the work of *‘officials’*, even if the pen was in fact held by an official (the chair of the advisory group).

While preferred courses of action might be inferred from the report, the absence of formal recommendations, and the extent of non-governmental involvement in the report, suggested that its disclosure would not prejudice the ability of Cabinet, at a later stage, to address the issues raised. The Ombudsman suggested that any public feedback following disclosure would be likely to better inform the tendering of advice to Cabinet and its consideration thereof. The breadth and nature of sector involvement in the document by itself created a need for accountability for that involvement.

The Ministry agreed to release the document after considering the Ombudsman’s comments, and that particular aspect of the complaint was resolved.

*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.*